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INTRODUCTION

Overview of the Regional Transit Authority of Southeast Michigan (RTA)

The RTA was created by Public Act No. 387 of 2012. Its 10-member board is appointed for three-year terms by the county executives of Wayne, Oakland and Macomb counties, the chair of the Washtenaw County Board of Commissioners, the Mayor of Detroit, and the Governor of Michigan.

The RTA's mission is to manage and secure transportation resources that significantly enhance mobility options, to improve quality of life for the residents and to increase economic viability for the region.

The Section 5310 Program in Southeast Michigan

The Enhanced Mobility of Seniors and Individuals with Disabilities program (Section 5310), administered by the Federal Transit Administration (FTA), supports transportation services planned, designed, and carried out to address the specific needs of older adults and people with disabilities. The RTA is the designated recipient of Section 5310 funds apportioned by FTA to the Detroit and Ann Arbor urbanized areas (UZAs). As the designated recipient, the RTA is responsible for administering Section 5310 funds in those areas, which make up part of the RTA region of Wayne, Oakland, Macomb, and Washtenaw counties.

Historically, direct recipients of FTA funds in the region, particularly the Suburban Mobility Authority for Regional Transportation (SMART), Ann Arbor Area Transportation Authority (AAATA), the Detroit Department of Transportation (DDOT), and the Detroit Transportation Corporation (DTC) have been the primary subrecipients of Section 5310 funding. Two of these organizations, SMART and AAATA, have played the lead role in the selection and implementation of Section 5310 projects in their respective areas through separate coordinated transit/human services transportation planning processes, calls for 5310 projects, and ongoing oversight of local subrecipients of 5310 funds.

Overview of the Program Management Plan (PMP)

This document describes a more regional approach to the management of the Section 5310 program in southeast Michigan. Input was obtained from members of the Technical Working Group (TWG) that guided development of the first regional Coordinated Human Service Transportation Plan (CHSTP): the RTA, SMART, AAATA, DDOT, Southeast Michigan Council of Governments (SEMCOG), DTC, (owner/operator of the Detroit People Mover), Washtenaw Area Transportation Study (WATS), Area Agency on Aging 1B (AAA1B), Program to Educate All Cyclists (PEAC), Michigan Department of Transportation (MDOT), and other regional transit stakeholders.¹

Changes to the management of the 5310 program in the region as described in this PMP are based on comments by TWG members about current practices and desired enhancements for the regional program, and best practices from peer 5310 programs.

¹ The coordinated plan developed in 2020 is entitled: *OnHand: Expanding Transportation Access Across Southeast Michigan*.

PROGRAM GOALS AND OBJECTIVES

Goals and objectives for the Section 5310 program in southeast Michigan as expressed by TWG members include the following:

- Align available resources with the highest regional priorities to improve mobility for the target populations (older adults, and people with disabilities throughout Southeast Michigan)²
- Continue and expand on regional collaboration
- Streamline the project solicitation and selection process
- Distribute Section 5310 funds to providers and subrecipients throughout the region fairly and equitably
- Reduce duplicative administrative efforts
- Build upon beneficial working relationships between direct recipients and local transportation providers with regional partnerships
- Encourage coordination and collaboration among local transportation providers and services
- Collect more information about the performance of funded projects to ensure the most effective use of limited Section 5310 funds
- Involve a variety of stakeholders in Section 5310 planning and project selection

ROLES AND RESPONSIBILITIES

RTA

The RTA is responsible for overall management of the Section 5310 program in the region. This involves the following tasks:

- Lead development of one coordinated human service transportation plan (CHSTP) for the region
- Distribute a single, regional call for projects, with assistance from direct recipients
- Determine 5310 funding targets for use of 5310 administrative funds, set-asides for current regional priorities, and the split between the required 55% of funds for “traditional” 5310 projects and the ceiling of 45% of funds for “non-traditional projects in each UZA
- Oversee or provide technical assistance to potential applicants
- Serve on the 5310 project selection committee
- Approve the 5310 Program of Projects (POP)
- Develop one regional PMP and agreements with direct recipients

Direct Recipients

As mentioned above, SMART, AAATA, DDOT, and DTC, have historically received 5310 funds directly from FTA, after regional agreement on how the funds are to be split. That role continues under the new regional approach to 5310 management.

² While the transportation needs of people with lower incomes are considered in the CHSTP, they are not the target populations for use of Section 5310 funds.

The direct recipients are also responsible for:

- Participating in the development of the regional CHSTP
- Providing input on annual goals, objectives, and funding targets/set-asides
- Serving on the 5310 project selection committee

SMART and AAATA (and DDOT, should there be local subrecipients from the City of Detroit in the future) will also continue to be responsible for:

- Administering selected projects, handling contracting with local subrecipients, billing, reporting, and procurement of vehicles (SMART only)
- Providing technical assistance to subrecipients pre- and/or post-award of 5310 funds
- Oversight of subrecipients for compliance with federal, state, and local requirements

Stakeholders

The broad, inclusive group of stakeholders included in the TWG convened for the development of the 2020 CHSTP remains involved in the management of the regional 5310 program by participating in the development of future CHSTPs and providing comments on the proposed annual programs of 5310 projects.

A smaller, more targeted group of stakeholders serves on the 5310 project selection committee with the RTA and the direct recipients. Those stakeholders include:

- SEMCOG and WATS
- AAA 1-B
- MDOT
- Organizations that serve older adults and people with disabilities

In addition, SEMCOG and WATS are responsible for obtaining public comment on proposed 5310 POPs as part of the public participation activities associated with preparing the Transportation Improvement Programs (TIPs) in their respective regions.

COORDINATION

Coordination among state and regional entities in the various aspects of management of the 5310 program is described above and in the sections that follow.

At the local level, staff of SMART and AAATA meet regularly with organizations that have an interest in human service transportation and attend events such as economic development meetings, public forums, and elected officials' outreach events. SMART and AAATA also host stakeholder meetings as part of their administration of contracts with local 5310 subrecipients. Within the network of specialized service providers in the four-county region and the SMART Community Partnership Program providers, transportation coordination committees meet annually, biannually, or bi-monthly to discuss issues related to providing transit services. Members of those committees include operators and managers of transit services as well as users and advocates for riders who have disabilities.

Potential subrecipients in Washtenaw County are required to participate in 25% of the meetings annually of the Washtenaw County Transportation Coordination Council; ongoing subrecipients must attend 60% of the committee's meetings annually.

PLANNING

Section 5310 regulations require that all projects selected for funding be included in a locally developed coordinated public transit—human services transportation plan. In the past, separate coordinated human service transportation plans (CHSTPs) have been prepared in the Southeast Michigan region, which includes both the Detroit and Ann Arbor urbanized areas. Plans have been prepared by:

- DDOT – City of Detroit
- SMART – Detroit urbanized area outside of the City of Detroit
- WATS for AAATA – Ann Arbor urbanized area

In 2020, stakeholders jointly developed the first CHSTP that covers both urbanized areas, with the RTA taking the lead role in plan development. This approach continues. The regional CHSTP documents existing transportation services and assesses transportation needs and service gaps for the target populations at the local level and includes both regional and local strategies and priorities among potential uses of 5310 funds. Stakeholders representing RTA, the major service providers and direct recipients of 5310 funds (SMART, DDOT, AAATA, and DTC), metropolitan planning organizations (SEMCOG and WATS), community providers that are subrecipients of 5310 funds, and organizations that provide services for the target populations are involved in the development of the regional CHSTP.

ELIGIBLE SUBRECIPIENTS

Entities considered eligible under federal guidelines for the Section 5310 program are eligible to receive 5310 awards through the RTA. Eligibility requirements are no more restrictive than the federal eligibility requirements.

PROJECT SOLICITATION AND SELECTION

Historically, the RTA, SMART, and AAATA have solicited applications for 5310 funding. RTA, as the designated recipient of 5310 funds for the Detroit and Ann Arbor urbanized areas, solicited applications from DDOT, SMART, AAATA, and DTC, including funding requests for both agency-led projects and projects to be implemented by subrecipients. SMART and AAATA, both direct recipients of 5310 funds, solicited applications from local non-profit organizations and public transportation providers and recommended projects for funding to the RTA. To date, DDOT and DTC have applied to the RTA for funding but have not conducted solicitations to identify local subrecipient projects.

Moving forward, one combined, regional call for projects administered by the RTA will be adopted. Funding for both the Detroit and Ann Arbor urbanized areas will be included. Eligible applicants will include the RTA (for administrative funding), the four current direct recipients, and potential subrecipients in both urbanized areas, including private non-profit organizations, local government authorities, and public and private providers of public transportation. Organizations that now apply directly to either SMART or AAATA for 5310 funding will instead respond to the RTA's call for projects. Organizations covering the non-urbanized areas of the RTA region (Macomb, Oakland, Wayne and Washtenaw Counties) that now apply to MDOT for 5310 funding will continue to do so.

Private Sector Participation

During each call for projects, the direct recipients assist the RTA with distribution of the notice of funding availability, identifying not only public transportation providers but also private nonprofit and private for profit providers in their areas.

Local organizations are encouraged to include private sector providers in the delivery of services and identify private providers that are eligible subrecipients. The RTA will publish a notice of funding programming through its standard meeting notification process and encourage comments from the public, stakeholders, and private and public transportation providers.

Membership of the TWG (or name of CHSTP advisory committee moving forward) and other relevant transportation planning committees include representatives of private transportation providers (both for profit and nonprofit organizations).

FUNDING DISTRIBUTION

Section 5310 funding may not be transferred between the two urbanized areas. In the regional call for projects, funding apportioned to each urbanized area is available only to potential subrecipients in that urbanized area. In addition, funding for each area may be set aside for 1) program administration by the RTA, the designated recipient, and the four direct recipients (up to 10% of the area's annual apportionment) and 2) key priorities such as coordinated service proposals submitted by applicants, or new/innovative services. Administrative funds are not made available to subrecipients.

Within each urbanized area's annual funding apportionment, at least 55% must be spent on "traditional" projects, as defined below and in the FTA Circular C 9070.1G (<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/enhanced-mobility-services-for-older-adults-and-people-with-disabilities>). Up to 45% may be spent on "non-traditional" projects

- **"Traditional" 5310 projects:** traditional projects must meet two criteria. They are carried out by the traditional subrecipients of 5310 funds—private non-profit organizations and state or local governmental authorities that are designated as coordinators of services for older adults and people with disabilities or that certify that there are no non-profit organizations available to provide services. Traditional projects are primarily capital projects but may also include mobility management activities and contracted transportation services.
- **"Non-traditional" 5310 projects:** may be carried out by any eligible type of subrecipient. Eligible activities include: 1) capital projects that address the needs of older adults and people with disabilities when public transportation service is unavailable, insufficient, or inappropriate, and 2) capital and operating projects that go beyond ADA requirements, improve access to fixed route service for the target populations or decrease reliance on paratransit service, or provide new transportation options for those populations. Mobility management activities are eligible non-traditional projects.

After consultation with the four direct recipients, the RTA determines target amounts for set-asides, traditional projects, and non-traditional projects for each urbanized area. Targets for traditional and non-traditional projects for each urbanized area are included in the call for projects for transparency and to help manage expectations among potential subrecipients. Following project recommendations from the project selection committee (discussed below), the RTA makes final funding distribution decisions.

Local Share Requirements

This program provides funds for capital and operating assistance to support all eligible activities under Section 5310. FTA requires a state/local match to access federal funds. Capital projects are matched 80 percent federal with a 20 percent state or local match, while operating assistance is matched with at least a 50 percent state or local share. The match required to access federal capital funds has typically been provided by MDOT utilizing a combination of cash, bond revenues, and toll revenue credits – this is subject to change at any time by the State, in which case the subrecipient would be responsible for providing the local match (or would forfeit the funds). The match required to access operating funds has been provided by a local share. Subrecipients are responsible for providing the 50% non-federal share of operating assistance projects.

DEVELOPMENT AND APPROVAL OF 5310-FUNDED PROGRAM OF PROJECTS (POP)

Project Selection Committee

A project selection committee is responsible for scoring subrecipient applications and making funding recommendations to the RTA. Committee members include organizations with detailed knowledge about current transportation providers and services, and the transportation needs of the target populations in each urbanized area:

- RTA
- Metropolitan Planning Organizations (SEMCOG and WATS)
- AAA-1B
- One liaison from each local advisory or transportation coordination committee as a non-voting member representing organizations serving older adults and people with disabilities
- Representatives of disadvantaged communities and/or organizations that serve them
- MDOT³
- Direct recipients (SMART, AAATA, DDOT, and DTC)

To ensure the impartiality of the committee, the direct recipients and other committee members are recused from scoring any applications from their own organizations.

Project Selection Process

On a biennial basis the selection committee meets in advance of the Call for Projects and agrees on the project selection process to be used for that cycle and specific selection goals and objectives that the selection committee wishes to achieve. Project selection criteria will be revised as necessary to reflect goals and objectives for that year.

The RTA is responsible for distributing each cycle's Call for Projects, with assistance from the direct recipients to identify potential applicants and increase awareness of the upcoming call and project application materials.

³ MDOT provides the 20% state match on capital projects regardless of project selection committee ranking if funding is available.

The anticipated schedule for the selection of projects for the first cycle of regional project selection (2020-2021) is as follows (this schedule will likely be revised in subsequent years). Note that this first cycle will include a one-year call for projects as a transition to two-year calls beginning in 2022-2023.

- Project selection committee meets in advance of the call for projects to discuss the selection process and determine annual goals and funding priorities: Late summer (December 2020 or January 2021)
- Regional call for projects: early in the calendar year (February 2021; applications due March/April)
- Project selection and development of POP: second quarter 2021
- Regional split of federal 5310 funds to direct recipients: spring or early summer 2021 (state funds are split earlier in the calendar year)
- POP public comment: managed by SEMCOG to coincide with scheduled TIP amendment
- Subrecipient awards: fall 2021

Upon conclusion of the window for submitting project applications, applications undergo initial screening by staff of the RTA or the appropriate direct recipient to determine:

- Eligibility of the applicant and project(s) for 5310 funding
- Project type (urbanized area, type of applicant, traditional vs. non-traditional project)
- Compliance with regional vehicle replacement thresholds
- Completeness of application
- Submission of required certifications and assurances

Applications for capital funding from inter-urbanized area subrecipients are also pre-screened by the appropriate direct recipient/proxy (SMART, AAATA/WATS, DDOT), or the RTA, based on previous vehicle usage and delivery of service.

Applications passing the initial screenings are scored by the selection committee.

The committee considers the elements of each application by type of project: vehicles, equipment, and infrastructure projects in one category and operations and mobility management in another. If an application contains both capital and operations/mobility management components, those components are scored separately by the committee. Each committee member awards points to the application for each selection criterion discussed below. The committee meets to discuss all applications. As a result of the discussion, committee members may revise their scoring of particular applications. At the conclusion of the meeting, the committee prepares funding recommendations for the RTA.

A sample application scoring sheet can be found in Appendix A.

Selection Criteria

Need and Benefits

- Alignment with priorities, needs, strategies, and solutions identified in the regional CHSTP

- Extent to which the project eliminates transportation barriers or improves mobility for older adults and people with disabilities
- Extent to which the project provides additional benefits or addresses needs of target groups
- Racial, ethnic, and economic characteristics (indicated by measures of income or auto ownership, for example) of the communities served by the applicant
- Need for vehicle replacement, based on regionally agreed-upon mileage and/or age thresholds for replacement
- Amount of unspent 5310 funds greater than two years old
- Utilization of existing 5310 services (ridership, vehicle miles or hours)

Coordination and Partnerships

- Extent to which the project utilizes or coordinates with existing public transportation providers, non-profit organizations, or other partner agencies
- Extent to which the applicant's current vehicles or services are used to provide coordinated services and/or shared with another agency's clients
- Extent to which the project contributes to development of coordinated transportation services in the region
- Extent of local support (participation of other organizations in application, letters of support, results of public outreach, overmatch of required local share)
- Subrecipient oversight risk level, based on information submitted with the application and direct recipients' knowledge of the subrecipient on factors such as experience with federal grant management in general and the 5310 program in particular, staff experience, effective financial and asset management procedures and controls, timeliness and responsiveness to reporting requirements or requests for information

Project Readiness

- Reasonableness and completeness of the applicant's financial plan
- Project sustainability beyond the grant period
- Reasonableness and completeness of the project implementation plan and schedule
- Experience the applicant has executing the type of transportation project listed in the application
- Demonstration of the applicant's technical capacity
- Number of years the agency has provided transportation services
- Number of projects the agency has carried out that are similar to the project listed
- Success rate at which previous projects met their goals and fulfilled a need

Highly Competitive Projects

Characteristics of "highly competitive projects" will be included in the call for project's explanatory material. Extra points may be awarded to applications that exhibit those characteristics that address regional or local priorities for the use of 5310 funds, as identified in the regional CHSTP.

For example:

- Joint application submitted by more than one subrecipient
- Vehicle sharing
- Purchase of service from an existing subrecipient
- New or innovative program or service
- Application addresses multiple needs, strategies, or solutions identified in the regional CHSTP
- Proposed project serves disadvantaged communities or addresses issue of transportation inequity (“disadvantaged communities” and “transportation inequity” to be defined using methods or measures developed as part of regional transit/transportation planning efforts)

POP Approval

After receiving project selection recommendations from the project selection committee, the RTA prepares a list of tentative project awards and shares it with committee members for feedback. Refinements are incorporated into a draft Program of Projects.

SEMCOG is responsible for obtaining public comment on the proposed POP in accordance with their Transportation Improvement Program (TIP) public participation procedures and schedule.

The final POP is approved by the RTA Board of Directors. Approval by the management or advisory boards of SMART, AAATA, DDOT, and DTC is obtained, if desired.

MANAGEMENT AND ADMINISTRATION

Subrecipient Grant Agreements

Direct recipients enter into grant agreements with local subrecipients in their area, to build upon the relationship between those local entities. For example, SMART contracts with community transportation providers in the urbanized area outside of the City of Detroit for operation of transportation services with 5310 funds. If community providers in the City of Detroit apply for 5310 funds in the future, DDOT and/or DTC would contract with those providers selected to receive funds. AAATA passes through funds for subrecipients operating entirely within Washtenaw County. The RTA or the appropriate direct recipient is responsible for subrecipient grant management on behalf of subrecipients that provide transportation cross-county between multiple provider areas, currently including agencies such as Jewish Family Services (JFS), Programs to Educate All Cyclists (PEAC), and People’s Express.

Program Management

Requirements for Project Administration, Financial Management, Procurement, and Vehicle Use and Maintenance

Direct recipients are responsible for managing 5310 funds awarded to them or local subrecipients in their area. The agreement between the RTA and the direct recipients describes requirements for accounting, reporting, project closeout, record retention,

audit, and other elements of program management. The RTA is responsible for drawing down funds and reimbursing one subrecipient, AAA-1B, for its mobility management expenses.

SMART and AAATA detail program management requirements in their agreements with local subrecipients. Financial management, procurement, property management, vehicle use and maintenance, accounting systems, audit, and project closeout requirements are covered in those agreements and additional program manuals and resources provided by the direct recipients to their local subrecipients.

Subrecipient Oversight and Technical Assistance

Prior to the issuance of the regional call for projects, the RTA coordinates technical assistance to potential 5310 applicants, including discussion of proposed projects before applications are developed and/or mandatory or encouraged pre-submission workshops or webinars. The direct recipients may provide this assistance; SMART and AAATA typically work with subrecipients to ensure that applications are complete and as compelling as possible.

Once project awards have been made, the direct recipients (SMART, AAATA, and DDOT), or their proxies, as applicable, are responsible for ongoing oversight of subrecipient to ensure compliance with FTA requirements, as outlined in [FTA Circular C 9070.1G, Enhanced Mobility of Seniors and Persons with Disabilities Program Guidance and Application Instructions](#).

The RTA requires direct recipients to comply with the terms of FTA's Master Agreement and includes executed certifications and assurances from each recipient in its agreements with them. Direct recipients pass on the same requirements to local subrecipients and obtain additional certifications and assurances as part of their contracting processes.

On an ongoing basis, the risk of noncompliance for each subrecipient is assessed and monitored through a combination of regular monthly, quarterly, and annual reporting of project administrative, operations, and financial statistics as described below. Direct recipients provide technical assistance to subrecipients, as needed, to address and correct any issues or findings of noncompliance that are identified.

Additional guidance regarding federal requirements can be found in the following FTA Circulars and other documents:

- C 4220.1F Third Party Contracting Guidance
- 5010.1E Award Management Guidance
- C 4710.1 Americans with Disabilities Act Guidance
- 4704.1A Equal Employment Opportunity Act (EEO) Guidance
- C 4702.1B Title VI Requirements and Guidelines for Federal Transit Administration Recipients
- 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards

Civil Rights

The direct recipients ensure that local subrecipients meet all applicable federal civil rights requirements, including Title VI, Equal Employment Opportunity (EEO), and

Disadvantaged Business Enterprise (DBE), Title VI, EEO, and DBE assurances are included in agreements with subrecipients. All three areas are included in the ongoing subrecipients monitoring programs of the direct recipients.

The 2020 CHSTP for southeast Michigan includes a discussion of ways to advance transportation equity in the region. The plan includes the following actions to encourage the participation of minority transportation providers and those that serve disadvantaged communities:

- Requesting specific information from applicants about the racial, ethnic, and economic characteristics (income, auto ownership) of their communities and considering that information when scoring applications on the “Need and Benefits” selection criterion
- Including projects that serve disadvantaged communities or address issues of transportation inequity to the list of “highly competitive projects” that are eligible for additional points during 5310 application scoring
- Providing mentorship or project support during the first 18 months of operations for new providers

Section 504 and ADA Reporting

Direct recipients ensure that local subrecipients meet all applicable Section 504 and ADA regulations and requirements. ADA requirements are among the areas checked during the ongoing monitoring practices of both direct recipients.

Program and Performance Measures

The TWG expressed interest in performance measures that could be incorporated into management of the region’s 5310 program to help address the following objectives for 5310 projects:

1. Progress toward the primary federal 5310 program objective of improved mobility for older adults and people with disabilities
2. Progress toward the specific regional and local objectives and priorities identified in the regional CHSTP
3. Effective use of limited 5310 funds

Federal 5310 regulations require the reporting of several useful measures that address the first objective:

- Number of older adults and/or people with disabilities with improved mobility they would not have without traditional 5310 projects
- Ridership, for traditional and non-traditional projects
- Service improvements—geographic coverage, service days and hours, service quality
- Physical improvements—facilities, technology, and vehicles

The following performance measures are used to address the third objective:

- Cost per passenger trip
- Cost per vehicle hour
- Passenger trips per vehicle hour

- Expenditures as a percentage of subrecipient's total 5310 award for each funding cycle, if applicable (i.e., timely use of current and prior 5310 funding by subrecipient)

Data related to the program and performance measures above, as well as any additional data necessary for required reporting to MDOT, is collected from subrecipients by the appropriate designated or direct recipients. AAATA may work through WATS on program measurement project oversight for local subrecipients, for instance non-financial records. If so, upon mutual agreement, an MOU between AAATA and WATS will address details. Other reporting requirements are described below.

Other Provisions

Section 5310 subrecipients must comply with other federal regulations and include them in their subcontracts when applicable. These include: Buy America; pre-award and post-delivery audit, drug and alcohol testing, and environmental protection for construction projects not subject to a general waiver.

Buy America

The Buy America requirements apply to construction contracts and acquisition of goods or rolling stock valued at more than \$100,000. The requirements flow down from Section 5310 subrecipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance. A Buy America clause is included in all Section 5310 subrecipient agreements and third-party contracts. OPT monitors for compliance.

The pre-award and post-delivery audit requirements apply to the acquisition of rolling stock. A clause is included in all subrecipient agreements and third-party contracts.

Drug and Alcohol Testing

Recipients or subrecipients that receive only Section 5310 program assistance are not subject to FTA's drug and alcohol testing rules, but must comply with the Federal Motor Carrier Safety Administration (FMCSA) rule for all employees who hold commercial driver's licenses (49 CFR part 382). Section 5310 recipients and subrecipients that also receive funding under one of the covered FTA programs (Section 5307, 5309, or 5311) should include any employees funded under Section 5310 projects in their testing program.

An FTA compliant testing program, as required by the receipt of FTA operating or capital funding (5307, 5309, 5311), may be used for Section 5310 employees; there is no need to have separate testing programs. Employees of a subrecipient of Section 5310 funds from a state or designated recipient of another FTA program (e.g., 5307 or 5311) should also be included in the designated recipient's testing program.

In accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.), and 49 CFR part 32, each recipient is required to maintain a drug-free workplace for all employees and to have an antidrug policy and awareness program. The recipient must agree that it will provide a drug-free workplace and comply with all requirements of 49 CFR part 32. These provisions apply only to FTA's direct recipients and do not extend to subrecipients.

The recipient is required to provide a written drug-free workplace policy statement notifying employees that the unlawful manufacture, distribution, dispensing, possession,

or use of a controlled substance is prohibited in the workplace and stating specific actions that will be taken for violations.

Environmental Protection

Proposed projects need to be looked at to determine their effect, if any, on the environment. Most capital projects under 5310 are “categorical exclusions” involving the acquisition of vehicles and vehicle related equipment. If a project has an environmental impact, MDOT follows all environmental regulations. There are several categories of projects:

- a) “Categorical Exclusions.” Many projects and activities assisted with bus and bus related category funds normally do not involve significant environmental impacts. The joint FHWA/FTA environmental regulations use the term “categorical exclusions” (CEs) to environmental document [environmental assessment (EA) or environmental impact statement (EIS)]. In February 2013, FTA published new CEs tailored specifically to transit projects in an effort to provide a more straightforward and efficient environmental review process. Under the new regulations, Section 771.118 (below) is reserved exclusively for FTA actions. In accordance with the regulations, bus and bus-related projects that are predetermined to be categorical exclusions include:

Section 771.118(c)

1. Utility and similar appurtenance action
2. Pedestrian or bicycle action
3. Environmental mitigation or stewardship activity
4. Planning and administrative activity
5. Action promoting safety, security, accessibility
6. Acquisition, transfer of real property interest
7. Acquisition, maintenance of vehicles/equipment
8. Maintenance, rehab, reconstruction of facilities
9. Assembly or construction of facilities
10. Joint development of facilities
11. Emergency recovery actions
12. Action within Existing Operational Right-of-Way
13. Action with Limited Federal Funding

Section 771.118(d)

1. Highway modernization
2. Bridge replacement or rail grade separation
3. Hardship or protective property acquisition
4. Acquisition of right-of-way
5. Reserved
6. Facility modernization

Experience has shown that many construction projects can be built and operated without causing significant impacts if they are carefully sited in areas with compatible, non-residential land use where the primary access roads are adequate to handle the additional bus traffic. FTA may approve the designation

of these construction projects as categorical exclusions if the grant applicant provides documentation which clearly demonstrates that the conditions stated above are met and that no significant adverse effects will result.

- b) **Projects That May Have an Environmental Impact.** Projects that significantly affect the environment require an EIS. The following are examples of projects that normally require an EIS: (1) A new controlled access freeway; (2) A highway project of four or more lanes on a new location; (3) New construction or extension of fixed transit facilities (e.g., rapid rail, light rail, commuter rail, bus rapid transit that will not be located within an existing transportation right-of-way) and; (4) New construction or extension of a separate roadway for buses or high occupancy vehicles not located within an existing highway facility. Most of the projects in which our subrecipients have been involved are outlined at Item (3) above. For these projects, our subrecipients have prepared environmental documentation with appropriate technical analysis to support a categorical exclusion, as applicable. So far no EIS actions have been required for the projects in our grant applications.
- c) **Projects That Require an Environmental Assessment.** The grant applicant must prepare an EA for any project that is not a CE and does not clearly require the preparation of an EIS. An EA documents the impacts of the proposed project and considers alternatives to the proposed site or design and is subject to public comment. FTA will review the EA and any public hearing comments and other comments received regarding the EA. A finding of no significant impact (FONSI), depending on the scope and magnitude of the probable environmental impacts, will be made by FTA.
- d) FTA is not permitted to provide federal assistance to support a project requiring an EA or an EIS until FTA has completed the environmental review process and determined either that the project qualifies for a FONSI or that the final EIS supports a Federal grant for the project.

Lobbying Restrictions

Agencies applying for federal assistance exceeding \$100,000, must certify that no federal appropriated funds have been paid or will be paid, on their behalf, to influence or attempt to influence anyone pertaining to the award, continuation or modification of federal assistance. If funds other than federal appropriated funds have been used for this purpose, the agency is instructed to complete the Standard Form-LLL, "Disclosure Form to Report Lobbying."

School Bus Operations

Agencies are instructed that they must comply with this rule. They sign an annual certification with their applications that they will engage in school transportation operations only to the extent permitted by an exception provided by 49 U.S.C. 5323(f).

Suspension and Debarment

Subrecipients must certify that their agency and its principals are not currently suspended, debarred, ineligible, or voluntarily excluded from participation in federally assisted transactions or procurements. This certification will be included in subrecipient agreements.

Compliance Monitoring

The regional approach to compliance monitoring seeks to preserve the effective oversight practices developed by direct recipients while adding a few minimum steps to improve regional consistency and documentation. At a minimum, all subrecipients will undergo a risk level assessment as described below and an in-depth compliance review, consisting of a desk review and a site visit, at least once during the term of the organization's 5310 subrecipient agreement. New subrecipients will receive an in-depth compliance review within one year of the date of their 5310 awards. Compliance reviews for such subrecipients will follow the schedules discussed below thereafter. Documentation of oversight activities in each subrecipient's file will include a copy of the risk assessment and notes of any oversight activities conducted during the year, including results and any corrective actions taken to address issues identified during oversight.

Apart from the regional requirements, the direct recipients continue to monitor the operations of subrecipients according to their current oversight procedures and schedules. Direct recipients are responsible for updating their procedures in accordance with federal guidelines. The scope and frequency of desk reviews and site visits, particularly for subrecipients in the Low and Medium risk categories, is determined by the direct recipients. Subrecipients in the High risk category typically receive more frequent oversight.

Risk Level Determination

A tiered approach, based on the level of risk of noncompliance with federal, state, and local requirements determined for each subrecipient, guides oversight activities.

Risk levels for each subrecipient are assessed at the time of award of Section 5310 funds and during the contracting process by the direct recipients. Information from subrecipients' applications for project funding and follow-up collection of information, and, in the case of subrecipients that are not new to the 5310 program, the direct recipients' knowledge of and experience with the subrecipient, are used to make the risk level determination. Subrecipients that operate regionally are assessed jointly by the entities with which they have subrecipient agreements, and risk level scores are averaged to arrive at a total score. The entity responsible for ongoing monitoring and oversight of those regional providers is either RTA or a direct recipient, as determined on a case-by-case basis.

The factors shown in Figure 1 illustrate those that may be used to determine the risk of non-compliance for 5310 subrecipients (direct recipients may add or revise these factors as needed). Lower scores for each factor denote lower levels of risk.

The information needed to complete the risk assessment of a new subrecipient will be found in the organization's application for 5310 funding, which includes a summary cover sheet/questionnaire about the organization and its experience to supplement the more detailed description of the organization and the proposed 5310 project in the body of the application. Additional information may be collected as part of executing agreements between the direct recipient and the local subrecipient. As mentioned above, the direct recipients' previous knowledge of and experience with subrecipients that have received 5310 awards in the past are also used in the risk assessment.

A lower total score (10-20) indicates a lower level of noncompliance risk; a higher score indicates a medium (30) or higher risk level (40-50).

Technical Assistance

Technical assistance is provided by the RTA and/or direct recipients at the following stages of engagement with a subrecipient:

- Pre-application assistance through workshops, online meetings, or one-on-one application review
- Assistance during project implementation to orient new subrecipients or address and resolve findings of noncompliance or other issues

To advance transportation equity in the region, mentoring of new subrecipients by more experienced providers during their first 18 months of operation of 5310 services may also be available.

Reporting

Direct recipients are responsible for collecting the data needed from subrecipients to prepare the following required federal reports, as referenced in FTA Circular C 9070. 1 G, Enhanced Mobility of Seniors and Persons with Disabilities Program Guidance and Application Instructions, as applicable:

- Annual and quarterly Program of Projects reports
- Federal Funding Accountability and Transparency Act (FFATA) information for the Federal Subaward Reporting System (FSRS) one month after subawards are made
- Milestone Progress Reports
- Federal Financial Reports
- Program Measures for both traditional and nontraditional 5310 projects
- National Transit Database (NTD) reports, as applicable
- Disadvantaged Business Enterprise (DBE) reports

Figure 1: Subrecipient Risk-Level Factors

| Factor | Determinations | Score 1-5 |
|---|--------------------------------------|--------------|
| 1. Subrecipient experience with state or federal funds | 5+ years, 2-4 years, 0-1 year | |
| 2. Subrecipient experience with Section 5310 program | 5+ years, 2-4 years, 0-1 year | |
| 3. Management or staff turnover or reorganization | None, occasional, frequent | |
| 4. Average experience of management staff assigned to the program | 5+ years, 2-4 years, 0-1 year | |

| | | |
|---|---|--|
| 5. Subrecipient timeliness in document submission | On time, occasionally late, typically often or very late | |
| 6. Subrecipient timely response to program/fiscal questions | On time, occasionally late, typically often or very late | |
| 7. Complexity of the business environment (type of organization, location of transportation function within the organization, resources available for management and administration of grant funds) | Simple, moderately complex, complex | |
| 8. Effective written financial and asset management procedures and controls* | Written and implemented, unwritten and implemented, none | |
| 9. Difficulty meeting matching requirements | None, some difficulty, much difficulty | |
| 10. Legal assessment (lawsuits)* | None, minor, major | |
| Total Score | | |

In addition, direct recipients require subrecipients to compile and submit a number of financial and operating reports as detailed in SMART's *Community Transit Manual* and AAATA's *Federal Award Management Policies and Procedures*.

Documentation of Oversight Activities

Direct recipients prepare notes for each subrecipient's file to document risk assessment and oversight activities conducted during the year and their results.

At the end of each year, direct recipients prepare a brief annual summary report for RTA, based on a regional template developed by RTA and reviewed by direct recipients (Appendix B), that documents highlights of oversight activities and the performance of 5310-funded projects and services in that year.

APPENDIX A: SAMPLE SECTION 5310 APPLICATION SCORING SHEET

To be completed and added to the PMP

APPENDIX B: DIRECT RECIPIENT PROCEDURES FOR OVERSIGHT AND MONITORING OF SUBRECIPIENTS

To be submitted to RTA by direct recipients as part of the first annual report on oversight and added to the PMP

APPENDIX C: ANNUAL OVERSIGHT REPORT—DRAFT TEMPLATE

To be completed and added to the PMP

