DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of FTA Transit Program Changes, Authorized Funding Levels and Implementation of the Moving Ahead for Progress in the 21st Century Act (MAP-21) and FTA Fiscal Year 2013 Apportionments, Allocations, Program Information and Interim Guidance.

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This notice announces changes in the Federal Transit Administration (FTA) programs in accordance with the Moving Ahead for Progress in the 21st Century Act (MAP-21), which authorizes surface transportation programs of the Department of Transportation for Federal fiscal years (FY) 2013 and 2014. This notice provides preliminary implementation instructions and guidance for the new and revised programs in FY 2013, announces the partial apportionment for programs authorized and funded with FY 2013 contract authority, and describes future plans for notice and comment for several programs. The notice also includes locations of tables of unobligated (or carryover) funds allocated under the discretionary programs from prior years carried out in accordance with the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users (SAFETEA-LU) or prior authorization acts.

FOR FURTHER INFORMATION CONTACT: For general information about this notice contact Jamie Pfister, Director, Office of Transit Programs, at (202) 366-2053. Please contact the appropriate FTA regional office for any specific requests for information or technical assistance. FTA regional office contact information is available on FTA's website: www.fta.dot.gov.

An FTA headquarters contact for each major program area is included in the discussion of that program in the text of the notice.

FTA recommends that stakeholders subscribe on FTA's website (www.fta.dot.gov) to receive email notifications when new information is available.

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I. Overview

This document contains important information and interim guidance about new FTA programs and changes to existing FTA programs authorized by the Moving Ahead for Progress in the 21st Century Act (MAP-21) (Pub. L. 112-141), signed by President Obama on July 6, 2012, and effective on October 1, 2012.

In addition, this document provides apportionments for FTA formula programs in amounts at approximately one half of the funding levels available in FY 2012 pursuant to the Continuing Appropriations Resolution, 2013 (CR) (Pub. L. 112-175). It also contains information on how FTA plans to administer its transit programs in fiscal year (FY) 2013 and how funds appropriated and allocated prior to FY 2013 will be treated.

This notice highlights important changes to FTA programs, including new safety authority, new asset management requirements, streamlining of the New and Small Starts Program, and the impact of the 2010 Census on apportionments for FY 2013. It describes definitional changes and cross-cutting requirements. It identifies repealed programs and provides specific information about FTA's programs as authorized under MAP-21.

For each FTA program included, FTA has provided information on the MAP-21 authorized funding levels for FYs 2013 and 2014, funds available under the CR, the basis for apportionment or allocation of funds, requirements specific to the program, period of availability of funds, and other program information. A separate section provides information on pre-award authority and other requirements and guidance applicable to FTA programs and grant administration. Finally, the notice includes references to tables on FTA's website that show amounts apportioned under the CR, and approximately $1.9 billion in unobligated or carryover funding available in FY 2013 from prior years under certain discretionary programs carried out in accordance with SAFETEA-LU or other authorization acts.

Information in this document includes references to the existing FTA program guidance circulars. While some information in the circulars has been superseded by new provisions in MAP-21, the circulars remain a resource for program guidance in most areas. FTA intends to revise the circulars, as appropriate, with an opportunity for public comment.

To supplement the guidance provided in this document FTA is preparing answers to frequently asked questions (FAQs) on MAP-21 changes and impacts received from its grantees, stakeholders, and other interested parties. These FAQs will be posted on the FTA's website as they become available.

II. FY 2013 Funding for FTA Programs

A. MAP-21 Authorization and FY 2013 Continuing Resolution (CR) Appropriations

MAP-21 is the new two-year surface transportation authority that provides FTA an authorization level of $10.6 billion in FY 2013 and $10.7 billion in FY 2014. MAP-21 consolidates certain transit programs to improve their efficiency and provides significant funding increases specifically for improving the state of good repair of the nation's transit systems. The law grants FTA authority to strengthen the safety of public transportation systems throughout the United States. It also streamlines the New Start process to expedite project delivery and provides for core capacity project eligibility. MAP-21 took effect on October 1, 2012.

The CR makes continuing appropriations for FY 2013 through March 27, 2013 at approximately one half of the FY 2012 funding levels. The CR specifies that appropriations are provided for continuing projects or activities for which funding was available in that fiscal year, except as provided in section 154 of the CR. In section 154 of the CR, Congress updated the appropriations language for FTA's formula programs providing an obligation limitation and liquidating authority to reflect changes to FTA's formula programs authorized in MAP-21. Section 154 of the CR allows FTA to administer FY 2013 funds for formula grant programs according to the terms and conditions established funder MAP-21. Current funding availability for each program is identified in section IV of this notice and in Table 1 located on FTA's FY 2013 Apportionment web page. Funding under the CR is not available for programs that were repealed by MAP-21 or for the new Transit Oriented Development (TOD) discretionary program, which was authorized by MAP-21 but not identified in section 154 of the CR.

B. Oversight Takedown

MAP-21 modifies section 5338(i)[1] to provide for the following oversight takedowns of FTA programs: 0.5 percent of Metropolitan and Statewide Planning funds, 0.75 percent of Urbanized Area Formula funds, 1 percent of Fixed Guideway Capital Investment funds, 0.5 percent of Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities, 0.5 percent of Formula Grants for Rural Areas, 0.75 percent of High Intensity Fixed Guideway State of Good Repair Formula funds, and 1 percent of Capital and Preventive Maintenance Projects for Washington Metropolitan Area Transit Authority funds. The funds are used to provide necessary oversight activities, such as oversight of the construction of any major capital project receiving Federal transit assistance; to conduct State Safety Oversight, drug and alcohol, civil rights, procurement systems, management, planning certification, and financial reviews and audits, as well as evaluations and analyses of grantee-specific problems and issues; and to provide technical assistance to correct deficiencies identified in compliance reviews and audits.

C. Previously Authorized Funding

FYs 2005 through 2012 funds that remain unobligated and for which the program has been repealed or its activities consolidated with other programs under Chapter 53, will continue to be subject to the program and eligibility requirements that existed prior to the enactment of MAP-21 and to new cross-cutting requirements found in section III.D. of this notice. These programs are as follows:

- Section 5307 Urbanized Area Formula Grant Funds
- Section 5309(b)(2) Fixed Guideway Modernization Formula Program
- Section 5309(b)(3) Bus, Bus-Related Equipment and Bus Facilities Discretionary Grants
- Section 5309(m)(6)(B) Alaska-Hawaii Ferryboats
- Section 5309(m)(6)(C) Denali Commission
- Section 5309(m)(7)(A) Bus and Bus Facility Grants
- Section 5309(m)(7)(B) Fuel Cell Program
- Section 5309(m)(7)(C) Projects Not In Urbanized Areas
- Section 5309(m)(7)(D) Intermodal Terminals
- Section 5310 Formula Grants for Special Needs of Elderly Individuals and Individuals with Disabilities
- Section 5311 Formula Grants for Other Than Urbanized Areas
- Section 5312 Research, Development, Demonstration, and Deployment Projects
- Section 5314 National Research Programs

[1] All references to "section" herein refer to sections of Chapter 53 of Title 49 of the United States Code, unless otherwise specifically stated.

- Section 5316 Job Access and Reverse Commute Formula Grants
- Section 5317 New Freedom Program
- Section 5320 Paul S. Sarbanes Transit in the Parks Program
- Section 5339 Alternatives Analysis Program
- Section 3038 of TEA-21, as amended by SAFETEA-LU, Over-the-Road Bus Program

For programs that are continued under MAP-21, the provisions of MAP-21 now apply to all unobligated funds from FY 2012 and prior, as well as to FY 2013 funds. These programs are:

- Section 5305 Planning Programs
- Section 5309 Fixed Guideway Capital Investment Grants (formerly Capital Investment Program)

All references in this notice to "section" refer to Chapter 53 of Title 49 of the U.S. Code, unless otherwise specified.

III. MAP-21 and FY 2013 Appropriations: Highlights of Changes

MAP-21 furthers several important goals of the Department of Transportation, including safety, state of good repair, performance, and program efficiency. MAP-21 provides FTA significant new authority to strengthen the safety of public transportation systems throughout the United States. The Act also puts new emphasis on restoring and replacing the Nation's aging public transportation infrastructure by establishing a new State of Good Repair formula program and new asset management requirements. In addition, it aligns Federal funding with key goals and tracks progress towards these goals. Finally, MAP-21 improves the efficiency of administering grant programs by consolidating several programs and streamlining the fixed guideway capital investment grant program.

A. Focus Areas

1. Safety Authority

MAP-21 provides FTA significant new authority to strengthen the safety of public transportation systems throughout the United States by granting FTA the authority to establish and enforce a new comprehensive framework to oversee the safety of public transportation. Under MAP-21, FTA has enforcement authority to issue directives; require more frequent oversight of transit systems; impose more frequent reporting requirements; and require that formula grant funds be spent to correct safety deficiencies before funds are spent on other projects. FTA will implement the new law in consultation with the transit community and the U.S. Department of Transportation's (DOT) Transit Rail Advisory Committee for Safety (TRACS), the latter of which has been working since September of 2010 to help guide this effort. Following the promulgation of a rule, recipients of FTA funding will be required to have a public transportation agency safety plan in place in order to obligate any grant funds available under Chapter 53. Additional information on this new authority and the requirements under section 5329 can be found in section IV.O. of this notice.

2. State of Good Repair and Asset Management

MAP-21 places greater emphasis on restoring and replacing aging transportation infrastructure by establishing new asset management requirements as well as a new State of Good Repair formula program.

Section 5326 as amended by MAP-21, requires FTA to define the term "state of good repair" and create objective standards for measuring the condition of capital assets, including equipment, rolling stock, infrastructure, and facilities. Subsequent to FTA defining this term through a rulemaking, all FTA recipients will be required to set performance targets based on that definition, and report on progress towards meeting those targets. These measures and targets must be incorporated into metropolitan and statewide transportation plans and transportation improvement programs (TIPs). Also subsequent to a final rule defining state of good repair, all FTA recipients and their subrecipients will be required to develop transit asset management plans. Recipients of FTA formula funding also will be required to report asset inventory and condition information to FTA's National Transit Database (NTD). FTA will support this effort through technical assistance, including asset management decision support tools that allow recipients to estimate their capital investment needs over time and assist with asset investment prioritization.

MAP-21 also establishes a new grant program to maintain public transportation systems in a state of good repair. This program, set forth in section 5337, replaces the fixed guideway modernization program (formerly authorized in section 5309). Funding under this program is limited to fixed guideway systems (including rail, bus rapid transit, and passenger ferries) and high intensity bus (buses operating in high occupancy vehicle (HOV) lanes.) Please see section IV.B. of this notice for more information about this new program.

3. Streamlining and Program Efficiency

i. Fixed Guideway Capital Investment Grants Program (49 U.S.C 5309) – (New and Small Starts)

MAP-21 modified the Capital Investment Program by expanding the eligibility to Core Capacity Improvement projects and streamlining the process. Similar to SAFETEA-LU, New Starts projects are defined as projects with a total capital cost of $250 million or greater or that are seeking $75 million or more in section 5309 funding. Eligible projects are new fixed-guideway systems, such as rapid rail (heavy rail), commuter rail, light rail, hybrid rail, trolleybus (using overhead catenary), cable car, passenger ferries, and bus rapid transit, or an extension of any of these systems. Also similar to SAFETEA-LU, Small Starts projects are defined as projects with a total capital cost less than $250 million and that are seeking less than $75 million in section 5309 funding. Eligible purposes for the Small Starts program are those mentioned for the New Starts program, as well as corridor-based bus systems that do not operate on a separated fixed guideway but include features that emulate the services provided by rail fixed guideway including defined stations, traffic signal priority for public transit vehicles, and short headway bi-directional services for a substantial part of weekdays and weekend days. MAP-21 also makes Core Capacity Improvement projects eligible for section 5309 funding. These are substantial, corridor-based investments in existing fixed guideway systems that are at capacity today or will be in five years. A Core Capacity Improvement project must increase the capacity of the existing fixed guideway system in the corridor by at least 10 percent.

MAP-21 reduces the number of steps in the process for projects pursuing capital investment program funding. For New Starts and Core Capacity

Improvement projects, the steps in the process now consist of project development, engineering, and construction. For Small Starts projects the steps in the process consist of project development and construction. Alternatives Analysis no longer is required. FTA must evaluate and rate projects seeking section 5309 funding according to statutorily defined criteria at various steps in the process. FTA will implement changes under MAP-21 to improve the efficiency of the New and Small Starts process and implement the new Core Capacity Improvement process through rule-making and future policy guidance, which will be developed through a notice and comment process.

ii. Pilot Program for Expedited Project Delivery

MAP-21 requires FTA to develop a pilot program for expedited project delivery. Eligible projects will be new fixed guideway capital projects or core capacity improvement projects as defined under section 5309 that have not yet received a full funding grant agreement. Three projects will be selected for the pilot program, and must demonstrate innovative project development and delivery methods or innovative financing arrangements that can expedite project delivery. At least one of the three projects selected must be an eligible project requesting more than $100 million in section 5309 funding and another must be an eligible project requesting less than $100 million in section 5309 funding. Applicants to this program also must certify that their existing public transportation system is in a state of good repair. FTA will publish guidance in a future Federal Register notice describing the process for project sponsors to apply to FTA for consideration as a pilot project. The program itself includes no additional funding.

4. Formula Funding and MAP-21 Discretionary Programs

Under MAP-21, several of FTA's programs were repealed, consolidated, or changed from a discretionary program to a formula-based program. The Bus and Bus Facilities capital program and most of the Tribal Transit funding now are provided by formulas specified by Congress. The shift to more formula programs provides steady and more predictable funding for transit investments.

MAP-21, however, does authorize several discretionary grant programs. FTA is in the process of developing the criteria and program guidance for the following discretionary programs, which will be published in Notices of Funding Availability (NOFA). These programs include:

i. Transit-Oriented Development Planning Pilot Program

MAP-21 authorizes $10 million per year in FYs 2013 and 2014 for a new discretionary pilot program for transit-oriented development (TOD) planning grants. Eligible activities include comprehensive planning in corridors with new rail, bus rapid transit, or core capacity improvement projects. The comprehensive plans should seek to enhance economic development, ridership, and other goals; facilitate multimodal connectivity and accessibility; increase access to transit hubs for pedestrian and bicycle traffic; enable mixed-use development; identify infrastructure needs associated with the project; and include private sector participation. Grant funds are not currently available under the CR. For more information or questions on this program, please contact *Beth Day at 202-366-5159 or Elizabeth.day@dot.gov.*

ii. Passenger Ferry Program

In FYs 2013 and 2014, $30 million per year is set aside from the urbanized area formula program to support passenger ferry projects. Funding will be awarded on a competitive basis. FTA will publish more details on program purpose, eligible applicants and activities, and cost sharing or matching in a subsequent NOFA. For more information or questions on this program, please contact *Vanessa Williams at (202) 366-4818 or vanessa.williams@dot.gov.*

iii. Tribal Transit Discretionary Program

The Tribal Transit program continues to be a set-aside from the Rural Areas Formula program but now consists of a $25 million formula program and a $5 million discretionary grant program. The formula program is described in section IV of this notice. With the creation of a formula program specifically for tribal transit, FTA intends to evaluate, in consultation with the tribes, how the discretionary program can be used to augment the formula funding or "fill gaps." FTA will develop the terms and conditions for the Tribal Transit program in consultation with tribal representatives and other interested stakeholders. More information regarding the consultation process will be made available in the upcoming FY 2012 Notice of Awards in the Federal Register for the FY 2012 Tribal Transit discretionary program. For more information or questions on this program, please contact *Elan Flippin at (202) 366-2053 or elan.flippin@dot.gov.*

iv. Innovative Workforce Development Program

Along with other Human Resources and Training authorized in section 5322, MAP-21 authorizes an Innovative Public Transportation Workforce Development Competition (section 5322(b)). This competitive grant program will assist in the development of new and innovative workforce development activities in the transit industry. Funding for this and other human resource and training activities is authorized at $5 million annually.

No funding is available for this program under the CR. As such, a NOFA will be developed subject to further appropriations with more details on program purpose, eligible applicants and activities, and cost sharing or matching once appropriations are provided. For more information or questions on this program, please contact *Betty Jackson at (202) 366-1730 or betty.jackson@dot.gov.*

v. Low or No Emission Vehicle Deployment Program

MAP-21 restructures the National Research Program and authorizes a new competitive grant program within this program for Low or No Emissions Vehicle Deployment (section 5312(d)(5)). The Low or No Emission Vehicle Deployment Program authorizes funding for a competitive grant program for nonattainment or maintenance areas for capital projects for low or no emission vehicles, facilities, and related equipment. Within the amount appropriated for this program, at least 65 percent must be spent for acquiring or leasing low or no emissions buses and 10 percent for low or no emissions bus facilities. No funding is available for this program under the CR. As such, a NOFA will be developed with additional details on program purpose, eligible applicants and activities, and cost sharing or matching once appropriations are provided. For more information, please contact *Walter Kulyk at (202) 366-4995 or walter.kulyk@dot.gov*.

5. Impacts of the 2010 Census for FTA's Fiscal Year 2013 Apportionments

In FY 2013, FTA is incorporating the results of the 2010 Census into its formula apportionments, as required by law, and grant administration procedures for the first time. (Although FTA published two supplemental apportionments for FY 2012 after the 2010 Census Urbanized Areas (UZAs) were released, those apportionments continued to rely on the 2000 Census data).

On March 27, 2012, the Bureau of the Census released a list of UZAs based on the results of the 2010 Decennial Census. The Census data shows that the number of UZAs increased from 465 in 2000 to 497 in 2010, and the total population residing in UZAs increased from 195 to 223 million, an increase of approximately 12 percent.

The 2010 Census resulted in some UZAs crossing statutorily-mandated population thresholds that may change the amount of formula funds that those areas can receive and may also change the eligible uses of these funds. Five more UZAs now have populations of over 1 million people, one UZA lost population such that its population is now under 1 million, twenty-seven additional UZAs now have populations over 200,000 but below 1 million, thirty-six areas became newly qualified UZAs with populations of between 50,000 and 199,999, and four UZAs experienced population losses and are now areas under 50,000 in population and are no longer considered to be UZAs.

In addition, the boundaries of many UZAs have shifted and resulted in former urban clusters (i.e., areas with populations under 50,000) and former non-urbanized areas to be now located within the boundaries of a UZA.

FTA published on its website additional information on 2010 Census UZAs, including a fact sheet, a comparison of the 2000 and 2010 Census UZAs and their population, and a matrix of how 2010 Census changes will affect the eligible activities of and formula apportionments made to FTA grant recipients. A Program-by-Program analysis of the impacts of the Census data on FTA's formula programs also is posted on FTA's website. The Census Bureau has published reference maps of the 2010 urbanized areas at ftp://ftp2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/.

B. Definitional Changes and New Definitions

Section 20004 of MAP-21 modified section 5302 to provide new definitions and to modify existing definitions that clarify eligibility and requirements within FTA's programs. Unless otherwise stated, these definitions apply across all FTA programs. Several important definitional changes include:

1. Associated Transit Improvement

The term "transit enhancements" was changed to "associated transit improvements." An associated transit improvement is a project "designed to enhance public transportation service or use and that [is] physically or functionally related to transit facilities." Eligible associated transit improvements include historic preservation, rehabilitation, and operation of historic public transportation buildings, structures, and facilities (including historic bus and railroad facilities) intended for use in public transportation service; bus shelters; landscaping and streetscaping, including benches, trash receptacles, and street lights; pedestrian access and walkways; bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on public transportation vehicles; signage; or enhanced access for persons with disabilities to public transportation. Congress struck "public art" and "transit connections to parks within the recipient's transit service area" from the list of eligible projects. While Federal transit funds are no longer available to support public art in transit facilities, art can be incorporated into facility design, landscaping, and historic preservation, for example through the use of floor or wall tiles that contain artistic designs or patterns, use of color, use of materials, lighting, and the overall design of a facility. In addition, eligible capital projects include incidental expenses related to acquisition or construction, including design costs. Therefore, the incidental costs of incorporating art into facilities and including an artist on a design team continue to be eligible expenses.

2. Bus Rapid Transit (BRT) System

The term "bus rapid transit system" is now defined by statute, and this definition impacts how BRT systems qualify as fixed-guideway service for the Urbanized Area Formula Program and State of Good Repair Formula Program apportionments. The statutory definition is narrower than the definition used previously for purposes of the NTD. FTA used NTD data and other sources to determine which BRT systems qualify under the new statutory definition. FTA will issue a future Federal Register Notice to update the reporting guidance in the NTD Reporting Manual. As defined by section 5302, a "bus rapid transit system" means a bus system in which the majority of each line operates in a separated, dedicated, right-of-way for transit during peak periods and includes features that emulate the services provided by rail transit, including—defined stations; traffic signal priority; short headways for a substantial part of weekdays and weekend days; and any other features the Secretary may determine are necessary to produce high-quality transit services that emulate the services provided by rail transit. This definition means that a BRT system may include a mixture of both exclusive guideway and non-dedicated guideway with traffic signal priority, so long as the exclusive guideway (during peak periods) constitutes a "majority of the line" and so long as the other features emulating rail transit are present. All BRT systems meeting this definition are classified as fixed-guideway (see below) for purposes of the Urbanized Area Formula Program and State of Good Repair Formula Program apportionments. Readers should be careful not to confuse the definition of "bus rapid transit system" under section 5302 with the different types of bus rapid transit projects defined by section 5309, the statute that authorizes the New Starts and Small Starts programs. Under section 5309 there are definitions for both a "fixed guideway bus rapid transit project" and a "corridor-based bus rapid transit project" which set limitations for the types of BRT projects that may be eligible to compete for discretionary New Starts or Small Starts funds.

3. Commuter Highway Vehicle or Vanpool Vehicle

This term is a new definition in Chapter 53 and is found in section 5323(i). A Commuter Highway Vehicle or Vanpool Vehicle is defined as any vehicle seating at least 6 adults (not including the driver); and at least 80 percent of the mileage use of which can be reasonably expected to be for the purposes of transporting commuters in connection with travel between their residences and their place of employment.

4. Disability

The definition of "disability" was amended so that it has the same meaning as in the Americans with Disabilities Act (ADA), 42 U.S.C. 12101, et seq. However, the definition in section 5302 does not apply to the half-fare provision in section 5307(c)(1)(D). The half-fare provision continues to apply to seniors, persons with Medicare cards, and persons who "because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design."

5. Fixed Guideway

The definition of "fixed guideway" was amended to remove high occupancy vehicle lanes, although bus service operating in high occupancy vehicle lanes remains eligible for certain funds under the State of Good Repair Formula Program apportionment. The new definition of fixed guideway includes any facility for the exclusive use of transit vehicles, as well as facilities for rail, using a fixed catenary system (e.g. trolleybus service), for a passenger ferry system or for a bus rapid transit system (see new definition above).

6. Job Access and Reverse Commute Project

The SAFETEA-LU Job Access and Reverse Commute (JARC) Program, (section 5316), was repealed by MAP-21; however, job access and reverse commute projects are eligible under the sections 5307 and 5311 programs. A definition for "job access and reverse commute project" was added to section 5302 as follows: "a transportation project to finance planning, capital, and operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including transportation projects that facilitate the provision of public transportation services from urbanized areas and rural areas to suburban employment locations." Please see sections IV.C. and F. of this notice for additional information.

7. Low-Income Individual

The term is defined as, "an individual whose family income is at or below 150 percent of the poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section, for a family of the size involved." The formulas for funding apportionment in sections 5307 and 5311 now include consideration of the number of low-income individuals in a rural or urbanized area for part of the apportionment. However, this definition does not apply to the formula for public transportation on Indian reservations, which defines a low-income individual as an individual whose family income is at or below 100 percent of the poverty line.

8. Private Provider of Public Transportation by Vanpool

This term is a new definition in Chapter 53 and is found in section 5323(i). A private provider of public transportation by vanpool is defined as a private entity providing vanpool services in the service area of a recipient using a commuter highway vehicle or a vanpool vehicle. Under MAP-21 and as described in section D of this notice, "Cross-Cutting Programmatic Requirements," there is a new allowance for local match related to private vanpool providers.

9. Public Transportation

Congress amended the definition of "public transportation" to specify that public transportation is regular, continuing, shared-ride, surface transportation service that is "open to the general public or open to a segment of the general public defined by age, disability, or low income." Public transportation does not include Amtrak service, intercity bus service, charter bus service, school bus service, sightseeing service, courtesy shuttle service for patrons of one or more specific establishments; or intra-terminal or intra-facility shuttle services.

10. Regional Transportation Planning Organization

This term is a new definition for Chapter 53, and is found in section 5303, Metropolitan Transportation Planning. A "regional transportation planning organization" is "a policy board of an organization" that a State may establish and designate under section 5304(l) "to enhance the planning, coordination, and implementation of statewide strategic long-range transportation plans and transportation improvement programs, with an emphasis on addressing the needs of nonmetropolitan areas of the State." Section 5304(l)(5) further provides that, "if a State chooses not to establish or designate a regional transportation planning organization, the State shall consult with affected nonmetropolitan local officials to determine projects that may be of regional significance."

11. Senior

This is a new term to Chapter 53, and means an individual who is 65 years of age or older. The term is used in section 5310, Enhanced Mobility for Seniors and Individuals with Disabilities.

C. Repealed Programs in FTA's Authorization

MAP-21 focuses on improving the efficiency of grant program operations by consolidating certain programs and repealing other programs. Several of the activities eligible under repealed programs can be found in programs continued or created under MAP-21. The following programs expired on September 30, 2012 and no new funding is authorized beyond fiscal year 2012. However, unobligated funds appropriated or authorized in FY 2012 and prior years remain available for obligation (for the established period of availability when appropriated or allocated) and expenditure, and follow program-specific requirements established under SAFETEA-LU and prior authorizations. In addition, there are new cross-cutting requirements under MAP-21found in section III.D of this notice that apply to all grants after October 1, 2012.

1. Clean Fuels Grant Program (49 U.S.C. 5308)

The Clean Fuels Grant Program was a discretionary program and the final FY 2012 allocations were announced on September 14, 2012 in response to the NOFA published February

7, 2012 for sections 5308 and 5309 bus funds. Unobligated discretionary allocations (found in Table 7 on FTA's FY 2013 Apportionment website) may be obligated through the period of availability, following the SAFETEA-LU requirements.

2. Fixed Guideway Modernization (49 U.S.C. 5309 (b)(2))

The Fixed Guideway Modernization Program was a formula program, and the funds for FY 2012 and prior years have been previously apportioned. Unobligated carryover balances for this program may be obligated through the period of availability, following the SAFETEA-LU requirements. Under MAP-21, elements of this program have been replaced with the State of Good Repair formula program (section 5337).

3. Bus and Bus Facilities Program (49 U.S.C. 5309 (b)(3))

The discretionary Bus and Bus Facilities Program provided funds for capital bus and bus facility grants in support of the Department's State of Good Repair, Bus Livability, Veterans Transportation and Community Living, and Clean Fuels initiatives. In addition, SAFETEA-LU allocated funds under this program for Ferry Boat Systems, Fuel Cell Bus, and the Bus Testing program.

FY 2012 Bus and Bus Facilities discretionary funds have been allocated through the FY 2012 Veteran's and Community Living Initiative (VTCLI), State of Good Repair, and Bus and Bus Livability discretionary competitions. FY 2012 and prior year allocations remain available for the period of availability and must be used for the purpose selected.

Prior year allocations for Ferry Boat Systems, Fuel Cell Bus, and Bus Testing (found in Table 8 on FTA's FY 2013 Apportionment web page) may be obligated through the period of availability, following the SAFETEA-LU requirements. Under MAP-21, elements of this program have been replaced with the Bus and Bus Facilities formula program (section 5339).

4. Job Access and Reverse Commute (JARC) Program (49 U.S.C. 5316)

The formula JARC Program funds for FY 2012 and prior years under SAFETEA-LU have been apportioned. Unobligated carryover balances for the JARC program may be obligated through the period of availability, but must follow the SAFETEA-LU requirements. For example, section 5316 JARC projects must still be derived from a human service public transportation coordinated plan and must also be selected through an area-wide or statewide competitive selection process by the designated recipient.

Under MAP-21, activities that were funded under the section 5316 JARC program are eligible under sections 5307 Urbanized Area Formula Grants, and 5311 Formula Grants for Rural Areas. Please see section IV.C. and F. of this notice for additional information.

5. New Freedom Program (49 U.S.C. 5317)

The formula New Freedom Program funds for FY 2012 and prior years under SAFETEA-LU have been apportioned. Unobligated carryover balances for the New Freedom program funds may be obligated through the period of availability, but must follow the SAFETEA-LU rules and requirements. For example, section 5317 New Freedom projects must still be derived from a locally developed, coordinated public transit-human services transportation plan and must also be selected through an area-wide or statewide competitive selection process by the designated recipient.

Under MAP-21, the types of activities that were funded under the section 5317 New Freedom program are now eligible under section 5310, Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities. Please see section IV.E. of this notice for additional information.

6. Paul S. Sarbanes Transit in Parks Program (49 U.S.C. 5320)

FTA published a notice of funding availability on August 28, 2012 for the final allocation of program funding, which will be announced in fall 2012. Under MAP-21, public transportation investments serving national parks and other Federal lands remain eligible under the Federal Lands Transportation Program and the Federal Lands Access Program administered by the Federal Highway Administration (FHWA). Interested recipients should visit the FHWA web page (http://www.fhwa.dot.gov) for additional information on these programs.

7. Alternatives Analysis Program (49 U.S.C. 5339)

FTA issued a notice of funding availability for FY 2012 funds on March 12, 2012. However, MAP-21 repealed the section 5309 requirement that Major Capital Investment projects must be based on the results of an alternatives analysis, eliminating the principal statutory requirement associated with section 5339 Alternatives Analysis Program grants. Therefore, the use of the FY 2012 Alternatives Analysis Program funds will be determined at a later date. Unobligated FY 2011 and prior year allocations remain available for the period of availability and must be used for the purpose selected. Unobligated discretionary allocations are listed in Table 16 on FTA's FY 2013 Apportionment web page.

8. Over-the-Road Bus Accessibility Program (Section 3038, Pub. L. 105–85)

FTA issued a notice of funding availability on April 30, 2012. The final allocation of program funding is scheduled to be announced in fall 2012. Unobligated funds will be available for obligation until expended.

D. Cross-cutting Programmatic Requirements and Changes

The following cross-cutting requirements apply to all FTA programs as of October 1, 2012 unless otherwise noted. Additionally they also apply to programs that otherwise continue to follow SAFETEA-LU requirements.

1. Metropolitan and Statewide Planning

The planning programs provide funding and procedural requirements to metropolitan areas and States for multimodal transportation planning that is cooperative, continuous, and comprehensive, resulting in long-range plans and short-range programs of projects of transportation investment priorities. $127 million is provided in FY 2013 and $129 million in FY 2014. The planning programs are jointly administered by FTA and FHWA, which provides additional funding. Under MAP-21, four significant changes are noted below. These requirements will not go into effect until FTA and FHWA complete a rulemaking process and issue further guidance.

i. **Establishes a performance-based planning process:** MAP-21 requires Metropolitan Planning Organizations (MPOs) and States to establish performance targets that address forthcoming U.S. DOT-issued national performance measures that are based on the goals outlined in the legislation –

safety, infrastructure condition, congestion reduction, system reliability, economic vitality, environmental sustainability, reduced project delivery delays, transit safety, and transit asset management. MPOs also must coordinate their performance targets, to the maximum extent practicable, with performance targets set by FTA grantees under the new performance measure requirements for safety and state of good repair. Transportation Improvement Programs (TIPs) must include a description of the anticipated progress toward achieving the performance targets resulting from implementation of the TIP. Five years after enactment of MAP-21, U.S. DOT is to provide Congress with a report evaluating the effectiveness of performance-based planning and assessing the technical capacity of MPOs in smaller areas to undertake performance-based planning.

ii. **Requires transit representation on MPO policy boards in large urbanized areas:** Within two years, MPOs in urbanized areas designated as transportation management areas must include officials of public transit agencies that administer or operate major modes of transportation, as well as representatives of public transit operators, on MPO policy boards.

iii. **Supports optional scenario development:** MPOs *may* undertake scenario development exercises in preparing the long-range transportation plan that consider alternative demographic growth, revenue options, and other factors.

iv. **Allows designation of Regional Transportation Planning Organizations:** Regional transportation planning organizations *may* be designated, comprised of volunteer local government and transportation officials, to assist the State in addressing the needs of nonmetropolitan areas. Accordingly, “statewide planning” has been renamed “statewide and nonmetropolitan planning” to signify the important role of local officials in nonmetropolitan areas of States in the development of statewide plans and programs.

2. Environmental Review Process

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, et seq., and other Federal environmental laws, regulations and executive orders, require that every project proposed for FTA funding assistance be subjected to some level of environmental review prior to its approval. MAP-21 has made changes to the environmental review process intended to accelerate the process for major projects and expand the lists of projects that are categorically excluded. MAP-21 environmental guidance and regulatory changes will be forthcoming.

3. Agency Safety Plans

Section 5329 requires all FTA grantees to develop comprehensive agency safety plans that at a minimum include methods for identifying and evaluating safety risks, strategies to minimize exposure to hazards and unsafe conditions, and performance targets for safety performance criteria and state of good repair standards established in a forthcoming National Public Transportation Safety Plan. More information regarding state of good repair standards is included in the next paragraph, section IV.D.4.a., of this notice. The agency safety plan and any updates must be approved by the recipient’s board of directors (or equivalent entity) and certified by FTA or a State. The agency safety plan also will need to identify an adequately trained safety officer who reports directly to the recipient's chief executive and provide a comprehensive staff training program for operations personnel and personnel directly responsible for safety. The staff training program must include completion of a safety training program and continuing safety education and training. Plans developed pursuant to Part 659 of title 49 Code of Federal Regulations and in effect on October 1, 2012, will remain in effect until the new agency safety plan requirements are in place. For recipients without a 49 CFR part 659 plan in place on October 1, 2012, this requirement will not apply as a condition for receiving assistance until one year after the effective date of a final rule. Rural sub-recipients of section 5311 funds may have their plans drafted and certified by a State. Similarly, FTA will issue a rule designating small urban systems receiving section 5307 funding that may have their agency safety plan drafted or certified by a State.

4. Transit Asset Management Provisions (and Asset Inventory and Condition Reporting)

MAP-21 requires FTA to establish a national transit asset management system that includes: (1) a definition of state of good repair with performance measures; (2) a requirement that grantees develop transit asset management plans; (3) reporting requirements for asset inventory and condition assessments; (4) analytical process or decision support tools; and (5) technical assistance on asset management for grantees.

i. State of Good Repair and Performance Measures

Through a rulemaking, FTA will define "state of good repair" for transit systems. MAP-21 specifies that this definition will provide "objective standards for measuring the condition of capital assets… including equipment, rolling stock, infrastructure, and facilities." At the conclusion of the rulemaking, grant recipients will be required to establish performance targets relative to the definition of state of good repair and to report these targets, and progress towards meeting them to FTA. The measures and targets also must be coordinated to the maximum extent practicable with the metropolitan and statewide transportation plans and transportation improvement programs (TIPs), as well as incorporated into recipients' agency safety plans.

ii. Transit Asset Management (TAM) Plans

MAP-21 requires that each recipient and subrecipient of FTA grants must establish a "transit asset management" (TAM) plan for its transit system. This requirement, however, will not be a condition for receiving FTA grant funds until FTA issues a rulemaking.

Through a rulemaking, FTA will establish requirements for a capital asset inventory, condition assessments, decision support tools, and prioritization of capital investments, all of which must be included in a TAM. Once the TAM rulemaking is issued, grantees apportioned funds under the new State of Good Repair (SGR) Formula Program (section 5337) will be required to include all SGR-funded projects in their own TAM plan.

iii. Reporting Requirements

MAP-21 also established new requirements for reporting asset inventories and condition assessments to FTA at sections 5326(b)(3), 5335(a), and 5335(c). FTA grantees and sub-recipients should look for a future Federal Register Notice with proposed changes to the FTA's NTD Reporting Manual for more information and an opportunity to comment on FTA's implementation of these new statutory requirements.

iv. Tools and Technical Assistance

MAP-21 requires FTA to provide technical assistance on transit asset management, including a requirement for FTA to develop a "decision support tool" for use by transit systems in estimating capital investment needs and prioritizing capital expenditures. FTA has developed such a decision support tool, TERM-Lite, which is available online at: http://www.fta.dot.gov/TERM-Lite. This tool has been used by several transit agencies to assist them in estimating their investment needs, and will continue to be refined by FTA for this purpose.

5. Costs Incurred by Providers of Public Transportation by Vanpool

MAP-21 amends section 5323(i) "Government Share of Costs for Certain Projects" to include a paragraph that permits FTA to allow a recipient to count, as part of their local match for a capital project, funds used to purchase vanpool vehicles by private providers of public vanpool (including funds from fare revenues above operating expenses but not including any funding from Federal, State or local government sources). For the costs to be eligible for a recipient's local share, the recipient and the provider must have entered into a legally binding agreement requiring the provider to use the rolling stock in the recipient's service area.

6. Revenue Bonds as Local Match (5307, 5309, 5337)

Sections 5323(e)(1) and (2) allow recipients of Urbanized Area Formula Grants funds (section 5307), Fixed Guideway Capital Investment Grant funds (section 5309) and State of Good Repair Grant funds (section 5337) to use bond proceeds, secured by the revenues of a transit capital project, as local match for the project, provided that the grantee maintains a greater level of local transit investment in the subsequent three fiscal years (as demonstrated in the STIP) than in the current fiscal year and prior two fiscal years (three total).

7. Debt Service Reserve

Section 5323(e)(3) allows recipients to be reimbursed from section 5309 Fixed Guideway Capital Investment Grant funds for deposits of bond proceeds in a debt service reserve. Reimbursements from the unobligated FY 2012 and prior year section 5309(b)(2) Fixed Guideway Modernization Formula Grant funds and section 5309(b)(3) Bus, Related Equipment and Bus Facilities Grant funds are eligible after September 30, 2012. However, these two programs are repealed as of October 1, 2012 and FY 2013 funds will not be available for reimbursements except as provided under section 5309 as amended by MAP-21. MAP-21 also repealed the Debt Service Reserve Pilot Program for recipients of section 5307 Urbanized Area Formula Grant funds. The establishment of a debt service reserve is included within the definition of a "capital project" in section 5302(3)(J), as amended.

8. Government's Share of Cost of Vehicles, Vehicle-Equipment, and Facilities for ADA and Clean Air Act Compliance

An FTA grant used for acquiring vehicles to comply or maintain compliance with the ADA or the Clean Air Act, 42 U.S.C. 7401, et seq., now can cover 85 percent of net project costs. The previously used 83 percent Federal share (determined for administrative-ease) is no longer necessary and should no longer be used. FTA grants for vehicle-related equipment or facilities needed to comply with or maintain compliance with the ADA or Clean Air Act remains at 90 percent of net project costs of the equipment of facilities attributable to compliance with the Act (the incremental cost).

9. Private Sector Participation

MAP-21 requires FTA to provide technical assistance when requested by project sponsors and grantees on best practices and methods for using private providers of public transportation, and on how to use public-private partnerships for alternative project delivery of fixed guideway capital projects. MAP-21 also requires FTA to identify public transportation laws, regulations or practices that impede public-private partnerships or private investment in transit capital projects. FTA must also develop procedures through regulation to address these legal impediments, as well as procedures to protect the public interest and any public investment in public transportation capital projects that involves public-private partnerships or private investment. Additionally, FTA must develop guidance to promote greater transparency and public access to public-private partnership agreements, and guidance regarding how to best document compliance by recipients of Federal assistance with the requirements regarding private enterprise participation in public transportation and planning and transportation improvement programs under sections 5303(i)(6), 5306(a) and 5307(c). MAP-21 does not, however, allow FTA to waive any provision of Federal law, including labor protections or NEPA.

10. Bus Testing

MAP-21 amended section 5318, the bus testing provision, to require FTA to issue a final rule by September 30, 2014, establishing a ‘pass/fail’ standard for bus testing. Vehicles must meet performance standards for safety, structural integrity, reliability, performance (including braking performance), maintainability, emissions, noise, and fuel economy. Once FTA has issued the final rule, recipients may not use FTA funds to purchase a bus that has not received a passing test score.

11. Buy America

Procurements made with FTA financial assistance continue to be subject to the Buy America requirements in section 5323(j) and FTA’s implementing regulation at 49 CFR Part 661, which requires end products to be manufactured or assembled in the United States unless a waiver has been issued by FTA. Waiver requests undergo an elevated level of scrutiny by FTA as part of the consideration process. MAP-21 amended section 5323(j) to require FTA to place waiver determinations in an easily identifiable location on DOT’s website, in addition to publishing the waiver determination in the Federal Register. In addition, FTA is required to submit a report to Congress every year that lists any waivers granted during the preceding year.

12. Corridor Preservation

MAP-21 added a new provision in section 5323(q) that allows FTA, under certain conditions, to assist in the acquisition of right-of-way (ROW) before the completion of an environmental review for any transit project that will eventually be built on that ROW. FTA will publish draft guidance for public comment on the process for acquiring right-of-way.

13. Rail Car Procurements

MAP-21 amended the rolling stock requirements of section 5325 by extending the length of option years under rail car procurements to seven years. A grant recipient using Federal funds to enter into a multiyear contract to buy rolling stock and replacement parts may have an option in that contract to buy additional rolling stock or replacement parts for up to five years after the date of the original contract for bus procurements and for up to seven years after the date of the original contract for rail procurements. While the change adds two extra years for rail car procurements, it also includes a new restriction that an option may not allow for significant changes or alterations to the rolling stock.

Grant recipients should note that the additional two years only applies to rail car procurements. If a transit agency were to enter into a single contract for all rolling stock, such as one for replacement parts on existing inventory, then care would be needed to differentiate between bus and rail procurements in order to utilize the two additional years applicable only to rail procurements. If the differentiation is not clearly stated in the contract, the more restrictive five year limitation would apply to the entire contract.

14. Veterans Preference/Employment

MAP-21 amended section 5323, adding subsection (k): “Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee." FTA will issue additional guidance for complying with this provision. Grantees also can expect the Master Agreement and required Federal procurement clauses to be updated to reflect this change.

15. Alcohol and Controlled Substance Testing

Section 5331 provides that an entity is not eligible for financial assistance under sections 5307, 5309, or 5311 if the entity is required to establish a program for alcohol and controlled substances testing and does not establish such a program. MAP-21 amended section 5331 to also allow FTA to withhold funds from an entity that is not in compliance with the regulations, in an amount FTA considers appropriate.

E. Title 23 (Federal-aid Highway Programs) Funds Eligible for Transit Purposes

MAP-21 continues the provisions begun under ISTEA and continued through TEA-21 and SAFETEA-LU wherein certain program funds under the title 23 are “flexible” and eligible for Title 49, Chapter 53 purposes.

1. Surface Transportation Program (23 U.S.C. 133) (STP) and Transportation Alternatives Program (23 U.S.C. 101) (TAP)

The Surface Transportation Program (STP) authorized since ISTEA is continued under MAP-21. Pursuant to 23 U.S.C. 133, FHWA STP funds are eligible for a variety of highway-related activities and are also available to cover the capital cost of any public transportation projects eligible for assistance under chapter 53, which may include vehicles and facilities (publicly or privately owned) that are used to provide intercity passenger bus service. In addition, STP funds are available for surface transportation planning projects as well as activities under the newly authorized Transportation Alternatives Program (TAP), at 23 U.S.C. 101.

The TAP replaces the funding from pre-MAP-21 programs including Transportation Enhancements, Recreational Trails, and Safe Routes to School with a single funding source. TAP funds may be used to carry out a part of a program or project, or used to carry out an independent program or project related to surface transportation. Eligible activities are broadly defined and with respect to transit include construction, planning and design of infrastructure-related projects and systems that will provide safe routes for non-drivers, including children, older adults and individuals with disabilities to access daily needs, and historic preservation and rehabilitation of historic transportation facilities.

2. *Congestion Mitigation and Air Quality Improvement Program (23 U.S.C. 149) (CMAQ)*

The CMAQ program, at 23 U.S.C. 149, continues to provide a flexible funding source to State and local governments for transportation projects and programs to help meet the requirements of the Clean Air Act. Funding is available to reduce congestion and improve air quality for areas that do not meet the National Ambient Air Quality Standards (NAAQS) for ozone, carbon monoxide, or particulate matter—nonattainment areas—and for areas that were out of compliance but have now met the standards—maintenance areas. Transit investments, including transit vehicle acquisitions and construction of new facilities or improvements to facilities that increase transit capacity are eligible for CMAQ funds. The Department is reviewing MAP-21's treatment of operating assistance eligibilities under CMAQ, and an interpretation of the language will be issued in the future.

3. *National Highway Performance Program (23 U.S.C. 119) (NHPP)*

MAP-21 enacted the National Highway Performance Program (NHPP), at 23 U.S.C. 119, which allows funds to be used for the construction of a public transportation project eligible for assistance under chapter 53 if: (1) the project is in the same corridor as, and in proximity to, a fully access-controlled highway designated as part of the National Highway System; (2) the construction will reduce delays or produce travel time savings on such a highway as described in (1) and improve regional traffic flow; and (3) a cost-benefit analysis determines that the construction is more cost-effective than an improvement on such a highway as described in (1).

4. *Transferring Title 23 funds from FHWA to FTA*

MAP-21 changed little with respect to the transfer of highway funds to FTA for eligible transit projects to be administered under chapter 53 of title 49 or the transfer of transit funds to FHWA for eligible highway projects to be administered under title 23. Section 104 of title 23 U.S.C. preserves the option for FHWA to transfer funds to FTA for transit capital projects and eligible operating activities that have been designated as part of the metropolitan and statewide planning and programming process. The project must be included in an approved STIP before the funds can be transferred. The State DOT may request, by letter, that the FHWA Division Office transfer highway funds for a transit project. The letter should include a description of the project as contained in the STIP, the amount to be transferred, the apportionment year, State, urbanized area, Federal-aid apportionment category (i.e., STP, CMAQ, TAP, NHPP) or other funding source, and indication of the intended FTA formula program (i.e., Section 5307, 5310, or 5311).

Once a written request for transfer is received (using FHWA transfer request form 1576), if, upon review, the FHWA Division Office concurs in the transfer, it provides written confirmation to the State DOT and FTA that the apportionment amount is available for transfer. The FHWA Division Office provides the transfer request to the FHWA Office of Budget which transfers the funds to FTA.

FHWA funds transferred to FTA will be administered under one of the three FTA formula programs (i.e., Urbanized Area Formula (section 5307), Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities (section 5310), or Formula Grants for Rural Areas (section 5311)). Unobligated balances for High Priority projects under Section 1702 of SAFETEA-LU or Transportation Improvement projects under Section 1934 of SAFETEA-LU and other such funds for which Congress has identified a particular project that are transferred to FTA will be aligned with and administered through FTA's Urbanized Area Formula Grant Program (section 5307). Under 23 U.S.C. 104(f), FHWA funds transferred to FTA retain the same matching share that the funds would have if used for highway purposes and administered by FHWA.

Transferred funds may be used for a capital transit purpose eligible under the FTA formula program to which they are transferred. MAP-21 revised the operating assistance eligibilities under CMAQ. Those changes are being reviewed and an interpretation of the MAP-21 provisions will be issued in the future.

The FTA grantee's application for the project must specify the program in which the funds will be used, and the application must be prepared in accordance with the requirements and procedures governing that program. Upon review and approval of the grantee's application, FTA obligates funds for the project.

In the event that the transferred funds are not obligated for the intended purpose within the period of availability of the formula program to which they were transferred, they become available to the State for any eligible capital transit project under the program to which they were transferred.

5. *Matching Share for FHWA Transfers*

Pursuant to 23 U.S.C. 104(f)(1)(B), FHWA funds transferred to FTA retain the same matching share that the funds would have if used for highway purposes and administered by FHWA. For the STP, CMAQ, and TAP programs, this Federal share is generally 80 percent, subject to upward adjustment in sliding scale States as noted below.

For a period of time under SAFETEA-LU, CMAQ funds were available at a 100 percent Federal share. Starting on October 1, 2012, the CMAQ Federal share generally will be 80 percent. There are a few instances in which a Federal share on funds transferred from FHWA can be higher than 80 percent. In States with large areas of Indian and certain public domain lands and national forests, parks and monuments, the local share for highway projects is determined by a sliding scale rate, calculated based on the percentage of public lands within that State. This sliding scale, which permits a greater Federal share, but not to exceed 95 percent, is applicable to transfers used to fund transit projects in these public land States. FHWA develops the sliding scale matching ratios for the increased Federal share. Also, there may be instances where the applicable Federal share may be reduced to a lower Federal share than is generally applicable, such as under the NHPP where the Federal share must be reduced to a maximum of 65 percent if the State DOT does not develop and implement an asset management plan.

Certain safety projects or projects that include an air quality or congestion relief component such as commuter carpooling and vanpooling projects using FHWA transfer funds administered by FTA may retain the same 100 percent Federal share; however, these projects are subject to a limitation for each State of an amount equal to 10 percent of the sums apportioned for programs under section 104 of title 23.

The most recent guidance on transfers of FHWA funds as allowed under SAFETEA-LU is FHWA Memorandum, dated July 19, 2007, "Information Fund Transfers to Other Agencies and Among Title 23 Programs." FHWA plans to revise its guidance to reflect MAP-21's changes to transferred funds.

6. Title 49/Chapter 53 Funds Eligible for Highway Purposes

Funds available under chapter 53 for eligible Federal-aid highway projects under title 23 may be transferred to FHWA. However, MAP-21 repealed FTA's authority to transfer to FHWA Urbanized Area Formula Grant Funds (section 5307) for highway purposes. As described in section IV.H. of this notice, the newly established Appalachian Development Public Transportation Assistance program under section 5311(c)(2) permits transfers to FHWA under certain conditions.

IV. Program-Specific Information

A. Metropolitan Planning Program (49 U.S.C. 5305(d))

Section 5305(d) authorizes Federal funding to support a cooperative, continuous, and comprehensive planning program for transportation investment decision-making at the metropolitan area level. The specific requirements of metropolitan transportation planning are set forth in 49 U.S.C. 5303 and further explained in 23 CFR Part 450, as incorporated by reference in 49 CFR Part 613, Statewide Transportation Planning; Metropolitan Transportation Planning. State Departments of Transportation (DOTs) are direct recipients of funds allocated by FTA, which are then sub-allocated to Metropolitan Planning Organizations (MPOs), for planning activities that support the economic vitality of the metropolitan area.

The metropolitan transportation planning process must establish a performance-based approach in which the MPO will develop specific performance targets that address transportation system performance measures (to be issued by U.S. DOT), where applicable, to use in tracking progress towards attaining critical outcomes. These performance targets will be established by MPO's in coordination with States and transit providers. MPOs will provide a system performance report that evaluates the progress of the MPO in meeting the performance targets in comparison with the system performance identified in prior reports.

This funding must support work elements and activities resulting in balanced and comprehensive intermodal transportation planning for the movement of people and goods in the metropolitan area. Comprehensive transportation planning is not limited to transit planning or surface transportation planning, but also encompasses the relationships among land use and all transportation modes, without regard to the programmatic source of Federal assistance. Eligible work elements or activities include, but are not limited to studies relating to management, mobility management, planning, operations, capital requirements, and economic feasibility;

evaluation of previously funded projects; peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analysis among MPOs and other transportation planners; work elements and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment; development of coordinated public transit human services transportation plans. An exhaustive list of eligible work activities is provided in FTA Circular 8100.1C, *Program Guidance for Metropolitan Planning and State Planning and Research Program Grants*, dated September 1, 2008. For more about the Metropolitan Planning Program, *contact Victor Austin, Office of Planning and Environment at (202) 366-2996 or victor.austin@dot.gov*.

1. *Authorized Amounts*

MAP-21 authorizes $126,900,000 in FY 2013 and $128,800,000 in FY 2014 to provide financial assistance for both the metropolitan and statewide planning needs under section 5305.

Fiscal Year	2013	2014
Funds Authorized	$126,900,000	$128,800,000
Metropolitan	*104,971,680*	*106,543,360*
Statewide	*21,928,320*	*22,256,640*

As specified in law and as shown above, 82.72 percent of the amounts authorized for section 5305 are allocated to the Metropolitan Planning Program and 17.28 percent to the Statewide Planning and Research program.

2. *FY 2013 Funding Availability*

Under the continuing resolution, a total of $50,545,172 is available for the period October 1, 2012 through March 27, 2013 to the Metropolitan Planning Program (section 5305(d)) to support metropolitan transportation planning activities set forth in section 5303. The total amount apportioned for the Metropolitan Planning Program to States for MPOs' use in urbanized areas (UZAs) is $50,292,446 as shown in the table below, after the deduction for oversight (authorized by section 5338).

Metropolitan Planning Program – FY 2013 (CR)	
Total Appropriation	$50,545,172
Oversight Deductions	-$252,726
Total Apportioned	$50,292,446

States' apportionments for this program are displayed in Table 2.

3. *Basis for Formula Apportionment*

MAP-21 did not change the funding formula. Of the amounts authorized in section 5305, 82.72 percent is made available to the Metropolitan Planning program. Eighty percent of the funds are apportioned on a statutory basis to the States based on the most recent decennial Census for each State's UZA population. The remaining 20 percent is provided to the States based on an FTA administrative formula to address planning needs in larger, more complex UZAs. The amount published for each State includes the supplemental allocation.

4. *Requirements*

The State allocates Metropolitan Planning funds to MPOs in UZAs or portions thereof to provide funds for planning projects included in a one or two-year program of planning work activities (the Unified Planning Work Program, or UPWP) that includes multimodal systems planning activities spanning both highway and transit planning topics. Each State has either reaffirmed or developed, in consultation with their MPOs, an allocation formula among MPOs within the State, based on the 2010 Census. The allocation formula among MPOs in each State may be changed annually, but any change requires approval by the FTA regional office before grant approval. Program guidance for the Metropolitan Planning Program is found in FTA Circular 8100.1C, *Program Guidance for Metropolitan Planning and State Planning and Research Program Grants*, dated September 1, 2008.

5. *Period of Availability*

The Metropolitan Planning program funds apportioned in this notice are available for obligation during FY 2013 plus three additional fiscal years. Accordingly, funds apportioned in FY 2013 must be obligated in grants by September 30, 2016. Any FY 2013 apportioned funds that remain unobligated at the close of business on September 30, 2016, will revert to FTA for reapportionment under the Metropolitan Planning program.

B. State Planning and Research Program (49 U.S.C. 5305(e))

This program provides financial assistance to States for statewide transportation planning and other technical assistance activities, including supplementing the technical assistance program provided through the Metropolitan Planning program. The specific requirements of Statewide transportation planning are set forth in 49 U.S.C. 5304 and further explained in 23 CFR Part 450 as referenced in 49 CFR Part 613, Statewide Transportation Planning; Metropolitan Transportation Planning; Final Rule. This funding must support work elements and activities resulting in balanced and comprehensive intermodal transportation planning for the movement of people and goods. Comprehensive transportation planning is not limited to transit planning or surface transportation planning, but also encompasses the relationships among land use and all transportation modes, without regard to the programmatic source of Federal assistance. For more information, contact *Victor Austin, Office of Planning and Environment at (202) 366-2996 or victor.austin@dot.gov*.

1. *Authorized Amounts*

MAP-21 authorizes $21,928,320 in FY 2013 and $22,256,240 in FY 2014 to provide financial assistance for statewide planning and other technical assistance activities under section 5305. As specified in law, this represents the 17.28 percent of the amounts authorized for section 5305 that are allocated to the Statewide Planning and Research program, as shown below.

Fiscal Year	2013	2014
Funds Authorized	$21,928,320	$22,256,240

2. *FY 2013 Funding Availability*

Under the continuing resolution, a total of $10,558,760 is available for the period October 1, 2012 through March 27, 2013 to the State Planning and Research Program (section 5305(e)). Thus far, the total amount apportioned for the State Planning and Research Program (SPRP) is

$10,505,966 as shown in the table below, after the deduction for oversight (authorized by section 5338).

Statewide Planning Program – FY 2013 (CR)	
Total Appropriation	$10,558,760
Oversight Deductions	-$52,794
Total Apportioned	$10,505,966

States' apportionments for this program are displayed in Table 2.

3. *Basis for Formula Apportionment*

MAP-21 did not change the funding formula. Of the amount authorized in section 5305, 17.28 percent is allocated to the State Planning and Research program. FTA apportions funds to States by a statutory formula that is based on the most recent decennial Census data available, and the State's UZA population as compared to the UZA population of all States.

4. *Requirements*

Funds are provided to States for Statewide transportation planning programs. These funds may be used for a variety of purposes such as planning, technical studies and assistance, demonstrations, and management training. In addition, a State may authorize a portion of these funds to be used to supplement Metropolitan Planning funds allocated by the State to its UZAs, as the State deems appropriate. Program guidance for the State Planning and Research program is found in FTA Circular 8100.1C*, Program Guidance for Metropolitan Planning and State Planning and Research Program Grants,* dated September 1, 2008.

5. *Period of Availability*

The State Planning and Research program funds apportioned in this notice are available for obligation during FY 2013 plus three additional fiscal years. Accordingly, funds apportioned in FY 2013 must be obligated in grants by September 30, 2016. Any FY 2013 apportioned funds that remain unobligated at the close of business on September 30, 2016 will revert to FTA for reapportionment under the State Planning and Research program.

C. Urbanized Area Formula Program (49 U.S.C. 5307)

Section 5307 authorizes Federal assistance for capital, planning, job access and reverse commute projects, and, in some cases, operating assistance for public transportation in urbanized areas. An urbanized area (UZA) is an area with a population of 50,000 or more that has been defined and designated as such by the U.S. Census Bureau.

FTA calculates an apportionment amount for each UZA based on statutory formulas. For UZAs with populations of 200,000 or more, FTA apportions funds directly to one or more Designated Recipients, which are local or statewide agencies appointed by the Governor in accordance with sections 5303 and 5304, to receive and allocate section 5307 funds to eligible public transportation projects in the UZA. For UZAs with populations between 50,000 and 200,000, FTA apportions funds directly to the Governor for allocation to those areas in the State. Eligible funding recipients are limited to Designated Recipients and other local government authorities, as defined under section 5302(4), that are authorized to apply by the Designated Recipient.

Beginning with this FY 2013 apportionment, FTA is apportioning funds based on UZA designations and population counts from the 2010 Census. The transition from the 2000 Census to the 2010 Census may affect the program requirements and/or eligibilities that apply to recipients in certain areas. Recipients that are located in UZAs that fall under any of the following scenarios may be affected: (1) Existing UZAs that have increased in population from fewer than 200,000 residents to more than 200,000; (2) New UZAs in areas that were formerly under 50,000 in population; (3) Formerly rural areas that are now part of a geographically-enlarged UZA; (4) Previous UZAs that have fallen below 50,000 in population; and, (5) UZAs that have grown or merged with other UZAs to include areas in multiple States. Public transit providers in areas that are affected by these changes are encouraged to work closely with the FTA Regional Office to identify how these changes may apply to their agencies.

In addition to the impacts of the 2010 Census, recipients should be aware of several program changes established by MAP-21. Changes include a new provision allowing operating assistance for transit agencies in UZAs over 200,000 in population that operate a maximum of 100 buses in fixed route service during peak service hours, the eligibility of job access and reverse commute projects, changes in the definition of “capital project,” expanded eligibility for sources of local match, and the replacement of “transit enhancements” with the “associated transit improvements” category.

Changes to the Urbanized Area Formula Program under MAP-21 and the 2010 Census apply to funds apportioned for FY 2013, and are not retroactive to prior funding apportioned under previous authorization. FTA will revise Circular 9030.1D, *Urbanized Area Formula Program: Program Guidance and Application Instructions*, to incorporate any relevant changes. Until this revision is complete, the previous circular, as amended by this notice, remains a good guidance tool in most respects.

For more information about the Urbanized Area Formula Program contact *Adam Schildge, Office of Transit Programs, at (202) 366-0778 or adam.schildge@dot.gov.*

1. *Authorized Amounts*

MAP-21 authorizes $4,397,950,000 in FY 2013 and $4,458,650,000 in FY 2014 to provide financial assistance for urbanized areas under section 5307. Of the amount authorized and appropriated for section 5307 in each year, $30 million is set aside for a competitive discretionary passenger ferry grant program, 0.5 percent will be apportioned to eligible States for State Safety Oversight (SSO) Program grants, and 0.75 percent will be set aside for program oversight.

Further information on the Passenger Ferry Discretionary Program is provided in section III.A.4.b of this notice. Further information on the 0.5 percent apportionment to States for the State Safety Oversight Program is provided in section IV.N. of this notice.

Fiscal Year	2013	2014
Funds Authorized	$4,397,950,000	$4,458,650,000

2. *FY 2013 Funding Availability*

Under the continuing resolution, a total of $2,117,667,740 is available for the section 5307 program for the period October 1, 2012 through March 27, 2013. The total amount apportioned to urbanized areas is $2,290,545,383, which includes the addition of amounts apportioned to

UZAs pursuant to the section 5340 Growing States and High Density States Formula factors. This amount excludes the set-aside for the Passenger Ferry Discretionary Program, apportionments under the State Safety Oversight Program, and oversight (authorized by section 5338), as shown in the table below.

Urbanized Area Formula Program – FY 2013 (CR)	
Total Appropriation	$2,130,634,943/a
Ferry Discretionary Program	-$14,445,372
State Safety Oversight Program	-$10,588,340
Oversight Deduction	-$15,882,508
Section 5340 Funds Added	$213,793,863
Total Apportioned	$2,290,545,383

a/ Includes 1.5 percent set-aside for Small Transit Intensive Cities Formula

Table 3 displays the amounts apportioned under the Urbanized Area Formula Program.

3. *Basis for Formula Apportionment*

MAP-21 made several changes to the formula for this program. Specifically, section 5336(h) now provides that 3.07 percent of section 5307 funds available for apportionment are allocated on the basis of low-income persons residing in urbanized areas, with 25 percent of these funds allocated to areas below 200,000 in population and the remaining 75 percent allocated to areas 200,000 and over in population. MAP-21 also increased the percentage of funds allocated on the basis of Small Transit Intensive Cities (STIC) factors from 1 to 1.5 percent. Finally, MAP-21 established a new 0.5 percent takedown for State Safety Oversight grant program.

FTA apportions Urbanized Area Formula Program funds based on statutory formulas. Congress established four separate formulas that are used to apportion portions of the available funding: the section 5307 Urbanized Area Formula Program formula, the Small Transit Intensive Cities (STIC) formula, the Growing States and High Density States formula, and a formula based on low-income population. Additional information on these formulas is provided in the following subsections.

Consistent with prior apportionment notices, Table 3 shows a total section 5307 apportionment for each UZA, which includes amounts apportioned under each of these formulas. Detailed information about the formulas is provided in Table 4. For technical assistance purposes, the UZAs that receive STIC funds are listed in Table 6. FTA will provide breakouts of the funding allocated to each UZA under these formulas upon request to the FTA regional office.

i. <u>Section 5307 – Urbanized Area Formula</u>

For UZAs between 50,000 and 199,999 in population, the section 5307 formula is based on population and population density. For UZAs with populations of 200,000 and more, the formula is based on a combination of bus revenue vehicle miles, bus passenger miles, bus operating costs, fixed guideway vehicle revenue miles, and fixed guideway route miles, as well as population and population density. The Urbanized Area Formula is defined in 49 U.S.C. 5336.

To calculate a UZA's FY 2013 apportionment, FTA used population and population density statistics from the 2010 Census and validated mileage and transit service data from transit providers' 2011 National Transit Database (NTD) Report Year (when applicable). Consistent with section 5336(b), FTA has included 22.27 percent of the fixed guideway directional route miles and vehicle revenue miles from eligible urbanized area transit systems, but which were attributable to rural areas outside of the urbanized areas from which the system receives funds. Data from public transportation subrecipients in the Rural Module of the NTD that were identified by FTA staff as having been located in rural areas following the 2000 Census, but are now located in urbanized areas over 200,000 in population following the 2010 Census, were also included in this apportionment, and were not included in the apportionment for the Rural Areas Formula Program. These systems will be identified in the supplementary data tables accompanying the apportionment data tables. This was not done for subrecipients now located in urbanized areas under 200,000 in population following the 2010 Census, data for these systems were included in the apportionment for the Rural Areas Formula Program.

FTA has calculated dollar unit values for the formula factors used in the Urbanized Area Formula Program apportionment calculations. These values represent the amount of money each unit of a factor is worth in this year's apportionment. The unit values change each year, based on all of the data used to calculate the apportionments, as well as the amount appropriated by Congress for the apportionment. The dollar unit values for FY 2013 are displayed in Table 5. To replicate the basic formula component of a UZA's apportionment, multiply the dollar unit value by the appropriate formula factor (i.e., the population, population x population density), and when applicable, data from the NTD (i.e., route miles, vehicle revenue miles, passenger miles, and operating cost).

ii. <u>Small Transit Intensive Cities Formula</u>

Under the STIC formula, FTA apportions funds to UZAs under 200,000 in population that have public transportation service that operates at a level equal to or above the industry average for all UZAs with a population of at least 200,000, but not more than 999,999. STIC funds are apportioned on the basis of one or more of six performance categories: passenger miles traveled per vehicle revenue mile, passenger miles traveled per vehicle revenue hour, vehicle revenue miles per capita, vehicle revenue hours per capita, passenger miles traveled per capita, and passengers per capita.

The data used to determine a UZA's eligibility under the STIC formula and to calculate the STIC apportionments was obtained from the NTD reports for the 2011 reporting year. Because performance data change with each year's NTD reports, the UZAs eligible for STIC funds and the amount each receives may vary each year. UZAs that received funding through the STIC formula for FY 2013 are listed in Table 6.

iii. <u>Section 5340 – Growing States and High Density States Formula</u>

FTA also apportions funds to qualifying UZAs and States according to the section 5340 Growing States and High Density States formula, as shown in Table 3. Half of the funds appropriated for section 5340 are apportioned to Growing States and half to High Density States. For the period October 1, 2012 through March 27, 2013, FTA apportions $125,640,719 to UZAs in growing States and $125,640,719 to UZAs in High Density States. More information on this program and its formula is found in section IV.R. of this notice.

iv. <u>Low-Income Population</u>

New under MAP-21, the formula for this program includes a formula factor for low-income population. Section B.7. of this notice contains the new definition of low-income population. Of the amount authorized and appropriated for the Urbanized Area Formula Program in each year, 3.07 percent is apportioned on the basis of low income population. A total of $65,410,493 has been apportioned to UZAs based on this formula for FY 2013, as described below.

As specified in statute, FTA apportions 75 percent of the available funds to UZAs with a population of 200,000 or more. Funds are apportioned based on the ratio of the number of low income individuals in each UZA to the total number of low income individuals in all urbanized areas of that size. FTA apportions the remainder of the funds (25 percent) to UZAs with populations of less than 200,000, according to an equivalent formula. The low income populations used for this calculation were based on the American Community Survey (ACS) data set for 2006-2010. This information is updated by the Census Bureau annually.

4. *Requirements*

Program guidance for the Urbanized Area Formula Program is found in FTA Circular *9030.1D, Urbanized Area Formula Program: Program Guidance and Application Instructions*, dated May 10, 2010, and is supplemented by additional information and changes provided in this notice and that may be posted to section 5307 web page. FTA is in the process of updating the program circular to incorporate changes resulting from MAP-21. Key program requirements and changes that apply to all programs are addressed in section III.D. of this notice, "Cross-Cutting Programmatic Requirements and Changes." The following subsections outline several important program requirements and changes that apply specifically to the Urbanized Area Formula Program.

i. Designated Recipients under Census 2010

For UZAs with populations of 200,000 and above (large UZAs), FTA apportions funds to the Designated Recipient(s) that are selected by the State's Governor, responsible local officials, and publicly owned operators of public transportation to receive and apportion the amounts made available to a UZA by Congress and FTA. The Designated Recipient may be a State or regional authority if the authority is responsible under the laws of the State for a capital project and for financing and directly providing public transportation. Section 5307 further provides that the Designated Recipient, after consideration of comments and views of the public, prepares the final program of projects for the amounts available to a UZA of not less than 200,000 in population.

To be selected as a Designated Recipient, an entity must be a public body with the legal capacity to perform all of the following responsibilities:

a. Receive and dispense Federal funds for transit purposes,

b. Submit projects to be included and considered in the annual elements of the Transportation Improvement Program through the Metropolitan Planning Organization,
c. Submit grant applications to FTA, and
d. Enter into formal grant agreements with FTA.

For UZAs with a population of less than 200,000 (small UZAs), the Governor, or his or her designee, is the Designated Recipient. A single total Governor's apportionment amount for the Urbanized Area Formula, STIC, and Growing States and High Density States for all small UZAs in each State is shown in Table 3. The table also shows, for informational purposes, the apportionment amount that would be attributable by formula to each small UZA within the State. The Governor (or his or her designee) shall determine the sub-allocation of funds among the small UZAs and is not bound by the small UZA amounts published in this notice. The Governor's sub-allocation must be sent to the appropriate FTA Regional Office before grants are awarded.

In FY 2013, FTA will apportion funds to new large UZAs for which a Designated Recipient has not yet been selected. These funds will become available for grants once FTA has received documentation of the selection of a Designated Recipient.

ii. Process for Designation of Designated Recipients in Areas over 200,000 in Population

Given the Census impacts to many urbanized areas, FTA developed specific guidance to assist areas with the process and required documentation for Designated Recipients in areas over 200,000. Specific impacted areas were notified in July 2012 by letter and additional guidance on this requirement can be found on FTA's website.

iii. Designations and Documentation in Areas under 200,000 in Population

For urbanized areas greater than 50,000 but under 200,000 in population, the Governor of each State is the Designated Recipient. This means that the Governor receives and allocates funding for these urbanized areas through the "Governor's Apportionment," which consists of the total amount of funding allocated to a State for all of its small urbanized areas.

The Governor may designate another State agency to act as the Designated Recipient (e.g. the State DOT); however, the Governor or his designee cannot assign the rights and responsibilities of the Designated Recipient to regional or local funding recipients or to transit providers at the local or regional level. The Governor or his designee can, however, authorize local funding recipients or transit providers at the local or regional level to apply for grants directly to FTA as "Direct Recipients".

If the Governor designates another State agency to act as the Designated Recipient, such designation must be documented by letter from the Governor naming the Designated Recipient and by an opinion of counsel from the Designated Recipient certifying its legal capacity to perform the functions of a Designated Recipient.

iv. Direct Recipients and Documentation

Many of FTA's grantees are *direct* recipients, but not all grantees are *designated* recipients. A *direct* recipient is a public entity that is legally eligible under Federal transit law to apply for and receive grants directly from FTA. The amount of funds available to direct recipients is determined cooperatively by public transit providers, the MPO, and the designated recipient(s) for that UZA, in adherence with federal planning requirements and communicated to FTA by the designated recipient. FTA can only make grants to direct recipients after a split or suballocation letter is provided to the FTA Regional Office by the Designated Recipient. Additionally, when an applicant for federal funding is not the Designated Recipient, a supplemental agreement will be required. More on this requirement can be found in section V. B. "FY 2013 Grant Application Procedures" of this notice.

The allocation of funding to a direct recipient in a small UZA is determined by the Governor or the Governor's designee, in accordance with local transit spending priorities and should be reflected in the planning process. The amount of funding available to a direct recipient in a large UZA is determined by the Designated Recipient for that UZA in accordance with the local MPO and federal planning requirements.

v. Associated Transit Improvements

Designated Recipients in UZAs with populations of 200,000 or more must certify that not less than one percent of the section 5307 funds apportioned to the UZA will be used for associated transit improvements, formerly known as transit enhancements. See section B "Definitional Changes or New Definitions" in this notice for the new definition of what is considered an associated transit improvement. In addition, Designated Recipients must submit an annual report listing projects carried out in the preceding year with these funds as part of the Federal fiscal year's final quarterly progress report in TEAM-Web. The report should include the following elements: (1) grantee name; (2) UZA name and number; (3) FTA project number; (4) transit enhancement category; (5) brief description of enhancement and progress towards project implementation; (6) activity line item code from the approved budget; and (7) amount awarded by FTA for the project. The list of associated transit improvement categories and activity line item (ALI) codes may be found in the table of Scope and ALI codes on TEAM-Web, which can be accessed at http://FTATEAMWeb.fta.dot.gov.

Under MAP-21, certain activities previously eligible as "transit enhancements" are no longer eligible for funding, unless otherwise eligible as capital or operating expenses under section 5307. Specifically, public art and transit connections to parks within a recipient's service area are no longer included as eligible project activities under this requirement. (Further information about the use of art in the design of a transit facility as a transit capital expense is noted in section III. B. of this notice.) Historic preservation projects may now only be for historic public transportation buildings, structures and facilities that are intended for use in public transportation service.

It is the responsibility of the recipients in a UZA to identify associated transit improvement projects that will receive funding from the Urbanized Area Formula Program. The one percent minimum does not preclude more than one percent from being expended in a UZA for associated transit improvements. However, projects and project elements that are only eligible under this category – in particular, operating costs for historic facilities – may not exceed one percent of a UZA's annual apportionment.

vi. Transit Security Projects

MAP-21 continues the requirement that each recipient of Urbanized Area Formula funds must certify that it will expend at least one percent of the amount received each fiscal year on "public transportation security projects," or that it has decided the expenditure for security projects is not necessary. For applicants not eligible to receive section 5307 funds for operating expenses, only capital security projects may be funded under this one percent requirement. The definition of eligible capital projects includes specific crime prevention and security activities, including: increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system. The one percent may also include security expenditures included within other capital activities, and, where the recipient is eligible, operating assistance. Additional funding for transit security projects may be available from the Transportation Security Administration (TSA). For more information, visit the TSA Transit Security Grants web page at: http://www.tsa.gov/what_we_do/grants/programs/tsgp_tieri/2011/index.shtm.

The grantee must provide information regarding its use of the one percent for security as part of each section 5307 grant application, using a special screen in TEAM-Web. If the grantee has certified that it is not necessary to expend one percent for security, the section 5307 grant application must include information to support that certification. FTA will not process an application for a section 5307 grant until the security information is complete.

vii. FY 2013 Operating Assistance

Recipients in urbanized areas under 200,000 in population may use Urbanized Area Formula Program funds for operating assistance at a 50 percent Federal share. There is no cap to the amount that can be used in these areas for operating assistance. Unless specifically authorized, recipients in urbanized areas of 200,000 or more in population are not permitted to use program funds for operating assistance.

Under MAP-21, a special rule allows recipients in urbanized areas with populations of 200,000 or above and that operate 100 or fewer buses in fixed route service during peak hours, to receive a grant for operating assistance subject to a maximum amount per system as explained below:

a. Public transportation systems that operate a minimum of 76 buses and a maximum of 100 buses in fixed route service during peak service hours may receive operating assistance in an amount not to exceed 50 percent of the share of the apportionment that is attributable to such systems within the urbanized area, as measured by vehicle revenue hours.
b. Public transportation systems that operate 75 or fewer buses in fixed route service during peak service hours may receive operating assistance in an amount not to exceed 75 percent of the share of the apportionment that is attributable to such systems within the urbanized area, as measured by vehicle revenue hours.

A list of eligible recipients and their maximum operating assistance amounts for FY 2013 is shown in Table 3-A. FTA identified the systems eligible to use this provision and their maximum amounts for FY 2013 using data from the NTD for reporting year 2011. Operating assistance requires a 50 percent local match.

In accordance with section 5307(a)(2), FTA has calculated a fixed annual cap on operating assistance for each eligible agency that provides service in a large UZA. The cap is determined by dividing the UZA's apportionment by the total number of vehicle revenue hours reported from all public transportation operators and from all transit modes in the UZA, and then by multiplying this quotient by the number of bus vehicle revenue hours operated in the UZA by the eligible system. The result is the proportional share of the apportionment that is attributable to the qualifying system, as measured by vehicle revenue hours. This cap is calculated based on the FY 2013 apportionment for an eligible provider's UZA under the continuing resolution, and will be updated as additional funding is made available. Eligible systems operating in more than one UZA over 200,000 in population will receive separate operating caps from each UZA in which the system operates.

If a recipient believes that this table does not accurately reflect the number of buses the system operates in fixed route service during peak service hours, the recipient may submit a supplementary report to the NTD, and should notify the FTA Office of Program Management that it is appealing this list for FY 2013. The supplementary NTD report must be based on service levels on or prior to October 1, 2012. FTA will determine whether a proposed adjustment is necessary based on evidence of a continuing change in maximum service levels. FTA will only accept supplementary reports through January 15, 2013 so it can validate the data and consider any changes prior to the expiration of the current continuing resolution.

In addition, many expenses that accounting rules classify as operating costs are eligible as capital expenses in this program, including preventive maintenance, expenses (up to 10 percent of the amount apportioned) for providing non-fixed route paratransit transportation services in accordance with section 223 of the ADA, and mobility management expenses.

viii. Job Access and Reverse Commute Projects

Job access and reverse commute projects are eligible for funding under the Urbanized Area Formula Program. A job access and reverse commute project is defined as:

"a transportation project to finance planning, capital and operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including transportation projects that facilitate the provision of public transportation services from urbanized areas and rural areas to suburban employment locations."

There is no set-aside or cap under MAP-21 for job access and reverse commute projects funded under this section. However, the projects must be for the "development and maintenance" of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and employment-related activities. FTA defines "development of transportation services" to mean new projects that were not in service on October 1, 2012. New job access and reverse commute projects may include the expansion or extension of an existing service, so long as the new service was designed to support the target population consistent with the definition above and the other planning requirements (described below) were met. Such projects are not required to be designed exclusively for these populations.

"Maintenance of transportation services" is identified as the continuation of eligible job access and reverse commute projects that received funding under the section 5316 JARC Program, as amended by SAFETEA-LU, and which was repealed by MAP-21.

Reverse commute projects are only eligible under this section if they are designed to transport welfare recipients and eligible low-income individuals to and from jobs and employment-related activities. However, as noted above, the services do not need to be exclusively for the target population.

For FY 2013, any projects or project elements that were eligible under the section 5316 Job Access and Reverse Commute Program, authorized under SAFETEA-LU, will remain eligible, so long as they can be classified as development or maintenance, as described above and comply with the MAP-21 definition of a job access and reverse commute project. A list of these eligible projects elements can be found in FTA Circular 9050.1: *The Job Access and Reverse Commute (JARC) Program Guidance and Application Instructions*. FTA anticipates cancelling this circular and addressing project eligibility in a revised FTA Circular 9030.1 for the Urbanized Area Formula Program. Some of these types of projects may not continue to be eligible in the future.

In order to receive funding for a job access and reverse commute project under this provision, the project must be identified by the MPO and Designated Recipient as a job access and reverse commute project in the Designated Recipient's annual Program of Projects, which must be developed in consultation with interested parties, published with the opportunity for comments, and subject to a public hearing.

While the job access and reverse commute projects funded under this section do not have to be selected from a locally-developed, human service public transportation planning process ("coordinated planning process"), FTA encourages MPOs and section 5307 Designated Recipients to continue the coordinated planning process in identifying and developing projects for funding. FTA encourages MPOs and recipients to coordinate with the organizations previously designated as Designated Recipients for the SAFETEA-LU JARC program, and to identify and consider the funding needs of existing job access and reverse commute projects and services.

Funds previously apportioned under section 5316 (JARC) that have not been obligated will remain available to the entity that was the Designated Recipient for those funds at the time of apportionment through the period of availability unless a new designation is received. These funds are subject to the requirements of SAFETEA-LU and cannot be combined in a grant in a section 5307 grant under MAP-21.

ix. Sources of Local Match

MAP-21 expands the categories of funds that can used as local match. These categories are included below and described in the section III.D. "Cross-Cutting Programmatic Requirements and Changes" of this notice. In most cases, the maximum Federal share of an Urbanized Area Formula Program grant is 80 percent of net project cost for a capital project and 50 percent of net project cost for operating assistance, unless the recipient indicates a lower federal share. The remainder of the net project cost (i.e., 20 percent and 50 percent, respectively) shall be provided from the following sources:

a. Non-government sources other than revenues from providing public transportation services;
b. Revenues derived from the sale of advertising and concessions;
c. An undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital;
d. Amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation);
e. Amounts received under a service agreement with a State or local social service agency or private social service organization; and
f. Proceeds from the issuance of revenue bonds;
g. Funds from Section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii));
h. Transportation Development Credits (formerly Toll Revenue Credits); and
i. Any amounts expended by providers of public transportation by vanpool for the acquisition of rolling stock to be used in the recipient's service area, excluding any amounts the provider may have received in Federal, State or local government assistance for such acquisition, provided that the provider has a binding

agreement with the public transportation agency to provide service in the relevant UZA.

x. **Urbanized Area Formula Funds Used for Highway Purposes**

Funds apportioned under the Urbanized Area Formula Program are no longer eligible for transfer to FHWA for highway projects.

xi. **Eligibility for Safety Certification Training**

Recipients of section 5307 funds are permitted to use not more than 0.5 percent of their formula funds under the Urbanized Area Formula Program to pay not more than eighty percent of the cost of participation for an employee who is directly responsible for safety oversight to participate in public transportation safety certification training. Safety certification training program requirements will be established in accordance with section 5329.

5. ***Period of Availability***

MAP-21 expanded the period of availability for section 5307 funds to six years (year of apportionment plus five additional years). The Urbanized Area Formula Program funds apportioned in this notice are available for obligation in FY 2013 plus five additional years. Accordingly, funds apportioned in FY 2013 must be obligated in grants by September 30, 2018. Any FY 2013 apportioned funds that remain unobligated at the close of business on September 30, 2018 will revert to FTA for reapportionment under the Urbanized Area Formula Program.

6. ***Other Program or Apportionment Related Information and Highlights***

State Safety Oversight funding

As mentioned above, under MAP-21 there is a 0.5 percent take-down from the section 5307 urbanized area program that will be apportioned to States for State Safety Oversight (SSO) program activities. These funds will be apportioned by formula to States with rail fixed guideway public transportation systems that are either operating or in the engineering or construction phase of development, and which are not subject to regulation by the Federal Railroad Administration (FRA) to develop or carry out State safety oversight programs. FTA is currently developing the formula by which these funds will be apportioned. By law, this formula must take into account fixed guideway route miles, fixed guideway vehicle revenue miles, and fixed guideway passenger miles on fixed guideway systems. Funds may be used for program operational and administrative expenses, including employee training activities. A twenty percent non-Federal match is required for these funds. The State’s share of the cost may include in-kind contributions and may not include any funds received from or revenues earned by a public transportation agency.

Vehicle Fuel and Electrical Propulsion Costs as Capital Maintenance for Section 5307

The FY 2013 CR does not continue the provision to permit FTA to treat fuel costs for vehicle operations, including utility costs for the propulsion of electrical vehicles, as a capital maintenance item for grants in FY 2013. As such, these expenses are considered operating expenses and require a 50 percent local match.

NTD Reporting

Section 5335 requires that each recipient or beneficiary under the section 5307 program submit an annual report to the NTD containing information on financial, operating, and asset condition information. Annual NTD reports should be full reports of all transit activities, regardless of funding source. For the 2012 Report Year, which lasts from October 2012 through July 2013, the reporting requirements apply to any recipient of a section 5307 grant obligation in 2011, any recipient of a section 5307 grant outlay in 2012, or any entity that continued to benefit in 2012 from capital assets purchased using Section 5307 grants. Also, grantees that received section 5307 grants in prior years, and which anticipate receiving section 5307 grants in future years, should also continue to report to the NTD. Recipients or beneficiaries of section 5307 grants that do not operate transit service, either directly or through a contract for purchased transportation services, are still required to report to the NTD on capital and planning expenditures, but have significantly reduced reporting requirements. Recipients or beneficiaries of Section 5307 grants that operate 30 or fewer vehicles in maximum service across all transit modes are also eligible for reduced, "Small Systems" reporting requirements. Recipients or beneficiaries making full annual reports to the NTD are also subject to monthly reporting requirements on service operations and safety incidents. MAP-21 also established new requirements for reporting asset inventories and condition assessments to FTA at section 5326(b)(3), 5335(a), and 5335(c). FTA grantees and sub-recipients should look for a future Federal Register Notice with proposed changes to the FTA's NTD Reporting Manual for more information and an opportunity to comment on FTA's implementation of these new statutory requirements.

The NTD Reporting Manuals contains detailed reporting instructions and are posted on the NTD website, www.ntdprogram.gov.

D. Fixed Guideway Capital Investment Program (49 U.S.C. 5309)—New and Small Starts and Core Capacity Improvements

The Fixed Guideway Capital Investment Program provides funds for construction of new fixed guideway systems or extensions to existing fixed guideway systems and, as amended by MAP-21, projects that will expand the core capacity of existing fixed guideway corridor. Eligible projects are new fixed-guideway systems, such as rapid rail (heavy rail), commuter rail, light rail, hybrid rail, trolleybus (using overhead catenary), cable car, passenger ferries, and bus rapid transit, or an extension of any of these. The Small Starts program also includes corridor-based bus rapid transit systems that do not operate on a separate fixed guideway but include features that emulate the services provided by rail fixed guideway including defined stations, traffic signal priority for public transit vehicles, and short headway bi-directional services for a substantial part of weekdays and weekend days. The Core Capacity Improvement program provides funds for substantial, corridor-based investments in existing fixed guideway systems that are at capacity today or will be in five years. Core Capacity Improvement projects must increase the capacity of the existing fixed guideway system in the corridor by at least 10 percent. Projects become candidates for funding under this program by successfully completing steps in the process defined in section 5309 and obtaining a satisfactory rating under the statutorily-defined criteria. For New Starts and Core Capacity Improvement projects, the steps in the process include project development, engineering, and construction. For Small Starts projects the steps in the process include project development and construction. New Starts and Core Capacity Improvement projects receive construction funds from the program through a full funding grant agreement (FFGA) that defines the scope of the project and specifies the total multi-year Federal commitment to the project. Small Starts projects receive construction funds through a single year grant or an expedited grant agreement that defines the scope of the project and specifies the Federal commitment to the project. For more information about the New or Small Starts or Core Capacity project development process or evaluation and rating process contact *Elizabeth Day, Office of Planning and Environment, at (202) 366–4033*, or for information about published allocations contact *Eric Hu, Office of Transit Programs, at (202) 366–0870 or eric.hu@dot.gov*.

1. *Authorized Amounts*

MAP-21 authorizes the appropriation of $1,907,000,000 in each FY 2013 and $1,907,000,000 in FY 2014 to provide financial assistance under section 5309.

Fiscal Year	2013	2014
Funds Authorized	$1,907,000,000	$1,907,000,000

2. *FY 2013 Funding Availability*

Under the continuing resolution, a total of $931,994,700 is available for the section 5309 program for the period October 1, 2012 through March 27, 2013. This amount is based on the rate of operations as defined in OMB Bulletin 12-02, which specifies that the CR annualized level equals the FY 2012 enacted appropriation net of FY 2012 rescissions. In the case of this account, because $44 million would be subject to rescission were the 2012 rescission enacted in FY 2013, FTA must subtract this amount when calculating the CR annualized level. Thus far, the total amount available for allocation is $922,674,753, after the one percent deduction for oversight, as shown in the table below.

Fixed Guideway Capital Investment Program – FY 2013 (CR)	
Total Appropriation	$931,994,700
Oversight Deductions	-$9,319,947
Total Available	$922,674,753

3. *Basis for Allocation*

Funds are allocated on a discretionary basis and subject to program evaluation.

4. *Requirements*

FTA will be completing a rulemaking and interim guidance documents related to the New Starts, Small Starts, and Core Capacity Improvement program to implement the provisions of MAP-21. Project sponsors should reference the FTA website at www.fta.dot.gov for the most current fixed guideway capital investment program guidance. Grant-related guidance is found in FTA Circular 9300.1B, *Capital Investment Program Guidance and Application Instructions*, November 1, 2008; and C5200.1A, *Full Funding Grant Agreement Guidance*, December 5, 2002, which will be updated in the future to incorporate the changes made by MAP-21.

5. *Period of Availability*

MAP-21 expanded the period of availability for section 5309 capital investment funds to five years, (the fiscal year in which the amount is made available plus four additional years). Therefore, funds for a project identified in FY 2013 must be obligated for the project by September 30, 2017. Section 5309 funds that remain unobligated to the projects for which they originally were designated after five fiscal years may be made available for other section 5309 projects.

6. Other Program Information

Prior year FY 2011 and FY 2012 unobligated allocations for New Starts in the amount of $528,273,000 remain available for obligation in FY 2013. These unobligated amounts are displayed in Table 10 on FTA's FY 2013 Apportionments web page.

E. Enhanced Mobility of Seniors and Individuals with Disabilities Program (49 U.S.C. 5310)

The Enhanced Mobility of Seniors and Individuals with Disabilities Program provides formula funding to States and Designated Recipients of large UZAs (UZAs with populations of 200,000 or more) to improve mobility for seniors and individuals with disabilities. This program provides funds to: 1) serve the special needs of transit-dependent populations beyond traditional public transportation service, where public transportation is insufficient, inappropriate, or unavailable; 2) projects that exceed the requirements of the Americans with Disabilities Act (ADA) act; 3) project that improve access to fixed route service and decrease reliance on complementary paratransit; and 4) projects that are alternatives to public transportation.

Under MAP-21 this program no longer provides a single apportionment to the State; however, it now provides apportionments specifically for large urbanized, small urbanized and rural areas; and will require new designations in large UZAs. Additionally, MAP-21 expanded the eligibility provisions to include operating expenses.

For more information about the Enhanced Mobility of Seniors and Individuals with Disabilities Program, contact *Gil Williams*, *Office of Transit Programs*, *at (202) 366-0797 or gilbert.williams@dot.gov.*

1. Authorized Amounts

MAP-21 authorizes $254,800,000 in FY 2013 and $258,000,000 in FY 2014 for the Enhanced Mobility of Seniors and Individuals with Disabilities formula program.

Fiscal Year	2013	2014
Funds Authorized	$254,800,000	$258,000,000

2. FY 2013 Funding Availability

Under the continuing resolution, a total of $122,689,376 is available for the section 5310 program for the period October 1, 2012 through March 27, 2013. Thus far, the total amount apportioned to States and UZAs for the section 5310 program is $122,075,929, after the deduction for oversight (authorized by section 5338), as shown below in the table.

Enhanced Mobility of Seniors and Individuals with Disabilities Program – FY 2013 (CR)	
Total Appropriation	$122,689,376
Oversight Deductions	-$613,447
Total Apportioned	$122,075,929

Table 11 displays the amounts apportioned under the Enhanced Mobility of Seniors and Individuals with Disabilities Program.

3. Basis for Formula Apportionment

Sixty percent of the funds shall be apportioned among Designated Recipients for urbanized areas with a population of 200,000 or more individuals. Twenty percent of the funds shall be apportioned among the States for their urbanized areas with a population of at least 50,000 but less than 200,000. Twenty percent of the funds shall be apportioned among the States for their rural areas, areas with a population less than 50,000. In addition, previous law allowed U.S. DOT to establish the formula for section 5310. The Secretary's formula provided a $125,000 funding floor (i.e., minimum apportionment amount) for each State, as well as for the District of Columbia, Guam and Puerto Rico, and a $50,000 funding floor for American Samoa and the Northern Mariana Islands. Since the formula is now prescribed in section 5310, as amended by MAP-21, there are no funding floors under this program.

Under the section 5310 formula, funds are allocated using Census data on seniors (i.e., persons 65 and older) and people with disabilities. However, beginning in 2010, the Census Bureau stopped collecting this demographic information on as part of its decennial census. Data on seniors and people with disabilities is now only available from the American Community Survey (ACS), which is conducted and published on a rolling basis. FTA's FY 2013 section 5310 apportionments incorporate ACS data published in December, 2011. Data on seniors comes from the ACS 2006-2010 five-year data set, Table S.0103, "Population 65 Years and Older in the United States," and Table S.0103PR, "Population 65 Years and Older in Puerto Rico." Data on persons with disabilities comes from the ACS 2008-2010 three-year data set, Table S.1810, "Disability Characteristics." (A five-year data set for persons with disabilities is not yet available because the Census changed the wording of its question on disability status after 2008).

4. Program Requirements

i. Designated Recipients

For urbanized areas less than 200,000 and in the rural areas, the State is the Designated Recipient for section 5310. Current 5310 designations remain in effect until changed by the Governor of a State by officially notifying the appropriate FTA regional administrator of re-designation.

In urbanized areas over 200,000 in population, the recipient charged with administering the section 5310 Program must be officially designated through a process consistent with sections 5303 and 5304 prior to grant award. The MPO, State, or another public agency may be a preferred choice based on local circumstances. The designation of a recipient shall be made by the governor in consultation with responsible local officials and publicly owned operators of public transportation, as required in sections 5303 and 5304. As such, FTA asks that in the large urbanized areas, the MPO initiate the process for designating a 5310 Designated Recipient as soon as possible. Funds cannot be awarded until this designation is on file with the FTA Regional office. A State agency could be designated as the recipient of section 5310 funds for a large urbanized area. However, if the State is selected as the designated recipient in a large urbanized area, the apportioned funds for the large urbanized area must be allocated to agencies within the urbanized area.

Designated recipients are responsible for administering the program. Responsibilities include: notifying eligible local entities of funding availability; developing project selection processes; determining project eligibility; developing the program of projects; and ensuring that all subrecipients comply with Federal requirements.

Although FTA will only award grants to the designated recipients for the program, there are other entities eligible to receive funding as a subrecipient. These include private nonprofit agencies, public bodies approved by the state to coordinate services for elderly persons and persons with disabilities, or public bodies which certify to the Governor that no nonprofit corporations or associations are readily available in an area to provide the service.

ii. Eligible Expenses

MAP-21 expands eligibility of the funds to be used for operating, in addition to capital, for transportation services that address the needs of seniors and individuals with disabilities. Not less than 55 percent of the funds available for this program must be used for projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable), typically carried out by non-profit agencies. The 55 percent is a floor. Recipients may use more or all of their section 5310 funds for these types of projects. Remaining funds may be used for: public transportation projects that exceed the requirements of the ADA; public transportation projects that improve access to fixed-route service and decrease reliance by individuals with disabilities on complementary paratransit; or alternatives to public transportation that assist seniors and individuals with disabilities. The expanded eligibility provisions are a result of the consolidation of the section 5317 New Freedom Program, which was repealed in MAP-21, with the section 5310 program. The acquisition of public transportation services remains an eligible capital expense under this section.

States and Designated Recipients may use up to ten percent of their annual apportionment to administer, plan, and provide technical assistance for a funded project. No local share is required for these program administrative funds.

For more on eligible expenses, until FTA revises the section 5310 circular, recipients may use FTA Circular 9070.1F, *Elderly Individuals and Individuals with Disabilities Program Guidance and Application Instructions*, dated May 1, 2007 for 5310 projects and FTA Circular 9045.1, *New Freedom Program Guidance and Application Instructions*, dated May 1, 2007 for New Freedom-like projects.

iii. Local Match

The matching requirements for this program remain the same; capital assistance is provided on an 80 percent Federal share, 20 percent local share. Operating assistance requires a 50 percent match. One difference to note, however, is that MAP-21 eliminated the provision for the sliding scale match under FHWA programs to be used in this program. Funds provided under other Federal programs (other than those of the Department of Transportation, with the exception of the Federal Lands Transportation Program and Tribal Transportation Program established by sections 202 and

203 of title 23 U.S.C.) may be used for local match for funds provided under section 5310, and revenue from service contracts may be used as local match.

iv. Planning and Consultation

The States and Designated Recipients must certify that: projects selected for funding under this program are included in a locally developed, coordinated public transit-human services transportation plan; and the plan was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, nonprofit transportation and human services providers, and other members of the public.

Under MAP-21, the coordinated planning provision requires that all projects be included in the local coordinated human service-public transportation plan. However, on an interim basis, FTA defines "included in" to mean essentially the same as "derived from," which is consistent with the policy established under SAFETEA-LU, so long as there is evidence the plan was developed and approved with inclusion from the specific targeted populations. FTA will, however, through revisions to its circular, seek notice and comment for how to define "included in" for FY 2014.

Although the requirement for a coordinated plan is not new, FTA recognizes that some large urbanized areas may need to modify existing coordinated plans to address the specific needs of the program's target populations and/or be approved by individuals from the target populations. Modifications to existing programs are acceptable. For areas where a coordinated plan does not exist, FTA requires the following elements, at a minimum, be included in the plans:

a. An assessment of available services that identifies current transportation providers (public, private, and nonprofit);
b. An assessment of transportation needs for individuals with disabilities and seniors;
c. Strategies, activities, and/or projects to address the identified gaps between current services and needs, as well as opportunities to achieve efficiencies in service delivery; and,
d. Priorities for implementation based on resources (from multiple program sources), time, and feasibility for implementing specific strategies and/or activities identified.

Additionally, the plan must be developed and adopted with representation from seniors, individuals with disabilities, representatives of public, private, nonprofit transportation and human services providers, and other members of the public.

Similar to how FTA treated this requirement under SAFETEA-LU programs, recipients are not required to submit the coordinated plans to FTA. Recipients must certify, however, that projects were selected from this process and must make reference to the plan in the program of projects, which is described below. Additional guidance for developing coordinated plans can be found in Chapter V of the FTA Circular 9070.1F, *Elderly*

Individuals and Individuals with Disabilities Program Guidance and Application Instructions, dated May 1, 2007.

v. State and Project Management Plans

Similar to the requirements established under SAFETEA-LU, FTA will require States and designated recipients responsible for implementing the section 5310 program to document their approach to managing the program. States may need to update their plan to reflect MAP-21 changes. In areas over 200,000, the designated recipient will be required to submit a plan to the regional office prior to grant award. For assistance with developing these plans, recipients can use Chapter VII of the FTA Circular 9070.1F, *Elderly Individuals and Individuals with Disabilities Program Guidance and Application Instructions,* dated May 1, 2007. This chapter includes guidance on how to create and use State Management Plans (SMP), and can be used as a guide to develop a Program Management Plan (PMP) in the urbanized areas. The primary purposes of Management Plans are to serve as the basis for FTA management reviews of the program, and to provide public information on the administration of the programs.

vi. Program of Projects (POP)

Designated Recipients are required to develop a Program of Projects (POP) with the grant application and submit it to the FTA regional office. The POP should be developed with respect to the coordinated plan, long range plan, and the transportation improvement plan.

For additional guidance in developing the required POP, recipients can use Chapter IV of the FTA Circular 9070.1F, *Elderly Individuals and Individuals with Disabilities Program Guidance and Application Instructions*, dated May 1, 2007.

5. Period of Availability

For Enhanced Mobility of Seniors and Individuals with Disabilities Program funds apportioned under this notice, FTA has administratively set the period of availability to three years, which includes the year of apportionment plus two additional years. Accordingly, funds apportioned in FY 2013 must be obligated in grants by September 30, 2015. Any FY 2013 apportioned funds that remain unobligated at the close of business on September 30, 2015 will revert to FTA for reapportionment among the States and urbanized areas.

6. Other Program Information

Recipients may use a competitive selection to select projects, but it is not required.

MAP-21 requires FTA to establish performance measures for the program, which will be developed in coordination with revisions to the existing FTA Circular 9070.1F, *Elderly Individuals and Individuals with Disabilities Program Guidance and Application Instructions,* dated May 1, 2007, and through notice and comment.

Cross-cutting requirements for transit asset management plans and reporting of asset inventory and condition information will apply to this program. See section III.D. in this notice on cross-cutting programmatic requirements for more information.

States may transfer rural or small urbanized areas funds. The State may transfer apportioned funds between the small urbanized areas and the rural areas if it can certify that the needs are being met in the area to which the funds were originally apportioned. The State can transfer the funds (rural and small urbanized area) to any area within the state if a statewide program for this section is established. There are no administrative or statutory provisions to permit transferring section 5310 funds to other FTA programs nor is there a provision for large urbanized areas to transfer their funds to the State.

Program Guidance is found in FTA C 9070.1F, *Elderly Individuals and Individuals with Disabilities Program Guidance and Application Instructions*, dated May 1, 2007. FTA is in the process of updating this circular to incorporate changes resulting from MAP-21 and will publish it for notice and comment prior to issuing a final circular.

F. Formula Grants for Rural Areas Program (49 U.S.C. 5311)

The Rural Areas program provides formula funding to States and Indian tribes for the purpose of supporting public transportation in areas with a population of less than 50,000. Funding may be used for capital, operating, planning, job access and reverse commute projects, and State administration expenses. Eligible sub-recipients include State and local governmental authorities, Indian Tribes, private non-profit organizations, and private operators of public transportation services, including intercity bus companies. Indian Tribes are also eligible direct recipients under section 5311, both for funds apportioned to the States and for projects apportioned or selected to be funded with funds set aside for a separate Tribal Transit Program. For more information about the Formula Grants for Rural Areas program, contact *Lorna Wilson, Office of Transit Programs, at (202) 366-0893 or lorna.wilson@dot.gov*.

Under MAP-21, the changes to this program included changes to the formula, eligibility, and to the set-asides that support other rural transit programs within this section, such as the Tribal Transit Program. These changes are described in the sections below.

1. Authorized Amounts

MAP-21 authorizes $599,500,000 in FY 2013 and $607,800,000 in FY 2014 to provide financial assistance for rural areas under section 5311.

Fiscal Year	2013	2014
Funds Authorized	$599,500,000	$ 607,800,000

In addition to the funds made available to States under section 5311, approximately 16 percent of the funds authorized for the new section 5340 Growing States and High Density States formula factors will be apportioned to States for use in rural areas.

Funding for oversight, the Rural Transportation Assistance Program (RTAP), Tribal Transit Program, and the new Appalachian Development Public Transportation Assistance Program will be taken off the top before amounts are apportioned to the States.

2. FY 2013 Funding Availability

Under the continuing resolution, a total of $290,423,512 is available for the section 5311 program for the period October 1, 2012 through March 27, 2013. Thus far, the total amount apportioned to the States for the section 5311 program is $293,341,084, after the deductions for the Rural Transportation Assistance Program (RTAP), oversight (authorized by section 5338), the Tribal Transit Program, the Appalachian Development Public Transportation Assistance Program, and the addition of Section 5340 for Growing States, as shown in the table below.

Formula Grants for Rural Areas Program – FY 2013 (CR)	
Total Appropriation	$288,666,722
Oversight Deductions	-$1,443,334
RTAP Takedown	-$5,773,336
Tribal Takedown	-$14,445,372
Appalachian Takedown	-$9,630,250
Section 5340 Funds Added	$35,966,654
Total Apportioned	$293,341,084

Table 12 displays the amounts apportioned to the States under the Formula Grants for Rural Areas Program.

3. Basis for Formula Apportionment

MAP-21 modifies the formula for the Rural Areas Program. SAFETEA-LU directed 80 percent of funds to be allocated to States on the basis of non-urbanized population and the remaining 20 percent to be allocated on the basis of non-urbanized land area. MAP-21 reduces the amount of funds that are apportioned on the basis of non-urbanized population from 80 percent to 66.5 percent while adding an apportionment based on non-urbanized vehicle revenue miles and an apportionment based on the population of low-income individuals residing in non-urbanized areas. The percentage of funds allocated on the basis of non-urbanized land area is roughly the same under the MAP-21 formula as it was under the SAFETEA-LU formula.

Data from the Rural Module of the National Transit Database (NTD) 2011 Report Year was used for this apportionment, including data from directly-reporting Indian tribes. Data from public transportation systems that reported to the Annual (Urbanized Area) Module, and that was not attributable to an urbanized area, was also included. Data from public transportation subrecipients in the Rural Module of the NTD that were identified by FTA staff as having been located in rural areas following the 2000 Census, but are now located in urbanized areas over 200,000 in population following the 2010 Census, were not included in this apportionment, but were included in the apportionment for the Urbanized Area Formula Program. These systems will be identified in the supplementary data tables accompanying the apportionment data tables. This was not done for subrecipients now located in urbanized areas under 200,000 in population following the 2010 Census; data for these systems were included in the apportionment for the Rural Areas Formula Program.

Under MAP-21, the section 5311 program now includes three takedowns: the new Appalachian Development Public Transportation Assistance Program; the Rural Transit Assistance Program (RTAP); and the Tribal Transit Program, which was changed under MAP-21. These separate programs are described in the sections that follow.

4. Program Requirements

The program requirements under this section are generally unchanged, with the exception of the cross-cutting requirements mentioned in section III.D. of this notice and specific subsections outlined below.

The Federal share for capital assistance is 80 percent and for operating assistance is 50 percent, except that States eligible for the sliding scale match under FHWA programs may use that match ratio for section 5311 capital projects and 62.5 percent of the sliding scale capital match ratio for operating projects. This is not changed under MAP-21.

Each State prepares an annual program of projects, which must provide for fair and equitable distribution of funds within the States, including Indian reservations, and must provide for maximum feasible coordination with transportation services assisted by other Federal sources.

Additional program guidance for the Rural Areas Program is found in FTA Circular 9040.1F, *Nonurbanized Area Formula Program Guidance and Grant Application Instructions,* dated April 1, 2007, and is supplemented by additional information and changes provided in this notice and that may be posted to FTA's section 5311 web page. FTA is in the process of updating the program circular to incorporate changes resulting from MAP-21.

The following subsections outline several important program requirements and changes that apply specifically to the section 5311 program.

i. Eligible Expenses

The section 5311 program provides funding for capital, operating, planning, job access and reverse commute projects, and administration expenses for public transit service in rural areas under 50,000 in population. Planning is a new eligible expense under MAP-21; note that States were permitted to use a portion of the administrative set-aside for planning, but now planning is an eligible activity for subrecipients under this program. The planning activities undertaken with 5311 funds are in addition to those awarded to the State under section 5305 and must be used specifically for rural areas' needs. For FY 2013, FTA expects States to follow the requirement set forth by section 5305 and described in FTA Circular 8100.1C, *Program Guidance for Metropolitan Planning and State Planning and Research Program Grants*, dated September 1, 2008, for eligible uses of 5311 funds for planning and for programming the funds prior to obligation. Job access and reverse commute projects are also eligible under this program; further guidance on this eligible activity is described in section iv below.

ii. Intercity Bus Transportation

The requirement did not change under MAP-21 for each State to spend no less than 15 percent of its annual Rural Areas Formula apportionment for the development and support of intercity bus transportation, unless it can certify, after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being adequately met. FTA continues to encourage consultation with other stakeholders, such as communities affected by loss of intercity service. MAP-21 codifies the "Intercity Pilot Match Program" established by FTA in March 2007, which permits the cost of an unsubsidized portion of privately provided intercity bus service that connects feeder service to be used as in-kind local match for the intercity bus projects. FTA will develop guidance consistent with that published in the Federal Register on February 28, 2007, as Appendix 1 of the Notice that announced the final revised FTA Circular 9040.1F, and update the program circular to include this provision.

iii. State Administration

MAP-21 reduced the amount available to States to 10 percent from 15 percent for use for administration, planning, and technical assistance. States may elect to use 10 percent of their apportionment at 100 percent federal share to administer the section 5311 program and provide technical assistance to subrecipients. Technical assistance includes project planning, program and management development, public transportation coordination activities, and research the State considers appropriate to promote effective delivery of public transportation to rural areas.

iv. Job Access and Reverse Commute Projects

Job access and reverse commute projects are eligible for funding under the Rural Areas Formula Program. A job access and reverse commute project is defined as:

"a transportation project to finance planning, capital and operating costs that support the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including transportation projects that facilitate the provision of public transportation services from urbanized areas and rural areas to suburban employment locations."

There is no set-aside or cap under MAP-21 for job access and reverse commute projects funded under this section. However, the projects must be for the "development and maintenance" of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and employment-related activities. FTA defines "development of transportation services" to mean new projects that were not in service on October 1, 2012. New job access and reverse commute projects may include the expansion or extension of an existing service, so long as the new service was designed to support the target population consistent with the definition above and the other planning requirements (described below) were met. Such projects are not required to be designed exclusively for these populations.

"Maintenance of transportation services" is identified as the continuation of eligible job access and reverse commute projects that received funding under the SAFETEA-LU section 5316 JARC Program, which was repealed by MAP-21.

Reverse commute projects are only eligible under this section if they are designed to transport welfare recipients and eligible low-income individuals to and from jobs and employment-related activities. However, as noted above, the services do not need to be exclusively for the target population.

For FY 2013, any projects or project elements that were eligible under the section 5316 Job Access and Reverse Commute Program, authorized under SAFETEA-LU, will remain eligible, so long as they can be classified as development or maintenance, as described above and comply with the MAP-21 definition of a job access and reverse commute project. A list of these eligible projects elements can be found in FTA Circular 9050.1, *The Job Access and Reverse Commute (JARC) Program Guidance and Application Instructions*. FTA anticipates cancelling this circular and addressing project eligibility in a revised FTA Circular 9040.1C for the Rural Areas Formula Program. Some of these types of projects may not continue to be eligible in the future.

In order to receive funding for a job access and reverse commute project under this provision, the project must be identified by the State as job access and reverse commute projects in the annual Program of Projects.

While the job access and reverse commute projects funded under this section do not have to be selected from a locally-developed, human service public transportation planning process ("coordinated planning process"), FTA encourages States to continue the coordinated planning process in identifying and developing projects for funding.

Funds previously apportioned under section 5316 (JARC) that have not been obligated will remain available to the entity that was the Designated Recipient for those funds at the time of apportionment through the period of availability unless a new designation is received. These funds are subject to the requirements of SAFETEA-LU and cannot be combined in a grant in a section 5311 grant under MAP-21.

v. Eligibility for Safety Certification Training

Recipients of section 5311 funds are permitted to use not more than 0.5 percent of their formula funds under the Rural Areas program to pay not more than eighty percent of the cost of participation for an employee who is directly responsible for safety oversight to participate in public transportation safety certification training. Safety certification training program requirements will be established in accordance with section 5329.

5. Period of Availability

For funds authorized under MAP-21, FTA is continuing to apply the period of availability established under SAFETEA-LU, which is four years; this includes the year of apportionment plus three additional years. The Rural Areas program funds apportioned in this notice are available for obligation during FY 2013 plus three additional years. Any FY 2013 apportioned funds that remain unobligated at the close of business on September 30, 2016 will revert to FTA for reapportionment under the Rural Areas program.

6. Other Program Information

NTD Reporting. Section 5335 requires that each recipient or beneficiary under the section 5311 program submit an annual report to the NTD containing information on capital investments, operations, and service. Section 5311(b)(4) specifies that the report shall include information on total annual revenue, sources of revenue, total annual operating costs, total annual capital costs, fleet size and type, and related facilities, revenue vehicle miles, and ridership. Annual NTD reports should be a complete report of all transit activities, regardless of funding source. State or Territorial DOT 5311 grant recipients must complete a one-page form of basic data for each 5311 sub-recipient, unless the sub-recipient is already providing a full report to the NTD as a Tribal Transit direct recipient or as an urbanized area reporter (without receiving a full reporting waiver). For the 2012 Report Year, which lasts from October 2012 through July 2013, State or Territorial DOTs must report on behalf of any sub-recipient receiving section 5311 grants in 2012, or that continued to benefit in 2012 from capital assets purchased using section

5311 grants. State or Territorial DOTs should also continue to report on behalf of any sub-recipients that received Section 5311 grants in prior years, and which anticipate receiving section 5311 grants in future years. Tribal Transit direct recipients must report if they received an obligation for a grant in 2011, or if they received an outlay for a section 5311 grant in 2012, or if they continued to benefit in 2012 from capital assets using section 5311 grants, unless the Tribe is already filing a full NTD Report as an urbanized area reporter or unless the Tribe has only received $50,000 or less in planning grants. MAP-21 also established new requirements for reporting asset inventories and condition assessments to FTA at sections 5326(b)(3), 5335(a), and 5335(c). FTA grantees and sub-recipients should look for a future Federal Register Notice with proposed changes to the FTA's NTD Reporting Manual for more information and an opportunity to comment on FTA's implementation of these new statutory requirements.

G. Rural Transportation Assistance Program (49 U.S.C. 5311(b)(3))

This program is not changed in MAP-21 and continues to provide funding to assist in the design and implementation of training and technical assistance projects, research, and other support services tailored to meet the needs of transit operators in rural areas. For more information about Rural Transportation Assistance Program (RTAP) contact *Lorna Wilson, Office of Transit Programs, at (202) 366-0893 or lorna.wilson@dot.gov.*

1. Authorized Amounts

MAP-21 authorizes a two percent takedown from the funds appropriated for section 5311 for RTAP. Of this amount, 15 percent is reserved for the National RTAP program. The remainder is available for allocation to the States.

MAP-21 authorizes the following amounts to carryout section for fiscal years 2013-2014

Fiscal Year	2013	2014
Funds Authorized	$11,990,000	$12,156,000

2. FY 2013 Funding Availability

Under the continuing resolution, a total of $5,773,336 is available for the Section 5311 RTAP program for the period October 1, 2012 through March 27, 2013**.** Thus far, after the reservation for the National RTAP program, a total of $4,907,336 is available for allocation to the States, as shown in the table below.

Rural Transportation Assistance Program – FY 2013 (CR)	
Total Appropriation	$5,773,336
National RTAP	-$866,000
Total Apportioned	$4,907,336

Table 12 shows the FY 2013 RTAP allocations to the States.

3. Basis for Formula Apportionment

FTA will continue to allocate funds to the States by an administrative formula. First, FTA allocates $65,000 to each State ($10,000 to territories), and then allocates the balance based on rural population in the 2010 census.

4. *Requirements*

States may use the funds to undertake research, training, technical assistance, and other support services to meet the needs of transit operators in rural areas. These funds are to be used in conjunction with a State's administration of the Rural Areas Formula Program, but also may support the rural components of the section 5310 program.

5. *Period of Availability*

The section 5311 RTAP funds apportioned in this notice are available for obligation in FY 2013 plus three additional years, consistent with that established for the section 5311 program.

6. *Other Program Information*

The National RTAP project is administered by cooperative agreement and re-competed at five-year intervals. FY 2013 marks the fifth year of the current agreement and FTA will publish a Request for Proposals in the spring of FY 2013. The National RTAP projects are guided by a project review board that consists of managers of rural transit systems and State DOT RTAP programs. National RTAP resources also support the biennial TRB National Conference on Rural Public and Intercity Bus Transportation and other research and technical assistance projects of a national scope.

H. *Appalachian Development Public Transportation Assistance Program (49 U.S.C. 5311(c)(2))*

MAP-21 establishes this new program as a take-down under the section 5311 program to provide additional funding to support public transportation in the Appalachian region. There are sixteen eligible States that receive an allocation under this provision. The States and their allocation are shown in the Rural Areas Formula program table posted on FTA's website under the FY 2013 Apportionments page. For more information about the Appalachian Development Public Transportation Assistance Program, contact *Lorna Wilson, Office of Transit Programs, at (202) 366-0893 or lorna.wilson@dot.gov.*

1. *Authorized Amounts*

MAP-21 authorizes $20 million in FY 2013 and in FY 2014 as a take-down under the section 5311 program to support public transportation in the Appalachian region.

Fiscal Year	2013	2014
Funds Authorized	$20,000,000	$20,000,000

2. *FY 2013 Funding Availability*

Under the continuing resolution, a total of $9,630,250 is available for the Appalachian Development program for the period October 1, 2012 through March 27, 2013, as shown below.

Appalachian Development Public Transportation Assistance Program – FY 2013 (CR)	
Total Appropriation	$9,630,250
Total Apportioned	$9,630,250

3. Basis for Formula Apportionment

FTA apportions the funds using percentages established under section 9.5(b) of the Appalachian Regional Commission Code (subtitle IV of title 40). Allocations will be based in general on each State's remaining estimated need to complete eligible sections of the Appalachian Development Highway System as determined from the latest percentages of available cost estimates for completion of the System. Such cost estimates shall be produced at approximate five year intervals. Allocations shall contain upper and lower limits in amounts or to be determined by the Commission and shall be made in accordance with legislative instructions.

4. Requirements

Funds apportioned under this program can be used for purposes consistent with section 5311 to support public transportation in the Appalachian region. Funds can be applied for in the State's annual section 5311 grant.

MAP-21 includes a provision that permits the use of Appalachian program funds that cannot be used for operating to be used for a highway project under certain circumstances. FTA will issue guidance in a subsequent notice on how to accomplish a transfer.

5. Period of Availability

Section 5311 Appalachian program funds are available for four years, which includes the year of apportionment plus three additional years, consistent with that established for the section 5311 program.

I. Formula Grants for Public Transportation on Indian Reservations Program (49 U.S.C. 5311(j))

Under SAFETEA-LU, through extensive consultation, FTA administered this program as a discretionary program. MAP-21 continues a discretionary program and establishes a tribal transit formula program, both of which include language that permits FTA to determine the terms and conditions for grants under this section. FTA intends to consult with Tribal grantees and stakeholders as it implements both of the programs authorized under MAP-21. FTA will publish its plans and schedule for consultation on its Tribal Transit program web page and in the upcoming FY 2012 Notice of Award allocating the FY 2012 Tribal Transit Program funds.

The Tribal Transit Program now totals $30 million, of which $25 million is for a formula program and $5 million is for a discretionary grant program. Formula factors include vehicle revenue miles and the number of low-income individuals residing on tribal lands. It is funded as a takedown from funds made available for the section 5311 program. Eligible direct recipients are federally recognized Indian tribes in rural areas. The funds are to be allocated for grants to Indian tribes for any purpose eligible under section 5311, which includes capital, operating, planning, job access and reverse commute projects, and administrative assistance for rural public transit services and rural intercity bus service. For more information about the Tribal Transit Program contact *Lorna Wilson, Office of Transit Programs, at (202) 366-0893 or lorna.wilson@dot.gov or Elan Flippin, Office of Transit Programs at (202) 366-2053 or elan.flippin@dot.gov.*

1. Authorized Funding

Under MAP-21, $30 million is authorized in FY 2013 and in FY 2014. Five million will be allocated on a competitive basis and $25 million will be allocated by formula.

2. FY 2013 Funding Availability

At this time, given the need to consult the tribes on the terms and conditions for the program, there are no FY 2013 funds available for obligation. FTA is publishing an illustrative apportionment table (Table 14) to show the estimated allocations to the Indian tribes by formula. Through the consultative process, FTA will invite comment on the data and methods used to allocate these funds.

Following consultation, FTA will publish a final apportionment table to show the amounts available to Indian tribes under the formula program. As described earlier in the notice, FTA will publish a NOFA for the discretionary program soliciting proposals for funding at a later date.

3. Basis for Allocation

Funds will be allocated by formula and through a discretionary competition, as described below.

Tribal Transit Formula Program

The Tribal Transit formula program is distributed to eligible Indian tribes providing public transportation on tribal lands. The illustrative apportionment shown in Table 14 is based on a statutory formula which includes three tiers. Tiers 1 and 2 for the Tribal Transit formula program are based on historical data reported to NTD by Indian tribes who received section 5311 funding in prior years (including discretionary Tribal Transit Program funds); the third tier is based on 2010 U.S. Census data. The allocations included in the illustrative apportionment are not available for obligation at this time. It is FTA's intent to consult Indian tribes and discuss the basis for the allocations.

The three tiers for the formula are:

Tier 1 - 50 percent based on vehicle revenue miles

Tier 2 - 25 percent based on Indian tribes providing at least 200,000 vehicle revenue miles

Tier 3 - 25 percent based on Indian tribes providing public transportation on reservations where more than 1,000 low income individuals reside

In order to calculate the illustrative apportionments, FTA made the following interpretations of the statute. These interpretations enable FTA to determine how much money each Indian tribe receives under the formula program and should be treated as illustrative, pending consultation with the Indian tribes. Note, the data used for Tiers 1 and 2 is from the NTD. Section 5335 requires NTD reporting for all direct recipients of section 5311 funds. Since the inception of the program, this reporting requirement has applied to the Tribal Transit Program. Thus, only current NTD reporters that have provided vehicle revenue miles are considered for an allocation under these two tiers.

- **i.** Vehicle Revenue Miles reported to the NTD from Indian tribes will count towards both the Tribal Transit Formula and towards the Rural Formula (or Urban Formula.)
- **ii.** When another local government entity pays an Indian tribe to operate service in an off-Reservation jurisdiction, 100% of the service operated by the Indian

tribe will count towards the Tribal Transit Formula. This is service by "each Indian tribe providing public transportation service."

iii. When an Indian tribe pays another local government entity to extend service to the Reservation, a pro-rated share of the local government's vehicle revenue miles will be counted towards the Tribal Transit formula. This share will count towards both the Rural and Tribal Transit formulas. The pro-rated share will be based on the proportion of total operating expenses paid for by the Indian tribe.

iv. When an Indian tribe provides capital assistance only to a local government entity providing service to the Reservation, then no vehicle revenue miles are counted towards the Tribal Formula. In this case, the Tribe would still participate in the Tier 3 of the Tribal Formula, which is based "on each Indian tribe providing public transportation on tribal lands…"

v. Previous recipients of Tribal Transit grants of $50,000 or less have been administratively exempted from reporting to the NTD. These grants were usually for planning projects. If these Indian tribes were, in fact, already operating service, they will be excluded from the FY 2013 apportionment, due to the absence of NTD data. These Indian tribes can still report to the NTD for the 2012 Report Year through July 2013 to be eligible for the FY 2014 apportionment. Any other Indian tribe that is already operating transit service, either directly, through a partnership with a local government, or through a contract for purchased transportation services may also provide an NTD report by July 2013 to be eligible for the FY 2014 apportionment. These Tribes should contact Lauren Tuzikow at 202-366-2059 or lauren.tuzikow@dot.gov for information on how to begin reporting to the NTD.

vi. For Indian tribes that have multiple service providers, that service data will be consolidated and the Indian tribe will receive a single apportionment.

vii. For Tribal operators that serve multiple reservations, a single apportionment will be made based on the combined poverty data for all reservations served.

viii. An Indian tribe that is active in the NTD, but has not reported any vehicle revenue miles, will be considered for an allocation under Tier 3 only.

Tribal Transit Discretionary Program

See section III.4.iii of this notice; following, consultation with tribal representatives and stakeholders, FTA expects to publish a NOFA or the $5 million that is authorized to be allocated on a competitive basis.

4. Requirements

Similar to the implementation of the program under SAFETEA-LU, FTA will develop procedures for the Tribal Transit program in consultation with tribal representatives and other interested stakeholders. FTA will issue its FY 2012 Notice of Award for the FY 2012 program selections in fall 2012 and this Notice will include a consultation process and timeline for MAP-21 implementation. FTA also intends to participate in face-to-face meetings and will invite comments on the applicable terms and conditions for the program (e.g. planning, local match, etc.) and criteria for the new discretionary program.

5. Other Program Changes and Highlights

The funds set aside for the Tribal Transit Program are not meant to replace or reduce funds that Indian tribes receive from States through the section 5311 program but are to be used to enhance public transportation on Indian reservations and transit serving tribal communities. Funds allocated to Indian tribes by the States may be included in the State's section 5311 application or awarded by FTA in a grant directly to the Indian tribe. FTA encourages Indian tribes intending to apply to FTA as direct recipients to contact the appropriate FTA regional office at the earliest opportunity.

Additionally, recipients under this program have been and area still required to report to the NTD (see section IV.F.6. above). As mentioned previously, only those Tribes that reported to the NTD for the FY 2011 Report Year through July 2012 will be considered in the FY 2013 formula apportionment. To be considered in the FY 2014 formula apportionment, it is critical that recipients report for the FY 2012 Report year by July 2013.

Technical assistance for Indian tribes may be available from the State DOT using the State's allocation of RTAP or funds available for State administration under section 5311, from the Tribal Transportation Assistance Program (TTAP) Centers supported by FHWA, and from the Community Transportation Association of America under a program funded by the United States Department of Agriculture (USDA). National RTAP will also be developing new resources for Tribal Transit. For more information contact Lorna Wilson, Program Manager at 202-366-0893 or visit the National RTAP website http://www.nationalrtap.org.

J. Research, Development, Demonstration, and Deployment Projects (49 U.S.C. 5312)

The previous section 5312 (Research, Development, Demonstration, and Deployment Projects) and section 5314 (National Research Programs) are now consolidated into one program under section 5312. Additionally, MAP-21 divides the program into: Research; Innovation and Development; and, Demonstration, Deployment and Evaluation. The latter also includes a Low or No Emission Vehicle Deployment program to fund low or no emission vehicles, facilities, or related equipment in non-attainment or maintenance areas. Additionally, MAP-21 establishes a structured process for applications, evaluations, and reporting for the research programs.

For more information contact *Walter Kulyk, Office of Research, Demonstration and Innovation, at (202) 366-4995 or walter.kulyk@dot.gov.*

1. Authorized Funding

MAP-21 authorizes the following amounts for the Research Program for FYs 2013 and 2014.

Fiscal Year	2013	2014
Funds Authorized	$70,000,000	$70,000,000

All research and development projects are subject to a reduction for the Small Business Innovative Research Program (SBIR). FTA will make the determination as to whether or not the SBIR reduction will be applied to a particular project based on a review of the proposed scope of work for the project.

2. *FY 2013 Funding Availability*

Under the continuing resolution, a total of $12,192,500 is available for the Research program for the period October 1, 2012 through March 27, 2013, as shown below. This amount is based on FY 2012 appropriations for the section 5312 program as authorized under SAFETEA-LU, in which $25 million was appropriated.

Research, Development , Demonstration, and Deployment Projects – FY 2013 (CR)	
Total Appropriation	$12,192,500
Total Apportioned	$12,192,500

3. *Basis for Allocation of Funds*

Topical areas are based on the Department's Strategic Goals and projects are generally selected through Notices of Funding Availability. Potential recipients can register to receive notification of funding availability under this program on Grants.gov.

4. *Requirements*

Application Instructions and Program Management Guidelines are set forth in FTA Circular 6100.1D *Research, Technical Assistance and Training Programs: Application Instructions and Program Management Guidelines*. FTA is in the process of updating this circular to incorporate changes resulting from language in MAP-21. All research recipients are required to work with FTA to develop approved Statements of Work. Under MAP-21 all research projects now require at least a 20 percent non-Federal share. In some cases FTA may require a higher non-Federal share if FTA determines a recipient would obtain a clear and direct financial benefit from the project, or if non-Federal share is an evaluation factor under a competitive selection process. Projects under the Low or No Emission Vehicle Deployment Program are also subject to section 5307 requirements.

5. *Period of Availability*

Except for the Low or No Emission Vehicle Deployment Program, the period of availability is established for each funding allocation or within the project agreement. Low or No Emission Vehicle Deployment funds are available for two years in addition to the year the funds are made available to a recipient, for a total of three years.

6. *Other Related Information*

Requests for research proposals will be published in Grants.gov.

K. Transit Cooperative Research Program (49 U.S.C. 5313)

MAP-21 makes no changes to the Transit Cooperative Research Program (TCRP). FTA carries out this program through a Cooperative Agreement with the Transportation Research Board.

1. *Authorized Funding*

MAP-21 authorizes the following amounts for the TCRP for FYs 2013 and 2014.

Fiscal Year	2013	2014

Funds Authorized	$7,000,000	$7,000,000

2. FY 2013 Funding Availability

Under the continuing resolution, a total of $3,170,050 is available for the TCRP for the period October 1, 2012 through March 27, 2013, as shown below.

Transit Cooperative Research Program – FY 2013 (CR)	
Total Appropriation	$3,170,050
Total Apportioned	$3,170,050

3. Basis for Allocation of Funds

TCRP issues annual calls for problem statements. For more information and past reports see www.tcrponline.org.

L. Technical Assistance and Standards Development (49 U.S.C. 5314)

MAP-21 establishes the Technical Assistance and Standards Development program which authorizes some activities previously carried out through FTA's National Research Program. This section provides technical assistance to assist FTA recipients to more effectively and efficiently provide transit service and to improve administration of federal transit funds. It also authorizes the development of voluntary and consensus-based standards and best practices. Additionally, through a competitive process, FTA may enter into agreements with national nonprofit organizations to assist providers of public transportation to: comply with the Americans with Disabilities Act (ADA); comply with human services transportation coordination requirements and enhance Federal coordination; to meet the transportation needs of elderly individuals; to increase transit ridership in coordination with MPOs and other entities through development around public transportation stations; to address transportation equity needs; and to provide any other technical assistance activities deemed necessary by FTA.

For more information contact *Walter Kulyk, Office of Research, Demonstration and Innovation, at (202) 366-4995 or walter.kulyk@dot.gov.*

1. Authorized Funding

MAP-21 authorizes the following amounts for the Technical Assistance and Standards program for FYs 2013 and 2014.

Fiscal Year	2013	2014
Funds Authorized	$7,000,000	$7,000,000

2. FY 2013 Funding Availability

Under the continuing resolution, funding for sections 5314 and 5322 is provided in a different structure than what is authorized under MAP-21. Amounts are not specified for sections 5314 or 5322. Therefore, FTA does not intend to allocate the funds until further appropriations are available.

3. Basis for Allocation of Funds

Funds will be programmed by FTA based on identified technical assistance and standards needs for the transit industry and generally selected through a competitive process.

4. Requirements

Application Instructions and Program Management Guidelines are set forth in FTA Circular 6100.1D, *Research, Technical Assistance, and Training Programs: Application Instructions and Program Management Guidelines,* dated May 1, 2011. FTA is in the process of updating this circular to incorporate changes resulting from language in MAP-21. All recipients of Technical Assistance and Standards funds are required to work with FTA to develop approved Statements of Work. Projects funded using grants require at least a 20 percent non-Federal share.

5. Period of Availability

The period of availability is established for each funding allocation or within the project agreement.

6. Other Related Information

Requests for proposals will be published in Grants.gov.

M. Human Resources and Training Programs (49 U.S.C. 5322)

Section 5322 is modified to authorize an Innovative Public Transportation Workforce Development Program and to incorporate a National Transit Institute.

FTA may make grants or enter into contracts for human resource needs including: employment training programs; outreach programs to increase minority and female employment; research on public transportation personnel and training need; and, training and assistance for minority business opportunities. Additionally, the Innovative Public Transportation Workforce Development program is a competitive grant program to assist in the development of innovative workforce activities.

A national transit institute, formerly authorized under section 5315, is now authorized under section 5322. The institute is authorized to develop training and education programs related to topics in public transportation.

For more information contact *Walter Kulyk, Office of Research, Demonstration and Innovation, at (202) 366-4995 or walter.kulyk@dot.gov.*

1. Authorized Amounts

MAP-21 authorizes the following amounts for the Human Resources and Training 5322(a), the Innovative Public Transportation Workforce Development Program 5322(b), and a National Transit Institute 5322 (d) for FYs 2013 and 2014.

Fiscal Year	2013	2014
Funds Authorized: 5322(a) and (b)	$5,000,000	$5,000,000
5322 (d) National Transit Institute	$5,000,000	$5,000,000

2. FY 2013 Funding Availability

Human Resources and Training Programs – FY 2013 (CR)	
Funds Apportioned 5322(a) and (b)	See Note
5322 (d) National Transit Institute (NTI)	$1,706,950

Note: The CR provides funding for sections 5314 and 5322, but not in the same structure as MAP-21, and not specifying specific amounts for sections 5314 or 5322. Except for the continuation of NTI, FTA does not intend to allocate the funds until further appropriations are available.

3. Basis for Allocation of Funds

Funds will be programmed by FTA based on identified workforce development and training needs, as well as by competitive selection via an innovative workforce development competition or through the contracting process.

4. Requirements

Application Instructions and Program Management Guidelines are set forth in FTA Circular 6100.1D*, Research, Technical Assistance, and Training Programs: Application Instructions and Program Management Guidelines,* dated May 1, 2011. FTA is in the process of updating this circular to incorporate changes resulting from language in MAP-21. All recipients of Human Resources and Training funds are required to work with FTA to develop approved Statements of Work. FTA may award funds through contracts or grants. Grants funded under the Human Resources and Training and the Innovative Public Transportation Workforce Development Program require a 50 percent non-Federal share.

5. Period of Availability

The period of availability is established for each funding allocation or within the project agreement.

6. *Other Related Information*

Requests for proposals will be published in Grants.gov.

N. Public Transportation Emergency Relief Program (49 U.S.C. 5324)

MAP-21 establishes a public transportation emergency relief program to fund eligible operating expenses, as well as capital projects to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system in the United States or on an Indian reservation that the Secretary determines is in danger of suffering serious damage or has suffered serious damage as a result of an emergency.

Congress did not provide funding for this program in the continuing resolution for FY 2013, however, in certain circumstances recipients may use funds apportioned to carry out sections 5307 and 5311 for emergency purposes.

Section 5324(a)(2) defines an emergency as "a natural disaster affecting a wide area (such as a flood, hurricane, tidal wave, earthquake, severe storm) or a catastrophic failure from any external cause as a result of which (a) the Governor of a State has declared an emergency and the Secretary has concurred or (b) the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act." The key provision here is that at a minimum the Governor must declare an emergency (and DOT must concur) in order for the section 5324 provisions to apply. Expenses incurred due to incidents that do not rise to the level of a Governor's declaration with concurrence by the Secretary of Transportation will not be eligible to be funded under section 5324. Further, in the event of a Presidential declaration of emergency, FTA may reimburse only those expenses that are not reimbursed under the Stafford Act.

Large urbanized areas over 200,000 in population may use funds for emergency operating expenses for purposes of evacuations, rescue operations, and temporary service in the event of a declared emergency as defined above, beginning on the date of declaration. Recipients should inform their FTA regional office as soon as practicable that it plans to seek reimbursement for emergency operations and/or repairs that have already taken place or are in process. Properly documented costs may later be reimbursed by grants made either from section 5324 funding (if appropriated) or section 5307 and 5311 program funding, once the eligible recipient formally applies to FTA for reimbursement and FTA determines that the expenses are eligible for emergency relief.

FTA will publish additional guidance on this program using a notice and comment process later in FY 2013.

For more information on the Public Transportation Emergency Relief Program, contact *Bonnie Graves, Office of Chief Counsel, at 202-366-4011 or bonnie.graves@dot.gov*.

O. Public Transportation Safety Program (49 U.S.C. 5329)

MAP-21 establishes a Public Transportation Safety Program (section 5329) authorizing FTA to establish and enforce a new comprehensive framework to oversee the safety of public transportation throughout the United States. It directs FTA to issue a National Public Transportation Safety Plan, which must include safety performance criteria for all modes of public transportation and minimum safety performance standards for vehicles not regulated by other Federal agencies.

Section 5329 provides the Secretary with the authority to inspect and audit all public transportation systems; to make reports and issue directives with respect to the safety of public transportation systems; to issue subpoenas and take depositions; to require the production of documents; to prescribe record-keeping and reporting requirements; to investigate public transportation accidents and incidents; to enter and inspect equipment, rolling stock, operations and relevant records; and to issue regulations to carry out transit safety provisions.

Safety Certification Training Program

Section 5329 includes new requirements for establishing a Safety Certification Training Program for Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems and employees of public transportation agencies directly responsible for safety oversight. FTA will establish an Interim Safety Certification Program, which will be in effect until the effective date of the final rule. Recipients may use up to 0.5 percent of section 5307 and section 5311 funds for up to eighty percent of costs of participation in the Safety Certification Training Program by an employee of a State safety oversight agency or a recipient who is directly responsible for safety oversight. Additionally, States that receive formula funds under section 5329(e)(6)(B) to develop or carry out State Safety Oversight (SSO) programs may use those formula funds, for up to eighty percent of the cost, for employee training activities, including for the Safety Certification Training Program.

State Safety Oversight (SSO) Program

Section 5329 requires States with rail fixed guideway public transportation systems that are either operating or in the engineering or construction phase of development which are not subject to regulation by the Federal Railroad Administration (FRA), to establish SSO programs which assume responsibility for overseeing public transportation rail systems and which establish a SSO agency. SSO agencies must be legally and financially independent from the rail systems they oversee, and have the authority, staff training, and expertise to enforce Federal and State safety laws. FTA must certify each SSO program. FTA will oversee implementation of the SSO programs and audit each SSO agency at least triennially. Federal and State employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems and employees of public transportation agencies directly responsible for safety oversight must complete the Safety Certification Training Program identified in section 5329.

As mentioned in section IV.C.6 in this notice, under MAP-21 there is a 0.5 percent take-down from the section 5307 urbanized area program that will be apportioned to States for State Safety Oversight (SSO) program activities. These funds will be apportioned by formula to States with rail fixed guideway public transportation systems that are either operating or in the engineering or construction phase of development, and which are not subject to regulation by the Federal Railroad Administration (FRA) to develop or carry out State safety oversight programs. FTA is currently developing the formula by which these funds will be apportioned.

For more information about the Public Transportation Safety Program, *contact Ronald Keele, Office of Safety and Security, at (202)366-5615 or Ronald.keele@dot.gov.*

P. State of Good Repair Program (49 U.S.C. 5337)

The State of Good Repair program provides capital assistance for replacement and rehabilitation projects of existing fixed guideway systems to maintain a state of good repair. This program provides funding for the following transit modes: rapid rail (heavy rail), commuter rail, light rail, hybrid rail, monorail, automated guideway, trolleybus (using overhead catenary), aerial tramway, cable car, inclined plane (funicular), passenger ferries, and bus rapid transit. Fixed-route bus services operating on high-occupancy-vehicle (HOV) facilities are also funded through a separate tier of this formula. Funding is limited to the above fixed guideway systems.

This program replaces and modifies elements of the fixed guideway modernization program (section 5309). Most notably, recipients should be aware that "modernization" activities no longer are eligible and the SGR program only funds projects to replace or rehabilitate existing fixed guideway systems.

For more information about the State of Good Repair program, contact *Eric Hu, Office of Transit Programs, at (202) 366–0870 or eric.hu@dot.gov.*

1. Authorized Amounts

MAP-21 authorizes $2,136,300,000 for FY 2013 and $2,165,900,000 for FY 2014 for the State of Good Repair program.

Fiscal Year	2013	2014

Funds Authorized	$2,136,300,000	$2,165,900,000

2. FY 2013 Funding Availability

Under the continuing resolution, a total of $1,034,944,372 is available for the State of Good Repair program for the period October 1, 2012 through March 27, 2013. After a one percent oversight takedown, the total amount allocated for the State of Good Repair program is $1,021,160,042, as shown in the table below.

State of Good Repair Program – FY 2013 (CR)	
Total Appropriation	$1,034,944,372/a
Oversight Deductions	-$7,495,038
Total Apportioned	$1,021,160,042

a/Total Appropriation includes $1,005,454,331 for the High Intensity Fixed Guideway Formula and $29,490,041 for the High Intensity Motorbus Formula.

Table 15 shows the FY 2013 State of Good Repair Program formula apportionments to eligible urbanized areas.

3. Basis for Formula Apportionment

FTA allocates State of Good Repair program funds according to a statutory formula. Funds are apportioned to urbanized areas with fixed guideway systems that have been in operation for at least seven years. This means that only segments of fixed guideway systems that entered into revenue service on or before September 30, 2005 are included in the formula, as identified in the NTD. The new formula comprises: (1) modified formula from what was used under SAFETEA-LU, which reflects the new definition of fixed guideway; (2) a new service-based formula; and (3) a new formula for buses on HOV lanes.

The law requires that 97.15 percent of the total amount authorized for the State of Good Repair program be apportioned to urbanized areas with “High Intensity Fixed Guideway” systems. The apportionments to urbanized areas with “High Intensity Fixed Guideway” systems are determined by two equal elements: (1) the proportion of the amount an urbanized area received in FY 2011 to the total amount apportioned to all urbanized areas in FY 2011; (2) the proportion of vehicle revenue miles of an urbanized area to the total vehicle revenue miles of all urbanized areas and the proportion of directional route miles of an urbanized area to the total directional route miles of all urbanized areas. High Intensity Motorbus systems will receive the remaining 2.85 percent of the total amount authorized for the State of Good Repair program, and the apportionments to urbanized areas are based on vehicle revenue miles and directional route miles.

Vehicle revenue miles and directional route miles that are attributable to an urbanized area must be placed in revenue service at least 7 years before the first day of the fiscal year. A threshold level of more than one mile of fixed guideway is required in order to receive State of Good Repair funds. Therefore, urbanized areas reporting one mile or less of fixed guideway mileage under the NTD are not included.

FTA will apportion funds to Designated Recipients in the UZAs (see section IV.D.4. of this notice for more information about Designated Recipients; FTA will apportion section 5339 funds to the section 5307 Designated Recipient for the UZA) with fixed guideway transportation systems operating at least 7 years. The Designated Recipients will then allocate funds as appropriate to recipients that are public entities in the urbanized areas and provide split letters to the FTA. FTA can make grants to direct recipients after sub-allocation of funds.

4. Eligible Expenses

While funds are apportioned based only on fixed guideway segments that have been in operation seven years or longer, a recipient may use the funds apportioned to it for eligible replacement and rehabilitation projects on any existing fixed guideway system in the urbanized area.

Eligible capital projects are those necessary to maintain fixed guideway systems in a state of good repair, including projects to replace and rehabilitate

- **i.** rolling stock;
- **ii.** track;
- **iii.** line equipment and structures;
- **iv.** signals and communications;
- **v.** power equipment and substations;
- **vi.** passenger stations and terminals;
- **vii.** security equipment and systems;
- **viii.** maintenance facilities and equipment;
- **ix.** operational support equipment, including computer hardware and software;
- **x.** development and implementation of a transit asset management plan; and
- **xi.** other replacement and rehabilitation projects FTA determines appropriate.

Although not explicitly listed above, preventive maintenance activities are eligible. However, modernization or expansion projects are not eligible under this program.

5. *Requirements*

For FY 2013, FTA will rely on program guidance and requirements found in the FTA circular formerly used for the Fixed Guideway Modernization Program: *FTA Circular 9300.1B, Capital Investment Program Guidance and Application Instructions,* dated November 1, 2008. FTA is in the process of updating the program circular to incorporate changes resulting from MAP-21.

In addition to this program guidance, all recipients must certify that they will comply with the forthcoming rule issued under section 5326 for the Transit Asset Management plan, and state of good repair projects must be included in recipients' Transit Asset Management plans. This requirement is subject to FTA rulemaking and will become effective only after the rule is issued.

6. Period of Availability

The State of Good Repair Program funds apportioned in this notice are available for obligation during FY 2013 plus three additional years. Accordingly, funds apportioned in FY 2013 must be obligated in grants by September 30, 2016. Any FY 2013 apportioned funds that remain unobligated at the close of business on September 30, 2016 will revert to FTA for reapportionment under the State of Good Repair Program.

Q. Bus and Bus Facilities Formula Grants (49 U.S.C. 5339)

MAP-21 establishes the Bus and Bus Facilities Formula program, replacing some of the elements of the former Bus and Bus Facilities discretionary program under SAFETEA-LU. The program provides funding to replace, rehabilitate, and purchase buses and related equipment well as construct bus-related facilities.

Eligible recipients are Designated Recipients and States that operate or allocate funding to fixed-route bus operators. Eligible subrecipients include public agencies or private nonprofit organizations engaged in public transportation, including those providing services open to a segment of the general public, as defined by age, disability, or low income. For more information about the Bus and Bus Facilities program, *contact Sam Snead, Office of Transit Programs, at (202) 366-1089 or samuel.snead@dot.gov.*

1. Authorized Amounts

MAP-21 authorizes $422,000,000 for FY 2013 and $427,800,000 for FY 2014 for the Bus and Bus Facilities formula program, as shown below.

Fiscal Year	2013	2014
Funds Authorized	$422,000,000	$427,800,000

2. FY 2013 Funding Availability

Under the continuing resolution, a total of $203,458,262 is available for the Bus and Bus Facilities program for the period October 1, 2012 through March 27, 2013. After the take-down for the States and Territories (National Distribution), $171,659,195 is available to be apportioned to the urbanized areas, as shown below.

Bus and Bus Facilities – FY 2013 (CR)	
Total Appropriation	$203,198,262
State and Territory Allocation	-31,539,067
Total Apportioned	$171,659,195

Table 17 shows the FY 2013 Bus and Bus Facilities formula apportionments to States, Territories, and urbanized areas.

3. Basis for Formula Apportionment

Funds are allocated according to a statutory formula. However, State and Territories (including the District of Columbia and Puerto Rico) receive a fixed allocation before applying the formula. Under the continuing resolution and the National Distribution allocation, the amount that each State receives is $601,891 and the amount each territory receives $240,756. The remainder of the funds will be allocated to urbanized areas based on population, vehicle revenue miles and passenger miles.

For areas under 200,000 in population, the funding is similar to the section 5307 Governor's Apportionment, in that the Governor or Governor's designee (e.g. State DOT) will determine the final amounts available to urbanized areas under 200,000. The Governor or Governor's designee also will have to apply for the funding on behalf of recipients that are otherwise able to directly apply to FTA (e.g. grantees under section 5307) in urbanized areas under 200,000 in population.

4. Requirements

The requirements of Section 5307 apply to recipients of grants made under this section. Eligible capital projects include projects to replace, rehabilitate, and purchase buses and related equipment, and projects to construct bus-related facilities. This includes the acquisition of buses for fleet and service expansion, bus maintenance and administrative facilities, transfer facilities, bus malls, transportation centers, intermodal terminals, park-and-ride stations, acquisition of replacement vehicles, bus rebuilds, passenger amenities such as passenger shelters and bus stop signs, accessory and miscellaneous equipment such as mobile radio units, supervisory vehicles, fare boxes, computers, and shop and garage equipment.

Program guidance for the Bus program is found in FTA Circular 9300.1B, *Bus and Bus Facilities Instructions*. FTA is in the process of updating this circular to incorporate changes resulting from language in MAP-21 and will go out for notice and comment during the circular revision process.

A grant for a capital project under this section shall be for 80 percent of the net capital costs of the project. A recipient of a grant under this section may provide additional local matching amounts. The remainder of net project cost shall be provided in cash from non-Government sources other than revenues from providing public transportation services; from revenues derived from the sale of advertisement or concessions; from undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; or from amounts received under a service agreement with a State or local social service agency or private social service organization.

5. Period of Availability

The Bus and Bus Facilities Formula Program funds apportioned in this notice are available for obligation during FY 2013 plus three additional years. Accordingly, funds apportioned in FY 2013 must be obligated in grants by September 30, 2016. Any FY 2013 apportioned funds that remain unobligated at the close of business on September 30, 2016 will revert to FTA for reapportionment under the Bus and Bus Facilities Formula Program.

6. Other Program Information

Based on the language in MAP-21, FTA will only award grants under this section to the Designated Recipients in the large urbanized areas (section 5307 Designated Recipients) and States for the apportionments to areas under 200,000 and for the National Distribution amounts. Designated Recipients and States will be required to apply on behalf of eligible subrecipients.

The Governor of a State may transfer any part of the State’s apportionment under subsection (d)(1) “National Distribution” to supplement amounts apportioned to the State under the rural areas (section 5311) or urbanized areas formula (5307) programs. The funds must continue to be used for capital only and for eligible purposes under this section. The Governor (or his or her designee) has flexibility in the sub-allocation of funds among the small UZAs and is not bound by the small UZA amounts published in this notice.

R. Growing States and High Density States Formula Factors (49 U.S.C. 5340)

MAP-21 continues the use of formula factors (established under SAFETEA-LU) to distribute additional funds to the section 5307 and section 5311 programs for Growing States and High Density States. FTA will continue to publish single urbanized and rural apportionments that show the total amount for 5307 and 5311 programs that includes apportionments these programs formulas together with 5340.

1. Authorized Amounts

MAP-21 authorizes $518,700,000 for FY 2013 and $525,900,000 for FY 2014 for the Growing States and High Density States Formula factors, as shown below.

Fiscal Year	2013	2014
Funds Authorized	$518,700,000	$525,900,000

2. *FY 2013 Funding Availability*

Under the continuing resolution, $251,281,438 is available for apportionment in accordance with the formula factors prescribed for Growing States and High Density States set forth in section 5340 for the period October 1, 2012 through March 27, 2013. MAP-21 did not change the funding formula.

Growing States and High Density States Formula Factors – FY 2013 (CR)	
Total Appropriation	$249,760,258
Total Apportioned	$249,760,258

3. *Basis for Apportionment*

Under the Growing States portion of the section 5340 formula, 50 percent of funds are allocated to States on the basis of their projected population growth. FTA projects each State's 2025 population by comparing each State's apportionment year population (as determined by the Census Bureau) to the State's 2010 Census population and extrapolating to 2025 based on each State's rate of population growth between 2010 and the apportionment year. Each State receives a share of Growing States funds on the basis of its projected 2025 population relative to the nationwide projected 2025 population.

Once each State's share is calculated, funds attributable to that State are divided into an urbanized area allocation and a non-urbanized are allocation on the basis of the percentage of each State's 2010 Census population that resides in urbanized and non-urbanized areas. Urbanized areas receive portions of their State's urbanized area allocation on the basis of the 2010 Census population in that urbanized area relative to the total 2010 Census population in all urbanized areas in the State. These amounts are added to the Urbanized Area's section 5307 apportionment.

The States' rural area allocation is added to the allocation that each State receives under the section 5311 Formula Grants for Rural Areas program.

The remaining 50 percent of the section 5340 funds are allocated under the High Density States portion of the section 5340 formula. These funds are allocated to urbanized areas in States with a population density equal to or greater than 370 persons per square mile. Based on this threshold and 2010 Census data, the States that qualify are Maryland, Delaware, Massachusetts, Connecticut, Rhode Island, New York and New Jersey (these are the same States that qualified under SAFETEA-LU and based on 2000 Census data). The amount of funds provided to each of these seven States is allocated on the basis of the population density of the individual State relative to the population density of all seven States. Once funds are allocated to each State, funds are then allocated to urbanized areas within the States on the basis of an individual urbanized area's population relative to the population of all urbanized areas in that State.

FTA cannot provide unit values for the Growing States or High Density formulas because the allocations to individual States and urbanized areas are based on their relative population data, rather than on a national per capita basis.

S. Washington Metropolitan Area Transit Authority Grants

Under the continuing resolution, $73,602,709 is available for the period October 1, 2012 through March 27, 2013 for grants to the Washington Metropolitan Area Transit Authority(WMATA). Such funding is authorized under section 601 of the Passenger Rail Investment and Improvement Act of 2008. See Public Law 110–432, Division B, Title VI.

Grants may be provided for capital and preventive maintenance expenditures for WMATA after it has been determined that WMATA has placed the highest priority on investments that will improve the safety of the system, including but not limited to fixing the track signal system, replacing 1000 series cars, installing guarded turnouts, buying equipment for wayside worker protection, and installing rollback protection on cars that are not equipped with the safety feature. FTA will communicate further program requirements directly to WMATA.

V. FTA Policy and Procedures for FY 2013 Grants

A. Automatic Pre-Award Authority To Incur Project Costs

This section includes some changes to automatic pre-award authority published in previous notices, particularly in light of the new authorization and several new formula programs, some of which will require new Designated Recipients before projects costs can be reimbursed.

1. Caution to New Grantees and for New Formula Programs

While FTA provides pre-award authority to incur expenses before grant award for formula programs, it recommends that first-time grant recipients and recipients of grants under new formula programs NOT utilize this automatic pre-award authority without verifying with the appropriate FTA Regional office that all pre-requisite requirements have been met. As a new grantee, it is easy to misunderstand pre-award authority conditions and be unaware of all of the applicable FTA requirements that must be met in order to be reimbursed for project expenditures incurred in advance of grant award. FTA programs have specific statutory requirements that are often different from those for other Federal grant programs with which new grantees may be familiar. If funds are expended for an ineligible project or activity, or for an eligible activity but at an inappropriate time (e.g., prior to NEPA completion), FTA will be unable to reimburse the project sponsor and, in certain cases, the entire project may be rendered ineligible for FTA assistance.

2. Policy

FTA provides pre-award authority to incur expenses before grant award for certain program areas described below. This pre-award authority allows grantees to incur certain project costs before grant approval and retain the eligibility of those costs for subsequent reimbursement after grant approval. The grantee assumes all risk and is responsible for ensuring that all conditions are met to retain eligibility. This pre-award spending authority permits an eligible grantee to incur costs on an eligible transit capital, operating, planning, or administrative project without prejudice to possible future Federal participation in the cost of the project. In this notice, FTA provides pre-award authority through the authorization period of MAP-21 (FY 2014) for capital assistance under all formula programs, so long as the conditions described below are met. FTA provides pre-award authority for planning and operating assistance under the formula programs without regard to the period of the authorization. All pre-award authority is subject to conditions and triggers stated below:

i. Operating, Planning, or Administrative Assistance. FTA does not impose additional conditions on pre-award authority for operating, planning, or administrative assistance under the formula grant programs. Grantees may be reimbursed for expenses incurred before grant award so long as funds have been expended in accordance with all Federal requirements, and the grantee is otherwise eligible to receive the funding. In addition to cross-cutting Federal grant requirements, program specific requirements must be met. For example, a planning project must have been included in a Unified Planning Work Program (UPWP); a 5310 project must have been included in a coordinated public transit-human services transportation plan (coordinated plan) and selected by the Designated recipient before incurring expenses; expenditure on State Administration expenses under State Administered programs must be consistent with the State Management Plan (as defined in FTA Circular 9040.1F, Section 6). Designated Recipients for Section 5310 have pre-award authority for the ten percent of the apportionment they may use for program administration.

ii. Transit Capital Projects. For transit capital projects, the date that costs may be incurred is: (1) for design and environmental review, the date of the authorization of formula funds or the date of the announcement of the discretionary allocation of funds for the project; and (2) for property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials, the date that FTA approves the document (Record of Decision (ROD), Finding of No Significant Impact (FONSI), or Categorical Exclusion (CE) determination) that completes the environmental review process required by the National Environmental Policy Act (NEPA) and its implementing regulations. New Starts, Small Starts and Core Capacity Projects. The pre-award authority described above does not apply to Section 5309 Fixed Guideway Capital Investment Program (New and Small Starts and Core Capacity) projects. Specific instances of pre-award authority for Capital Investment Program projects are described in paragraph 4 below. Before an applicant may incur costs for Capital Investment program projects when pre-award authority has not been granted or any other projects not yet published in a notice of apportionments and allocations, it must first obtain a written Letter of No Prejudice (LONP) from FTA. To obtain an LONP, a grantee must submit a written request accompanied by adequate information and justification to the appropriate FTA regional office, as described in section 4. below.

iii. Research, Technical Assistance, and Training. Unless provided for in an announcement of project selections, pre-award authority does not apply to section 5312 Research, development, demonstration, and deployment projects, section 5314 Technical Assistance and Standards Development, or section 5322 Human Resources and Training. Before an applicant may incur costs for activities under these programs, it must first obtain a written Letter of No Prejudice (LONP) from FTA. To obtain an LONP, a grantee must submit a written request accompanied by adequate information and justification to the appropriate FTA headquarters office. Information about LONP procedures may be obtained from the appropriate headquarters office.

3. Conditions

The conditions under which pre-award authority may be utilized are specified below:

i. Pre-award authority is not a legal or implied commitment that the subject project will be approved for FTA assistance or that FTA will obligate Federal funds. Furthermore, it is not a legal or implied commitment that all items undertaken by the applicant will be eligible for inclusion in the project.

ii. All FTA statutory, procedural, and contractual requirements must be met.

iii. No action will be taken by the grantee that prejudices the legal and administrative findings that the Federal Transit Administrator must make in order to approve a project.

iv. Local funds expended by the grantee after the date of the pre-award authority will be eligible for credit toward local match or reimbursement if FTA later makes a grant or grant amendment for the project. Local funds expended by the grantee before the date of the pre-award authority will not be eligible for credit toward local match or reimbursement. Furthermore, the expenditure of local funds or undertaking of project implementation activities such as land acquisition, demolition, or construction before the date of pre-award authority for those activities (i.e., the completion of the NEPA process) would compromise FTA's ability to comply with Federal environmental laws and may render the project ineligible for FTA funding.

v. The Federal amount of any future FTA assistance awarded to the grantee for the project will be determined on the basis of the overall scope of activities and the prevailing statutory provisions with respect to the Federal/local match ratio at the time the funds are obligated.

vi. For funds to which the pre-award authority applies, the authority expires with the lapsing of the fiscal year funds.

vii. When a grant for the project is subsequently awarded, the Financial Status Report, in TEAM-Web, must indicate the use of pre-award authority.

viii. Planning, Environmental, and Other Federal requirements.

All Federal grant requirements must be met at the appropriate time for the project to remain eligible for Federal funding. The growth of the Federal transit program has resulted in a growing number of inexperienced grantees who find compliance with Federal planning and environmental laws increasingly challenging.

FTA has modified its approach to pre-award authority to use the completion of the NEPA process, which has as a prerequisite the completion of planning and air quality requirements, as the trigger for pre-award authority for all activities except design and environmental review. Following authorization of formula funds or appropriation and publication of earmarked projects or the announcement of project allocations, pre-award authority for capital project implementation activities, such as property acquisition, demolition, construction, and acquisition of vehicles, equipment, or construction materials, may be exercised only after FTA concurs that all applicable environmental requirements have been satisfied, including those for actions classified as normally requiring preparation of environmental impact statements, environmental assessments, and categorical exclusions found in 23 C.F.R. § 771.117.

The requirement that a project be included in a locally-adopted Metropolitan Transportation Plan, the metropolitan transportation improvement program and federally-approved statewide transportation improvement program (23 CFR Part 450) must be satisfied before the grantee may advance the project beyond planning and preliminary design with non-Federal funds under pre-award authority. If the project is located within an EPA-designated non-attainment or maintenance area for air quality, the conformity requirements of the Clean Air Act, 40 CFR Part 93, must also be met before the project may be advanced into implementation-related activities under pre-award authority. Compliance with NEPA and other environmental laws and executive orders (e.g., protection of parklands, wetlands, and historic properties) must be completed before State or local funds are spent on implementation activities, such as site preparation, construction, and acquisition, for a project that is expected to be subsequently funded with FTA funds. The grantee may not advance the project beyond planning and preliminary design/engineering before FTA has determined the project to be a Categorical Exclusion (CE), or has issued a Finding of No Significant Impact (FONSI) or a Record of Decision (ROD), in accordance with FTA environmental regulations, 23 CFR Part 771.

For a planning project to have pre-award authority, the planning project must be included in a MPO-approved Unified Planning Work Program (UPWP) that has been coordinated with the State.

ix. Federal procurement procedures, as well as the whole range of applicable Federal requirements (e.g., Buy America, Davis-Bacon Act, Disadvantaged Business Enterprise) must be followed for projects in which Federal funding will be sought in the future. Failure to follow any such requirements could make the project ineligible for Federal funding. In short, this increased administrative flexibility requires a grantee to make certain that no Federal requirements are circumvented through the use of pre-award authority.

x. All program specific requirements must be met. For example, projects under section 5310 must comply with specific program requirements, including coordinated planning.

Before incurring costs, grantees are strongly encouraged to consult with the appropriate FTA regional office regarding the eligibility of the project for future FTA funds and for questions on environmental requirements, or any other Federal requirements that must be met. .

4. Pre-Award Authority for the Fixed Guideway Capital Investment Program (New and Small Starts Projects and Core Capacity Projects)

Projects proposed for Section 5309 capital investment program funds (New and Small Starts and Core Capacity) are required to follow a process defined in law. For New Starts and Core Capacity projects, this process includes three phases – project development (PD), engineering, and construction. For Small Starts projects, this process includes two phases – project development and construction. After receiving a letter from the project sponsor requesting entry into the project development phase, FTA must respond in writing within 45 days whether the information was sufficient for entry. If FTA's correspondence indicates the information was sufficient and the New Starts, Small Starts or Core Capacity project may enter PD, FTA extends pre-award authority to the project sponsor to incur costs for PD activities. PD activities include the work necessary to complete the environmental review process and as much engineering and design activities as the project sponsor believes are necessary to support the environmental review process. Upon completion of the environmental review process for a New Starts, Small Starts, or Core Capacity Improvement project with a ROD, FONSI, or CE determination by FTA, FTA extends pre-award authority to project sponsors in PD to incur costs for as much engineering and design need to develop a reasonable cost estimate and financial plan for the project, utility relocation, and real property acquisition and associated relocations, for any property acquisitions not already accomplished as a separate project for hardship or protective purposes or right-of-way under 49 U.S.C. 5323(q). Upon receipt of a letter notifying a New Starts or Core Capacity project sponsor of the project's approval into the engineering phase, FTA extends pre-award authority for any remaining engineering and design, demolition, vehicle purchases, and procurement of long lead items for which market conditions play a significant role in the acquisition price. The long lead items include, but are not limited to, procurement of rails, ties, and other specialized equipment, and commodities. Please contact the FTA Regional Office for a determination of activities not listed here, but which meet the intent described above. FTA provides this pre-award authority in recognition of the long-lead time and complexity involved with purchasing vehicles as well as their relationship to the ''critical path'' project schedule. FTA cautions grantees that do not currently operate the type of vehicle proposed in the project about exercising this pre-award authority. FTA encourages these sponsors to wait until later in the process when project plans are more fully developed. FTA reminds project sponsors that the procurement of vehicles must comply with all Federal requirements including, but not limited to, competitive procurement practices, the Americans with Disabilities Act, and Buy America. FTA encourages project sponsors to discuss the procurement of vehicles with FTA in regards to Federal requirements before exercising pre-award authority. Because there is not a formal engineering phase for Small Starts projects, FTA does not extend pre-award authority for demolition, vehicle purchases and procurement of long lead items. Instead, this work must await receipt of a grant award or an expedited grant agreement.

i. Real Property Acquisition

As noticed above, FTA extends pre-award authority for the acquisition of real property and real property rights for fixed guideway capital investment projects (New or Small Starts or Core Capacity) upon completion of the environmental review process for that project. The environmental review process is completed when FTA signs an environmental Record of Decision (ROD) or Finding of No Significant Impact (FONSI), or makes a Categorical Exclusion (CE) determination. With the limitations and caveats described below, real estate acquisition may commence, at the project sponsor's risk. For FTA-assisted projects, any acquisition of real property or real property rights must be conducted in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (URA) and its implementing regulations, 49 CFR Part 24 . This pre-award authority is strictly limited to costs incurred: (i) To acquire real property and real property rights in accordance with the URA regulation, and (ii) to provide relocation assistance in accordance with the URA regulation. This pre-award authority is limited to the acquisition of real property and real property rights that are explicitly identified in the final environmental impact statement (FEIS), environmental assessment (EA), or CE document, as needed for the selected alternative that is the subject of the FTA-signed ROD or FONSI, or CE determination. This pre-award authority regarding property acquisition that is granted at the completion of the environmental review process does not cover site preparation, demolition, or any other activity that is not strictly necessary to comply with the URA, with one exception. That exception is when a building that has been acquired, has been emptied of its occupants, and awaits demolition poses a potential fire safety hazard or other hazard to the community in which it is located, or is susceptible to reoccupation by vagrants. Demolition of the building is also covered by this pre-award authority upon FTA's written agreement that the adverse condition exists. Pre-award authority for property acquisition is also provided when FTA makes a CE determination for a protective buy or hardship acquisition in accordance with 23 CFR 771.117(d)(12). Pre-award authority for property acquisition is also provided when FTA completes the environmental review process for the acquisition of right-of-way as a separate project in accordance with 49 U.S.C. 5323(q). Guidance on this approach to property acquisition will be forthcoming. When a tiered environmental review in accordance with 23 CFR 771.111(g) is used, pre-award authority is NOT provided upon completion of the first tier environmental document except when the Tier-1 ROD or FONSI signed by FTA explicitly provides such pre-award authority for a particular identified acquisition. Project sponsors should use pre-award authority for real property acquisition relocation assistance with a clear understanding that it does not constitute a funding commitment by FTA. FTA provides pre-award authority upon completion of the environmental review process for real property acquisition and relocation assistance to maximize the time available to project sponsors to move people out of their homes and places of business, in accordance with the requirements of the URA, but also with maximum sensitivity to the circumstances of the people so affected. Although

ii. **Reimbursement of Costs Incurred under Pre-Award Authority**
Although FTA provides pre-award authority for property acquisition, long lead items, and vehicle purchases upon completion of the environmental review process, FTA will not make a grant to reimburse the sponsor for real estate activities, vehicle purchases or purchases of long lead items conducted under pre-award authority until the project receives its construction grant. This is to ensure that Federal funds are not risked on a project whose advancement into construction is still not yet assured.

iii. **National Environmental Policy Act (NEPA) Activities.**
NEPA requires that major projects proposed for FTA funding assistance be subjected to a public and interagency review of the need for the project, its environmental and community impacts, and alternatives to avoid and reduce

adverse impacts. Projects of more limited scope also need a level of environmental review, either to support an FTA finding of no significant impact (FONSI) or to demonstrate that the action is categorically excluded (i.e., CE) from the more rigorous level of NEPA review. FTA's regulation titled ''Environmental Impact and Related Procedures,'' at 23 CFR Part 771 states that the costs incurred by a grant applicant for the preparation of environmental documents requested by FTA are eligible for FTA financial assistance (23 CFR 771.105(e)). Accordingly, FTA extends pre-award authority for costs incurred to comply with NEPA regulations and to conduct NEPA-related activities, effective as of the earlier of the following two dates: (1) the date of the Federal approval of the relevant STIP or STIP amendment that includes the project or any phase of the project, or that includes a project grouping under 23 CFR 450.216(j) that includes the project; or (2) the date that FTA approves the project into project development. The grant applicant must notify the FTA regional office upon initiation of the Federal environmental review process in accordance with the ''Dear Colleague'' letter from the FTA Administrator dated February 24, 2011. NEPA-related activities include, but are not limited to, public involvement activities, historic preservation reviews, section 4(f) evaluations, wetlands evaluations, endangered species consultations, and biological assessments. This pre-award authority is strictly limited to costs incurred to conduct the NEPA process and associated engineering, and to prepare environmental, historic preservation and related documents. When a New Starts, Small Starts, or Core Capacity project is granted pre-award authority for the environmental review process, the reimbursement for NEPA activities conducted under pre-award authority may be sought at any time through Section 5307 (Urbanized Area Formula Program), Section 5309, or the flexible highway programs (STP and CMAQ). As with any pre-award authority, FTA reimbursement for costs incurred is not guaranteed.

iv. Other New and Small Starts and Core Capacity Project Activities Requiring Letter of No Prejudice (LONP).

Except as discussed in paragraphs i through iii above, a major capital investment project sponsor must obtain a written LONP from FTA before incurring costs for any activity. To obtain an LONP, an applicant must submit a written request accompanied by adequate information and justification to the appropriate FTA regional office, as described in B below.

B. Letter of No Prejudice (LONP) Policy

1. Policy

LONP authority allows an applicant to incur costs on a project utilizing non-Federal resources, with the understanding that the costs incurred subsequent to the issuance of the LONP may be reimbursable as eligible expenses or eligible for credit toward the local match should FTA approve the project at a later date. LONPs are applicable to projects and project activities not covered by automatic pre-award authority. The majority of LONPs will be for Section 5309 capital investment program (New or Small Starts or Core Capacity) projects undertaking activities not covered under automatic pre-award authority. LONPs may be issued for formula and discretionary funds beyond the life of the current authorization or FTA's extension of automatic pre-award authority; however, the LONP is limited to a five-year period, unless otherwise authorized in the LONP.

2. Conditions and Federal Requirements

The conditions and requirements for pre-award authority specified in section V.A.2 and V.A.3. above apply to all LONPs. Because project implementation activities may not be initiated before completion of the environmental review process, FTA will not issue an LONP for such activities until the environmental review process has been completed with a ROD, FONSI, or CE determination.

3. Request for LONP

Before incurring costs for project activities not covered by automatic pre-award authority, the project sponsor must first submit a written request for an LONP, accompanied by adequate information and justification, to the appropriate regional office and obtain written approval from FTA. FTA approval of an LONP is determined on a case-by-case basis. Receipt of Federal funding under the capital investment program is not implied or guaranteed by an LONP.

C. FY 2013 Annual List of Certifications and Assurances

The full text of the FY 2013 Certifications and Assurances will be published in the Federal Register in the near future and will be made available on the FTA website and in TEAM-Web. The FY 2013 Certifications and Assurances must be used for all grants and cooperative agreements awarded in FY 2013. All recipients with active projects will be required to sign the FY 2013 Certifications and Assurances within 90 days after publication.

D. Civil Rights Requirements

On August 28, 2012, the Office of Civil Rights published in the Federal Register a revised Title VI Circular (4702.1B), which made extensive clarifications and refinements to the requirements all FTA grantees must meet as recipients of Federal transit funds. In order to facilitate the orderly transition from the old Title VI Circular (4702.1A) to the revised Title VI Circular (4702.1B), FTA has set out a schedule for submitting programs to FTA that conform to the revised Circular requirements. The chart below sets out for grantees when they should upload their updated Title VI program into TEAM-Web. Further, FTA now requires that all updated Title VI programs be submitted in TEAM-Web sixty (60) days in advance of the program's expiration date. Previously FTA requested this submission 30 days in advance of the expiration date. FTA believes that sixty days will allow for review and the ability to provide technical assistance, if needed, well in advance of the expiration date. Please note that grantees who fail to submit a Title VI program for which FTA can concur will jeopardize their ability to receive Federal funds or FTA grants. FTA has developed an overall schedule as follows:

Due to FTA	Includes programs that will expire between:
April 1, 2013	Oct 1, 2012 through May 31, 2013
June 1, 2013	June 1, 2013 through July 31, 2013
October 1, 2013	August 1, 2013 through November 30, 2013
December 1, 2013	December 1, 2013 through January 31, 2014
February 1, 2014	February 1, 2014 through March 31, 2014

April 1, 2014	April 1, 2014 through May 31, 2014
June 1, 2014	June 1, 2014 through July 31, 2014
October 1, 2014	August 1, 2014 through November 30, 2014
December, 1, 2014	December 1, 2014 through January 31, 2015
April 1, 2015	February 1, 2015 through May 31, 2015
June 1, 2015	June 1, 2015 through July 31, 2015
October 1, 2015	August 1, 2015 through November 30, 2015

FTA has posted a spreadsheet on its website that identifies each grantee and their respective due dates and expiration dates for their next Title VI submission.

Please note that programs expiring after October 1, 2012, have almost seven months to come into compliance with the revised Title VI Circular requirements. FTA reserves the right to adjust individual due dates for any grantee to ensure even workload distribution. Should you have questions about the above process and schedule, please do not hesitate to contact your Regional Civil Rights Officer (RCRO). A current RCRO contact list is as follows:

Region 1 – Peggy.Griffin@dot.gov	Region 7 – Rebecca.Rand@dot.gov
Region 2 – Aaron.Meyers@dot.gov	Region 8 – Rebecca.Tanrath@dot.gov
Region 3 – Michael.Riess@dot.gov	Region 9 – Derrin.Jourdan@dot.gov
Region 4 – Carlos.Gonzalez@dot.gov	Region 10 – Chris.MacNeith@dot.gov
Region 5 – Felisha.Phillips@dot.gov	HQ – Jean.Comedy@dot.gov
Region 6 – Aida.Douglas@dot.gov	**Division Chief:** Monica.McCallum@dot.gov

In addition, FTA will hold monthly webinars. The first series of webinars on Title VI will start the week of October 8th and continue through November and start again in January 2013. Further information will be sent to each grantee regarding the training schedule or you may check the FTA Office of Civil Rights webpage at: http://www.fta.dot.gov/civil_rights.html.

Finally, please be aware that on September 6, 2012, the Office of the Secretary published a Notice of Proposed Rulemaking (NPRM) regarding the Disadvantaged Business Enterprise Program. The comment period will close on November 5, 2012. FTA strongly encourages all grantees to read this notice and submit comments to the http://www.regulations.gov. The docket number for the NPRM is OST-2012-0147

E. Consolidated Planning Grants (CPG)

FTA and FHWA planning funds under both the Metropolitan Planning and State Planning and Research Programs can be consolidated into a single consolidated planning grant, awarded by either FTA or FHWA. The CPG eliminates the need to monitor individual fund sources, if several have been used, and ensures that the oldest funds will always be used first.

Under the CPG, States can report metropolitan planning program expenditures (to comply with the Single Audit Act) for both FTA and FHWA under the Catalogue of Federal Domestic Assistance number for FTA's Metropolitan Planning Program (20.505). Additionally, for States with an FHWA Metropolitan Planning (PL) fund-matching ratio greater than 80 percent, the State can waive the 20 percent local share requirement, with FTA's concurrence, to allow FTA funds used for metropolitan planning in a CPG to be granted at the higher FHWA rate. For some States, this Federal match rate can exceed 90 percent.

States interested in transferring planning funds between FTA and FHWA should contact the FTA Regional Office or FHWA Division Office for more detailed procedures. Current guidelines are included in Federal Highway Administration Memorandum dated July 12, 2007, “Information: Final Transfers to Other Agencies that Administer Title 23 Programs.”

For further information on CPGs, contact Nancy Grubb, Office of Budget and Policy, FTA, at (202)366-1635.

F. Grant Application Procedures

During FY 2013, FTA grantees may be making grants for both SAFETEA-LU authorized program funds (carryover balances) and MAP-21 authorized program funds. There may be different requirements depending on the program and the year of funds and different eligibility depending on the program. As such, it is critical that grantees work closely with the regional and metro office staff to plan and develop their grant portfolio for FY 2013.

All applications for FTA funds should be submitted to the appropriate FTA regional office. FTA utilizes TEAM-Web, an Internet-accessible electronic grant application system, and all applications are filed electronically.

FTA regional staff is responsible for working with grantees to review and process grant applications. In order for an application to be considered complete and for FTA to assign a grant number, enabling submission in TEAM-Web and submitted to Department of Labor (when applicable), the following requirements must be met:

- The recipient’s contact information, including Dun and Bradstreet Data Universal Numbering System (DUNS), is correct and up-to-date.
- Recipient has properly submitted its annual certifications and assurances.
- Recipient’s Civil Rights submissions are current and approved.
- Documentation is on file to support recipient’s status as either a designated recipient (for the program and area) or a direct recipient.
- Funding is available, including any flexible funds included in the budget, and split letters or suballocation letters on file (where applicable) to support amount being applied for in grant application.
- The project is listed in a currently approved Transportation Improvement Program (TIP); Statewide Transportation Improvement Program (STIP), or Unified Planning Work Program (UPWP).
- All eligibility issues are resolved.
- Required environmental findings are made.
- The project budget’s Activity Line Items (ALI), scope, and project description meet FTA requirements.
- Local share funding source(s) is identified.
- For projects involving new construction (using at least $100 million in New Starts or formula funds), FTA has reviewed the project management plan and given approval.
- Milestone information is complete, or FTA determines that milestone information can be finalized before the grant is ready for award. FTA will also review status of other open grants’ reports to confirm financial and milestone information is current on other open grants and projects.

Before FTA can award grants for discretionary projects and activities, notification must be given to members of Congress, and in the case of awards greater than $1 million, to the House and Senate authorizing and appropriations committees.

Other important issues that impact FTA grant processing activities are discussed below.

1. Combining Program Funds in a Grant

FTA has updated its internal budgeting rules and systems of funds controls to reflect program changes made in MAP-21. Because MAP-21 consolidated several programs and replaced some programs with new formulas or created new formula programs, there will be some instances where SAFETEA-LU program funds cannot be combined in a grant with MAP-21 program funds. Specifically, where a program was repealed and replacement activities are eligible in a new program in a new section of statute, the grantee will be required to develop a separate grant for the MAP-21 program. For example, section 5309 Bus and Bus Facilities funds (SAFETEA-LU) cannot be combined with section 5339 Bus and Bus Facilities funds (MAP-21) because of the inherent difference in the programs, issues with tracking the discretionary program funds, and the process for notifying Congress when the funds are being obligated.

Additionally, program funds from different sections of statute cannot be combined with each other, unless, there is a specific transfer provision in MAP-21 for the program. Separate grants are required for each program, with the exception of section 5339, which permits transferring the funds to sections 5307 or 5311 so long as they continue to be used for eligible capital purposes under section 5339. FTA will issue grant making guidance for requesting these types of administrative transfers.

2. Grant Budgets – SCOPE and ALI Codes

FTA uses the SCOPE and Activity Line Item (ALI) Codes in the grant budgets to track program trends, to report to Congress, and to respond to requests from the Inspector General and the Government Accountability Office (GAO), as well as to manage grants. The accuracy of the data is dependent on the careful and correct use of codes. FTA is in the process of revising the SCOPE and ALI table to include new codes for the newly eligible capital items, to better track certain expenditures, and to accommodate the new programs. FTA encourages grantees to review the table before selecting codes from the drop-down menus in TEAM-Web while creating a grant budget. Additional information about how to use the SCOPE and ALI codes to accurately code budgets will be added to the resources available through TEAM-Web.

Under sections 5307 and 5311, FTA will continue to use the SCOPE established for job access and reverse projects (646-00) in order to track the use of these program funds for this eligible purpose. Additional codes may be developed as needed.

3. Designated and Direct Recipients, Documentation and Supplemental Agreements

For its formula programs, FTA primarily apportions funds to the Designated Recipient in the large urbanized areas (areas over 200,000), or for areas under 200,000, it apportions the funds to the Governor, or its designee (e.g. State DOT). Depending on the program and as described in the individual program sections found in section IV of this notice, further suballocation of funds may be permitted to eligible recipients who can then apply directly to FTA for the funding ("direct recipients"), so long as the required documentation is on file. However, there are certain programs under MAP-21 whereby FTA will only award grants to the designated recipients for the area or program. These include sections 5310 and 5339.

For the programs in which FTA can make grants to eligible direct recipients, other than the Designated Recipient(s), recipients are reminded that documentation must be on file to support the (1) status of the recipient either as a Designated Recipient or direct recipient; and (2) the allocation of funds to the direct recipient. Additionally, FTA requires a supplemental agreement to be pinned to the grant in TEAM-Web prior to grant execution. The supplemental agreement is required when the recipient of the funds is not the Designated Recipient. It permits the grant recipient (e.g. direct recipient) to receive and dispense the Federal funds and sets forth that the grant recipient is assuming all responsibilities of the grant agreement.

Under MAP-21, with the exception of the new urbanized areas resulting from the 2010 census under the section 5307 program, the only program for which NEW designations are needed in the large urbanized areas before a grant can be made is Section 5310. Before the first grant application in a large urbanized area under section 5310 is submitted to FTA, the Governor must designate an agency charged with administering the Enhanced Mobility of Seniors and Individuals with Disabilities funds. This designation must be on file with the Regional office prior to the award of any Section 5310 grants in large urbanized areas.

For all other programs, documentation to support existing designated recipients for the urbanized area must also be on file at the time of the first application in FY 2013. Further, split letters and/or suballocation letters (Governor's Apportionment letters), must also be on file to support grant applications from direct recipients.

4. Payments

Once a grant has been awarded and executed, requests for payment can be processed. To process payments FTA uses ECHO-Web, an Internet accessible system that provides grantees the capability to submit payment requests on-line, as well as receive user-IDs and passwords via e-mail. New applicants should contact the appropriate FTA regional office to obtain and submit the registration package necessary for set-up under ECHO-Web.

5. Oversight

FTA is responsible for conducting oversight activities to help ensure that grants recipients use FTA federal financial assistance in a manner consistent with their intended purpose and in compliance with regulatory and statutory requirements. FTA conducts periodic oversight reviews to assess grantee compliance with applicable Federal requirements. Each Urbanized Area Formula Program recipient is reviewed every three years, (also known as FTA's Triennial Review); and States and state-wide public transportation agencies are reviewed periodically to assess the management practices and program implementation of FTA state-wide programs (e.g. Planning, Rural Areas, Enhanced Mobility of Seniors and Individuals with Disabilities Programs). Other more detailed reviews are scheduled based on an annual grantee oversight assessment. Important objectives of FTA's oversight program include, but are not limited to: Determining grantee compliance with Federal requirements; identifying technical assistance needs, and delivering technical assistance to meet those needs; spotting emerging issues with grantees in a forward-looking fashion; recognizing when there is a need for more in-depth reviews in the areas of procurement, financial management, and civil rights; and identifying grantees with recurring or systemic issues. FTA will develop appropriate oversight procedures for the new programs authorized by MAP-21.

6. Technical Assistance

As noted throughout the notice, FTA continues to rely on many of the existing program circulars for general program guidance. FTA will be updating the program circulars, with an opportunity for notice and comment, to reflect changes under MAP-21. In the meantime, if you have any questions, please do not hesitate to contact FTA. FTA headquarters and regional staff will be pleased to answer your questions and provide any technical assistance you may need to apply for FTA program funds and manage the grants you receive. At its discretion, FTA may also use program oversight consultants to provide technical assistance to grantees on a case by case basis. This notice and the program guidance circulars previously identified in this document may be accessed via the FTA website at www.fta.dot.gov.

G. Grant Management

Recipients of FTA funds are reminded that all FTA grantees require some level of grant reporting and that it is critical to ensure reports demonstrate reasonable progress is being made on the project. At a minimum, all grants require a Federal Financial Report (FFR) and a Milestone Progress Report (MPR) on an annual basis, with some reports required quarterly depending on the recipient and the type of projects funded under the grant. The requirements for these reports and other reporting requirements can be found in FTA Circular 5010.1D, *Grant Management Requirements*, dated November 1, 2008. FTA staff, auditors, and contractors rely on the information provided in the FFR and MPR to review and report on the status of both financial and project-level activities contained in the grant. It is critical that recipients provide accurate and complete information in these reports and submit them by the required due date. Failure to report and/or demonstrate reasonable progress on projects can result in suspension or close-out of a grant.

In FY 2013, FTA will continue to focus on inactive grants and grants that do not comply with reporting requirements and, if appropriate, will take action to close out and deobligate funds from these grants if reasonable progress is not being made. The efficient use of funds will further FTA's fulfillment of its mission to provide efficient and effective public transportation systems for the nation.

Issued in Washington, DC, this _______ day of __________, 2012.

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Peter Rogoff
Administrator