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**Part V**

**Department of Labor**

Office of Labor-Management Standards

29 CFR Part 215

Amendment to Section 5333(b) Guidelines  
To Carry Out New Programs Authorized  
by the Transportation Equity Act for the  
21st Century (TEA 21); Final Rule

**DEPARTMENT OF LABOR****Office of Labor-Management Standards****29 CFR Part 215**

RIN 1215-AB25

**Amendment to Section 5333(b) Guidelines To Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century (TEA 21)**

AGENCY: Office of Labor-Management Standards, Labor.

ACTION: Final guidelines.

**SUMMARY:** The Department of Labor (the Department) is providing notice of an amendment to its procedural guidelines for certification of certain projects of the Department of Transportation, Federal Transit Administration (FTA), in satisfaction of the requirements of Title 49 U.S.C., Chapter 53, Section 5333(b) (commonly referred to as "Section 13(c)"). This notice is necessitated by the introduction of three new programs under the Transportation Equity Act for the 21st Century (TEA-21), and the need to identify appropriate procedures for the Department's required certification of employee protections in connection with these projects.

The section 5333(b) guidelines, as amended, are reprinted in their entirety in this document for the convenience of the reader. These guidelines replace those currently published at 29 CFR part 215. For a discussion of issues raised during the comment process for the earlier guidelines, see the final guidelines published on December 7, 1995 (60 FR 62964).

**DATES:** These guidelines become effective August 27, 1999.

**FOR FURTHER INFORMATION CONTACT:** Kelley Andrews, Director, Statutory Programs, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5603, Washington, DC 20210; telephone (202) 693-0126; facsimile (202) 693-1342.

**SUPPLEMENTARY INFORMATION:****I. Background**

The Transportation Equity Act for the 21st Century (TEA-21), signed into law by President Clinton on June 9, 1998, provides for three new transportation programs which require employee protections under section 5333(b). These are the Job Access and Reverse Commute Program (section 3037), the Over-the-Road Bus Accessibility Program (section 3038), and the State Infrastructure Bank Program (section 1511). As a condition of the release of

Federal funds for these programs, applicants must comply with section 5333(b), administered under the Department's mass transit employee protection program. These employee protections include the preservation of rights, privileges, and benefits under existing collective bargaining agreements, the continuation of collective bargaining rights, the protection of individual employees against a worsening of their positions related to employment, assurances of employment to employees of acquired mass transportation systems, priority of reemployment, and paid training or retraining.

For most mass transit programs funded by the FTA, the Department processes the employee protection certifications required under section 5333(b) in accordance with procedural guidelines published at 29 CFR 215.3. The Department does not apply these procedures to the processing of section 5310, Elderly and Handicapped grants which do not require section 5333(b) certification, or section 5311 Non-Urban formula grants which are specifically exempted from processing under the guidelines. Section 5311 grants are certified through the application of a warranty without referral to the affected parties. Other grants are certified following the referral procedures established in the guidelines affording the interested parties an opportunity to provide their views on substantive protections.

The Department's Office of Labor-Management Standards' Notice of Proposed Rulemaking (NPRM), issued March 30, 1999 (64 FR 15276), proposed to amend the guidelines to identify the certification processes which will be applicable for the Job Access and Reverse Commute Program, the Over-the-Road Bus Accessibility Program, and the State Infrastructure Bank Program.

Comments addressing the proposed modifications to the guidelines were submitted by six interested parties. The Department has carefully reviewed these comments in the context of the amended guidelines to ensure that the requirements of the statute continue to be satisfied and that the Department will meet its goal of providing efficient and predictable certification of employee protections. The Department's review of the interested parties' comments has not resulted in any changes to the proposed guideline amendments. However, the specific points raised by the parties are discussed in Section II, Summary and Discussion of Comments.

Therefore, for the newly authorized programs under TEA-21, the Department will provide for processing as follows. For Job Access and Reverse Commute grants, the Department will differentiate between grants to applicants serving populations under 200,000 and those applicants serving populations of 200,000 or more. The Department will develop procedures and apply appropriate protections without a referral for "under 200,000" grants and will utilize the guidelines procedures for "200,000 and over" grants. For State Infrastructure Bank (SIB) activities, the Department will develop procedures and ensure that employees are appropriately protected without a referral for the initial capitalization of SIBs and will utilize the guidelines procedures for subsequent projects receiving assistance from the SIB. Finally, for the Over-the-Road Bus Accessibility Program, the Department will utilize the guidelines procedures.

**II. Summary and Discussion of the Comments**

Six comments from various interested parties throughout the transit industry were submitted and considered.

Comments were received from one public transit provider:

—New Jersey Transit Corporation

Four labor organizations provided comments:

—Amalgamated Transit Union

—Transportation Trades Department, AFL-CIO

—Transportation-Communications International Union

—United Transportation Union

Finally, one public transit association provided comments:

—American Public Transit Association

The Department has carefully reviewed and considered all of the comments in developing these guidelines. The following provides a summary of the comments and the Department's response.

**A. Job Access Certification Procedures for Applicants Serving Populations Under 200,000**

Two comments supported the Department's proposal not to apply the existing guidelines procedures for Job Access and Reverse Commute grants in areas under 200,000. However, they expressed disappointment that projects for grants to applicants serving populations of 200,000 and over would be covered by the existing guidelines procedures. Concern was expressed that, because "non-traditional transportation providers are going to be

involved, and given the unique types of transportation services to be funded under this new program, it is likely that grants will be subject to inordinate delays under the referral process." The Department, however, does not believe that such non-traditional providers will experience substantial delays under the certification procedures which were put in place in 1996. The Department's existing procedures provide for certifications to be issued within 60 days after referral of a grant application.

Four comments opposed the Department's proposed procedures for processing Job Access and Reverse Commute grants for applicants serving populations under 200,000. One comment indicated that there was no basis in the statute or the legislative history to justify a warranty procedure for Job Access and Reverse Commute Program grants to applicants serving populations under 200,000. Another indicated that the Department's expectation that this program will have a greater impact on employees of larger transit systems does not justify its proposal not to apply the existing guidelines to grants serving populations under 200,000. It was suggested that the existing procedures should be applicable to the Job Access and Reverse Commute grants serving populations under 200,000 because "the Department already acknowledges that the existing Section 13(c) guidelines are the appropriate means by which to certify employee protective terms for grants disbursed to urbanized areas with populations under 200,000 who receive "pass-through" funds from their respective states."

The Job Access program established under TEA-21 distinguishes between grants serving differing populations by requiring that Metropolitan Planning Organizations will select applicants in areas serving populations of 200,000 or greater, and the states will select applicants in areas with populations under 200,000. Section 3037(j) of TEA-21 specifies that "[a] grant under this section shall be subject to . . . all of the terms and conditions to which a grant made under section 5307 of title 49, United States Code, is subject". However, neither the statute nor the legislative history for the Job Access and Reverse Commute Program specify how such grants are to be processed. Therefore, the Department has flexibility to develop and implement procedures appropriate to carry out its section 5333(b) responsibilities. In addition, with regard to "pass-through" grants, the legislative history indicates that negotiations are the appropriate process for the development of

protections for application to those grants.

The Job Access and Reverse Commute grants serving populations under 200,000 will have much in common with grants processed under the section 5311 small urban and rural transportation program. For example, both types of grants will be selected and administered through the States and many grants will be made to non-traditional transportation providers. Because grants serving populations of under 200,000 are less likely to interface with traditional transportation providers which tend to be represented by organized labor, the Department believes it is not necessary to use a referral process here. Accordingly, the Department believes there is adequate justification for utilizing a process which does not require a referral for certification of Job Access and Reverse Commute Program grants to applicants serving populations under 200,000. The Department will ensure that the protections applied to Job Access and Reverse Commute grants serving populations under 200,000 satisfy the requirements of section 5333(b).

Several comments assumed that the Department would process Job Access and Reverse Commute grants for applicants serving populations under 200,000 using the warranty certification process applicable to non-urban formula grants. As noted in the NPRM, the Department intends to "establish procedures *similar* to those for section 5311(f)." (Emphasis added.) Another comment noted that "the Department intends to apply as yet unspecified arrangement(s)" but "the proposed amendment to the Section 5333(b) guidelines fails to include any discussion and/or provisions prescribing how such an arrangement would be established."

The Department has the authority and responsibility to develop appropriate procedures and statutorily sufficient protective arrangements for the section 5333(b) certification program. These may need to be adjusted periodically to reflect developments in transit programs, including the Job Access and Reverse Commute program, or to formulate the necessary terms and conditions for specific projects. The Department must retain the flexibility to apply appropriate protections in the circumstances presented. Therefore, it is not appropriate to publish the protective arrangements which will be applied for grants under this program.

The Department will establish appropriate procedures for processing of "under 200,000" Job Access and Reverse Commute grants similar to

those for section 5311(f) grants, coordinating with the Federal Transit Administration on mass transit issues, issues relating to the interface of our procedures, and various issues relating to the applications themselves.

#### *B. State Infrastructure Bank Certification Procedures*

One comment indicated that, in addition to the initial capitalization, the SIB program should be administered through "more flexible and streamlined warranty procedures in lieu of the lengthy referral process" for grants made subsequent to the initial capitalization. The Department, however, anticipates that many of the projects assisted by the SIBs will be similar to projects currently requiring certification under the existing guidelines procedures. Accordingly, the existing certification process is appropriate for SIB projects and it will not unduly burden the efficient delivery of program services.

One comment indicated that the proposed guidelines did not make it sufficiently clear that transit projects receiving assistance subsequent to a SIB capitalization would be subject to the referral procedures under section 215.3. Another comment noted that the initial capitalization might also include specific projects which should be processed in accordance with the existing guidelines procedures. These comments suggested that the final guidelines be amended to address these issues. The Department, however, does not believe that such modifications are necessary. As drafted, the amended guidelines only exempt from the existing procedures those grants which capitalize SIB accounts. If a specific project were to be applied for at the same time as the capitalization grant, the Department would apply the certification procedures of the existing guidelines for that project.

It was also suggested that the Department include in its guidelines "the procedures and/or standards to be applied for developing the 'standard protections' for initial SIB capitalization grants where no specific projects are identified." As previously indicated, the Department has the authority and responsibility to develop appropriate procedures and statutorily sufficient protective arrangements, and these may need to be adjusted periodically to reflect developments in transit programs, including the SIB program. In order for the Department to retain the flexibility necessary in the circumstances presented, it is not appropriate to publish the specific language which will be applied for SIB

capitalization grants. The Department will certify initial capitalization grants made by FTA to the SIBs by specifying that the SIB may not release funds for specific projects in the absence of a subsequent certification for those projects.

As with other programs, the Department will establish appropriate procedures for processing of SIB capitalization grants, coordinating with the Federal Transit Administration on issues relating to the interface of our procedures and various issues relating to the applications themselves.

### *C. Second and Subsequent Generations of Funds Under the State Infrastructure Bank Program*

One comment indicated that SIB "funds are repaid to the state account from non-federal sources after their first use, which means the federal nexus becomes attenuated and there remains no real basis for ongoing application of federal DOL Guidelines—which at that point should no longer apply." Another comment, however, noted that "Section 1511(h)(2)(i)(2) [of TEA-21] mandates the application of Section 5333(b) requirements . . . to transit projects assisted by 'repayments' to the SIB resulting from any financial transactions undertaken by the bank." That comment indicated that "[t]he Department's final regulation should acknowledge and incorporate these obligations for so-called 'second generation' grants to insure the proper application of transit employee protections to *all* transit projects assisted by an infrastructure bank."

TEA-21 does specify that "[t]he requirements of titles 23 and 49, United States Code, shall apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall be considered to be Federal funds." It is not necessary to modify the Department's proposed amendment to address either of these comments. The Department will include language in its certifications for the capitalization of SIBs which ensures that the requirements of TEA-21 with respect to second and subsequent generations of funds are appropriately satisfied.

### *D. Over-the-Road Bus Accessibility Program*

Two comments expressed support for the Department's proposed certification approach for processing grants under the Over-the-Road-Bus Accessibility Program. Another comment, however, indicated that "the Secretary of Labor appears to have the authority to waive section 5333(b) certification

requirements" for the program, and recommended that the final rule address this authority.

In addressing the Over-the-Road-Bus Accessibility Program, section 3038(f) of TEA-21 provides that "[a] grant under this section shall be subject to all of the terms and conditions applicable to subrecipients who provide intercity bus transportation under section 5311(f) of title 40, United States Code, and such other terms as the Secretary [of Transportation] may prescribe." This language establishes that the *requirements* of section 5333(b) must be applied for Over-the-Road-Bus Accessibility Program grants, but neither the statute nor the legislative history specify the *procedures* for processing these grants. Therefore, the Department has flexibility to develop and implement procedures appropriate to carry out its section 5333(b) responsibilities. Section 5311(j) provides that "the Secretary of Labor may waive the application of section 5333(b)" for projects under section 5311. However, the criteria for such a waiver requires that "there are no employees of the Recipient or of any other public transportation providers in the transportation service area of the Project who could be potentially affected." The Department believes it is unlikely that intercity bus services would meet that criteria. Therefore, the Department did not include waiver procedures for this program.

## **III. Regulatory Procedures**

### *Executive Order*

This final rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Department has determined that this rule is not a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, it does not require an assessment of potential costs and benefits under section 6(a)(3) of that order.

### *Regulatory Flexibility Act*

This final rule addresses the procedural steps for obtaining the Department's certification that employee protection arrangements under the Federal Transit law are in place as required for three new programs funded under TEA-21. The amendment will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 605(b)) is not required. The Assistant

Secretary for Employment Standards has certified to this effect to the Chief Counsel for Advocacy of the Small Business Administration.

### *Unfunded Mandates Reform*

Executive Order 12875—This rule will not create an unfunded Federal mandate upon any State, local or tribal government.

Unfunded Mandates Reform Act of 1995—This rule will not include any Federal mandate that may result in increased expenditures by State, local, and tribal governments, in the aggregate, of \$100 million or more, or in increased expenditures by the private sector of \$100 million or more.

### *Paperwork Reduction Act*

These guidelines contain no information collection requirements for purposes of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### *Small Business Regulatory Enforcement Fairness Act of 1996*

A. This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based companies to compete with foreign-based companies in domestic and export markets.

B. Consistent with the Small Business Regulatory Enforcement Fairness Act of 1996, the Department will submit to Congress a report regarding the issuance of today's final rule prior to the Effective Date set forth in the outset of this document. The report will note the Office of Management and Budget's determination that this rule does not constitute a "major rule" under that Act. 5 U.S.C. 801, 805.

### **List of Subjects in 29 CFR Part 215**

Grant administration; Grants—transportation; Labor-management relations; Labor unions; Mass transportation.

Accordingly, Part 215 in Chapter II of Title 29 of the *Code of Federal Regulations* is amended by removing the last sentence in paragraph (a)(3) of § 215.3, by adding a new paragraph (a)(4) in § 215.3 to read as set forth below, and by revising § 215.8 to read as set forth below. For the convenience of the reader, the entire part is being republished in full.

**PART 215—GUIDELINES, SECTION 5333(b), FEDERAL TRANSIT LAW**

Sec.

215.1 Purpose.

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**Authority:** Secretary's Order No. 5-96, 62 FR 107, January 2, 1997.

**PART 215—GUIDELINES, SECTION 5333(b), FEDERAL TRANSIT LAW****§ 215.1 Purpose.**

(a) The purpose of these guidelines is to provide information concerning the Department of Labor's administrative procedures in processing applications for assistance under the Federal Transit law, as codified at 49 U.S.C. chapter 53.

(b) Section 5333(b) of title 49 of the United States Code reads as follows:

*Employee protective arrangements.*—(1) As a condition of financial assistance under sections 5307-5312, 5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(j)(5) of this title, the interests of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5307-5312, 5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(j)(5) shall specify the arrangements.

(2) Arrangements under this subsection shall include provisions that may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;

(B) the continuation of collective bargaining rights;

(C) the protection of individual employees against a worsening of their positions related to employment;

(D) assurances of employment to employees of acquired mass transportation systems;

(E) assurances of priority of reemployment of employees whose employment is ended or who are laid off; and

(F) paid training or retraining programs.

(3) Arrangements under this subsection shall provide benefits at least equal to benefits established under section 11326 of this title.

**§ 215.2 General.**

Upon receipt of copies of applications for Federal assistance subject to 49 U.S.C. 5333(b), together with a request for the certification of employee protective arrangements from the Department of Transportation, the

Department of Labor will process those applications, which may be in either preliminary or final form. The Federal Transit Administration will provide the Department with the information necessary to enable the Department to certify the project.

**§ 215.3 Employees represented by a labor organization.**

(a)(1) If affected employees are represented by a labor organization, it is expected that where appropriate, protective arrangements shall be the product of negotiation/discussion, pursuant to these guidelines.

(2) In instances where states or political subdivisions are subject to legal restrictions on bargaining with employee organizations, the Department of Labor will utilize special procedures to satisfy the Federal statute in a manner which does not contravene state or local law. For example, employee protective terms and conditions, acceptable to both employee and applicant representatives, may be incorporated into a resolution adopted by the involved local government.

(3) If an application involves a grant to a state administrative agency which will pass assistance through to subrecipients, the Department of Labor will refer and process each subrecipient's respective portion of the project in accordance with this section. If a state administrative agency has previously provided employee protections on behalf of subrecipients, the referral will be based on those terms and conditions.

(4) These procedures are not applicable to grants under section 5311; grants to applicants serving populations under 200,000 under the Job Access and Reverse Commute Program; or grants to capitalize SIB accounts under the State Infrastructure Bank Program.

(b) Upon receipt of an application involving affected employees represented by a labor organization, the Department of Labor will refer a copy of the application to that organization and notify the applicant of referral.

(1) If an application involves only a capital grant for routine replacement of equipment of like kind and character and/or facilities of like kind and character, the procedural requirements set forth in paragraphs 215.3(b)(2) through 215.3(h) of these guidelines will not apply absent a potentially material effect on employees. Where no such effect is found, the Department of Labor will certify the application based on the terms and conditions as referenced in paragraphs 215.3(b)(2) or 215.3(b)(3)(ii).

(2) For applicants with previously certified arrangements, the referral will be based on those terms and conditions.

(3) For new applicants and applicants for which previously certified arrangements are not appropriate to the current project, the referral will be based on appropriate terms and conditions specified by the Department of Labor, as follows:

(i) For operating grants, the terms and conditions will be based on arrangements similar to those of the Model Agreement (referred to also as the National Agreement);

(ii) For capital grants, the terms and conditions will be based on arrangements similar to those of the Special Warranty applied pursuant to section 5311.

(c) Following referral and notification under paragraph (b) of this section, and subject to the exceptions defined in § 215.5, parties will be expected to engage in good faith efforts to reach mutually acceptable protective arrangements through negotiation/discussion within the time frames designated under paragraphs (d) and (e) of this section.

(d) As part of the Department of Labor's review of an application, a time schedule for case processing will be established by the Department of Labor and specified in its referral and notification letters under paragraph 215.3(b) or subsequent written communications to the parties.

(1) Parties will be given fifteen (15) days from the date of the referral and notification letters to submit objections, if any, to the referred terms. The parties are encouraged to engage in negotiations/discussions during this period with the aim of arriving at a mutually agreeable solution to objections any party has to the terms and conditions of the referral.

(2) Within ten (10) days of the date for submitting objections, the Department of Labor will:

(i) Determine whether the objections raised are sufficient; and

(ii) Take one of the two steps described in paragraphs (d)(5) and (6) of this section, as appropriate.

(3) The Department of Labor will consider an objection to be sufficient when:

(i) The objection raises material issues that may require alternative employee protections under 49 U.S.C. 5333(b); or

(ii) The objection concerns changes in legal or factual circumstances that may materially affect the rights or interests of employees.

(4) The Department of Labor will consult with the Federal Transit

Administration for technical advice as to the validity of objections.

(5) If the Department of Labor determines that there are no sufficient objections, the Department will issue its certification to the Federal Transit Administration.

(6) If the Department of Labor determines that an objection is sufficient, the Department, as appropriate, will direct the parties to commence or continue negotiations/discussions, limited to issues that the Department deems appropriate and limited to a period not to exceed thirty (30) days. The parties will be expected to negotiate/discuss expeditiously and in good faith. The Department of Labor may provide mediation assistance during this period where appropriate. The parties may agree to waive any negotiations/discussions if the Department, after reviewing the objections, develops new terms and conditions acceptable to the parties. At the end of the designated negotiation/discussion period, if all issues have not been resolved, each party must submit to the Department its final proposal and a statement describing the issues still in dispute.

(7) The Department will issue a certification to the Federal Transit Administration within five (5) days after the end of the negotiation/discussion period designated under paragraph (d)(6) of this section. The certification will be based on terms and conditions agreed to by the parties that the Department concludes meet the requirements of 49 U.S.C. 5333(b). To the extent that no agreement has been reached, the certification will be based on terms and conditions determined by the Department which are no less protective than the terms and conditions included in the referral pursuant to §§ 215.3(b)(2) and 215.3(b)(3).

(8) Notwithstanding that a certification has been issued to the Federal Transit Administration pursuant to paragraph (d)(7) of this section, no action may be taken which would result in irreparable harm to employees if such action concerns matters subject to the steps set forth in paragraph (e) of this section.

(e) If the certification referred to in paragraph (d)(7) of this section is not based on full mutual agreement of the parties, the Department of Labor will take the following steps to resolve outstanding differences:

(1) The Department will set a schedule that provides for final resolution of the disputed issue(s) within sixty (60) days of the certification referred to in paragraph (d)(7) of this section.

(2) Within ten (10) days of the issuance of the certification referred to in paragraph (d)(7) of this section, and after reviewing the parties' descriptions of the disputed issues, the Department will define the issues still in dispute and set a schedule for final resolution of all such issues.

(3) The Department may establish a briefing schedule, usually allowing no more than twenty (20) days for opening briefs and no more than ten (10) days for reply briefs, when the Department deems reply briefs to be beneficial. In either event, the Department will issue a final certification to the Federal Transit Administration no later than thirty (30) days after the last briefs are due.

(4) The Department of Labor will decide the manner in which the dispute will be resolved. In making this decision, the Department may consider the form(s) of dispute resolution employed by the parties in their previous dealings as well as various forms of third party dispute resolution that may be appropriate. Any dispute resolution proceedings will normally be expected to commence within thirty (30) days of the certification referred to in paragraph (d)(7) of this section, and the Department will render a final determination, including the bases therefor, within thirty (30) days of the commencement of the proceedings.

(5) The Department will make available final decisions it renders on disputed issues.

(f) Nothing in these guidelines restricts the parties from continuing to negotiate/discuss over final terms and conditions and seeking a final certification of an agreement that meets the requirements of the Act prior to the issuance of a final determination by the Department.

(g) If, subsequent to the issuance of the certification referred to in paragraph (d)(7) of this section, the parties reach an agreement on one or more disputed issues that meets the requirements of the Act, and/or the Department of Labor issues a final decision containing revised terms and conditions, the Department will take appropriate steps to substitute the new terms and conditions for those previously certified to the Federal Transit Administration.

(h) Notwithstanding the foregoing, the Department retains the right to withhold certification where circumstances inconsistent with the statute so warrant until such circumstances have been resolved.

#### **§ 215.4 Employees not represented by a labor organization.**

(a) The certification made by the Department of Labor will afford the same level of protection to those employees who are not represented by labor organizations.

(b) If there is no labor organization representing employees, the Department of Labor will set forth the protective terms and conditions in the letter of certification.

#### **§ 215.5 Processing of amendatory applications.**

When an application is supplemental to or revises or amends in immaterial respects an application for which the Department of Labor has already certified that fair and equitable arrangements have been made to protect the interests of mass transit employees affected by the subject project the Department of Labor will on its own initiative apply to the supplemental or other amendatory application the same terms and conditions as were certified for the subject project as originally constituted. The Department of Labor's processing of these applications will be expedited.

#### **§ 215.6 The Model Agreement.**

The Model (or National) Agreement mentioned in paragraph (b)(3)(i) of § 215.3 refers to the agreement executed on July 23, 1975 by representatives of the American Public Transit Association and the Amalgamated Transit Union and Transport Workers Union of America and on July 31, 1975 by representatives of the Railway Labor Executives' Association, Brotherhood of Locomotive Engineers, Brotherhood of Railway and Airline Clerks and International Association of Machinists and Aerospace Workers. The agreement is intended to serve as a ready-made employee protective arrangement for adoption by local parties in specific operating assistance project situations. The Department has determined that this agreement provides fair and equitable arrangements to protect the interests of employees in general purpose operating assistance project situations and meets the requirements of 49 U.S.C. 5333(b).

#### **§ 215.7 The Special Warranty.**

The Special Warranty mentioned in paragraph (b)(3)(ii) of § 215.3 refers to the protective arrangements developed for application to the small urban and rural program under section 5311 of the Federal Transit statute. The warranty arrangement represents the understandings of the Department of Labor and the Department of

Transportation, reached in May 1979, with respect to the protections to be applied for such grants. The Special Warranty provides fair and equitable arrangements to protect the interests of employees and meets the requirements of 49 U.S.C. 5333(b).

**§ 215.8 Department of Labor contact.**

Questions concerning the subject matter covered by this part should be addressed to Director, Statutory Programs, U.S. Department of Labor, Suite N5603, 200 Constitution Avenue, N.W., Washington, DC 20210; phone number 202-693-0126.

Signed at Washington, DC this 21st day of July, 1999.

**Bernard E. Anderson,**

*Assistant Secretary for Employment Standards.*

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