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**Authority:** 23 U.S.C. 315; 49 CFR 1.48.

Issued on: January 27, 2006.

**J. Richard Capka,**

*Acting Federal Highway Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA-2003-15432]

#### BNSF Railway Company; Notice of Public Hearing and Extension of Comment Period

The BNSF Railway Company has petitioned the Federal Railroad Administration (FRA) seeking approval to expand the existing waiver, granted on June 23, 2004, to include the area from Fort Worth, Texas, milepost 346.67, to Arkansas City, Kansas, milepost 264.11, on the Fort Worth and Red Rock Subdivisions, a distance of approximately 329 miles. This expansion request is identified as Docket No. FRA-2003-15432.

The FRA had issued a public notice seeking comments of interested parties. After examining the railroad's proposal and the comments received, FRA has determined that a public hearing is necessary before a final decision is made on this proposal. FRA is also extending the comment period to one week beyond the date of the public hearing. If information received at the public hearing warrants the need to extend the comment period even further, a separate notice will be published indicating such extension.

Accordingly, a public hearing is hereby set for 1 p.m. (Eastern Standard Time), on Thursday, February 23, 2006, at the Wyndham Hotel, Vista Ballroom C, 1400 M Street, NW., Washington, DC 20005. Interested parties are invited to present oral statements at the hearing. The hearing will be informal and will be conducted by a representative designated by the FRA, in accordance with Rule 25 of the FRA Rules of Practice (49 CFR part 211.25). The hearing will be a non-adversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening

statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

In addition, FRA is extending the comment period to March 2, 2006. All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2003-15432) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

Anyone is able to search the electronic form of all comments received and entered into our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (Volume 65, Number 70; Pages 19477-78). The Statement may also be found at <http://dms.dot.gov>.

Issued in Washington, DC, on January 30, 2006.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

[FR Doc. E6-1425 Filed 2-1-06; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### Over-the-Road Bus Accessibility Program Grants

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of Availability of Fiscal Year 2006 Funds: Solicitation of Grant Applications.

**SUMMARY:** The U.S. Department of Transportation (DOT) Federal Transit Administration (FTA) announces the availability of funds in fiscal year (FY) 2006 for the Over-the-Road Bus (OTRB)

Accessibility Program, authorized by Section 3038 of the Transportation Equity Act for the 21st Century (TEA-21). The OTRB Accessibility Program makes funds available to private operators of over-the-road buses to finance the incremental capital and training costs of complying with DOT's over-the-road bus accessibility final rule, 49 CFR Part 37, published in a **Federal Register** notice on September 28, 1998 (63 FR 51670). The authorizing legislation calls for national solicitation of applications, with grantees to be selected on a competitive basis. Federal transit funds are available to intercity fixed-route providers and other OTRB providers at up to 90 percent of the project cost.

In FY 2006, following a one percent rescission, \$5,568,750 was made available for intercity fixed-route service providers and \$1,856,250 was made available for other over-the-road bus service providers.

This announcement is available on the Internet on the FTA Web site at: <http://www.fta.dot.gov>. FTA will announce final selections on the Web site and in the **Federal Register**. A synopsis of this announcement will be posted in the FIND module of the government-wide electronic grants Web site at <http://www.grants.gov>. Applications may be submitted to FTA in hard copy or electronically through the GRANTS.GOV APPLY function.

**DATES:** Complete applications for Over-the-Road Bus (OTRB) Program grants must be submitted to the appropriate FTA regional office (see Appendix C) by April 3, 2006, or submitted electronically through the <http://grants.gov> Web site by the same date. Anyone intending to apply electronically should initiate the process of registering on the <http://grants.gov> site immediately to ensure completion of registration before the deadline for submission. FTA will announce grant selections in the **Federal Register** when the competitive selection process is complete.

**FOR FURTHER INFORMATION CONTACT:** The appropriate FTA Regional Administrator (Appendix C) for application-specific information and issues. For general program information, contact Blenda Younger, Office of Transit Programs, (202) 366-2053, e-mail: [blenda.younger@fta.dot.gov](mailto:blenda.younger@fta.dot.gov). A TDD is available at 1-800-877-8339 (TDD/FIRS).

#### Overview Information

*Federal Agency Name:* Department of Transportation, Federal Transit Administration (FTA).

*Funding Opportunity Title:* Capital and Training Assistance Program for Over-the-Road Bus Accessibility.

*Announcement Type:* Initial Announcement: Notice of Availability of Fiscal Year 2006 Funds: Solicitation of Grant Applications.

(Catalog of Federal Domestic Assistance (CFDA) Number: 20.518 Capital and Training Assistance Program for Over-the-Road Bus Accessibility.)

**DATES:** Complete applications for Over-the-Road Bus (OTRB) Program grants must be submitted to the appropriate FTA regional office (see Appendix C) by April 3, 2006, or submitted electronically through the <http://www.grants.gov> Web site by the same date.

Anyone intending to apply electronically should initiate the process of registering on the <http://grants.gov> site immediately to ensure completion of registration before the deadline for submission. FTA will announce grant selections when the competitive selection process is complete.

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## I. Funding Opportunity Description

### A. Authority

The program is authorized under Section 3038 of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-85 as amended by SAFETEA-LU, Pub. L. 109-59, August 10, 2005.

### B. Background

Over-the-road buses are used in intercity fixed-route service as well as other services, such as commuter, charter, and tour bus services. These services are an important element of the U.S. transportation system. TEA-21 authorized FTA's Over-the-road Bus Accessibility Program to assist over-the-road bus operators in complying with the Department's Over-the-Road Bus Accessibility rule, "Transportation for Individuals with Disabilities" (49 CFR Part 37) published in a **Federal Register**

notice on September 28, 1998 (63 FR 51670).

### Summary of DOT's Over-the-Road Bus Accessibility Rule

*Deadlines for Acquiring Accessible Vehicles.* Under the over-the-road bus accessibility rule, all new buses obtained by large (Class I carriers, *i.e.*, those with gross annual operating revenues of \$5.3 million or more), fixed-route carriers after October 30, 2000 must be accessible, with wheelchair lifts and tie-downs that allow passengers to ride in their own wheelchairs. The rule requires 50 percent of the fixed-route carriers' fleets to be accessible by 2006, and 100 percent of the vehicles in their fleets to be accessible by 2012. The buses acquired by small (gross operating revenues of less than \$5.3 million annually) fixed-route providers after October 29, 2001 also are required to be lift-equipped, although they do not have a deadline for total fleet accessibility. Small providers also can provide equivalent service in lieu of obtaining accessible buses. Starting in 2001, charter and tour companies have to provide service in an accessible bus on 48 hours' advance notice. Fixed-route companies must also provide this kind of service on an interim basis until their fleets are completely accessible.

*Deadlines for Delivering Accessible Service.* The rules for delivering accessible motorcoach service went into effect October 29, 2001 for large fixed-route, charter, tour and other demand-responsive motorcoach companies. The rules went into effect for small operators on October 28, 2002. After these dates, companies must provide service in an accessible coach to a passenger who requests it and gives 48 hours' advance notice. Small companies may provide equivalent service, instead of acquiring accessible coaches. This equivalent service may be provided in an alternate vehicle (*e.g.*, a van), provided that the service allows passengers to travel in their own wheelchairs.

Specifications describing the design features that an over-the-road bus must have to be readily accessible to and usable by persons who use wheelchairs or other mobility aids required by the "Americans with Disabilities Act Accessibility Guidelines for Transportation Vehicles: Over-the-Road Buses" rule (36 CFR part 1192) were published in another **Federal Register** notice on September 28, 1998.

### C. Purpose

Improving mobility and shaping America's future by ensuring that the transportation system is accessible, integrated, and efficient, and offers

flexibility of choices is a key strategic goal of the Department of Transportation. Over-the-road Bus Accessibility projects will improve mobility for individuals with disabilities by providing financial assistance to help make vehicles accessible and training to ensure that drivers and others understand how to use accessibility features as well as how to treat patrons with disabilities.

### D. Vehicle and Service Definitions

An "over-the-road bus" is a bus characterized by an elevated passenger deck located over a baggage compartment.

Intercity, fixed-route over-the-road bus service is regularly scheduled bus service for the general public, using an over-the-road bus that: operates with limited stops over fixed routes connecting two or more urban areas not in close proximity or connecting one or more rural communities with an urban area not in close proximity; has the capacity for transporting baggage carried by passengers; and makes meaningful connections with scheduled intercity bus service to more distant points. The application includes six factors that will be reviewed to determine eligibility for the portion of the funding limited to operators that qualify under this definition.

Other over-the-road bus service means any other transportation using over-the-road buses, including local fixed-route service, commuter service, and charter or tour service (including tour or excursion service that includes features in addition to bus transportation such as meals, lodging, admission to points of interest or special attractions). While some commuter service may also serve the needs of some intercity fixed-route passengers, the statute includes commuter service in the definition of "other" service. Commuter service providers should apply for these funds, even though the services designed to meet the needs of commuters may also provide service to intercity fixed-route passengers on an incidental basis. If a service provider can document that more than 50 percent of its passengers are using the service as intercity fixed-route service, the provider may apply for the funds designated for intercity fixed-route operators.

## II. Award Information

Federal transit funds are available to intercity fixed-route providers and other OTRB providers at up to 90 percent of the project cost. In FY 2006, after a one percent rescission, \$5,568,750 was made available for intercity fixed-route service providers and \$1,856,250 was made

available for other over-the-road bus service providers. Successful applicants will be awarded grants. Typical grants under this program range from \$25,000 to \$180,000, with most grants being less than \$40,000, for lift equipment for one bus.

### III. Eligibility Information

#### 1. Eligible Applicants

Grants will be made directly to operators of over-the-road buses. Intercity, fixed-route over-the-road bus service providers may apply for the \$5,568,750 available to intercity fixed-route providers in FY 2006. Applicants must establish eligibility as intercity fixed-route providers by meeting established criteria on six factors identified in the application. Other over-the-road bus service providers, including operators of local fixed-route service, commuter service, and charter or tour service may apply for the \$1,856,250 available in FY 2006 for these providers. OTRB operators who provide both intercity, fixed-route service and another type of service, such as commuter, charter or tour, may apply for both categories of funds with a single application. Private for-profit operators of over-the-road buses are eligible to be direct applicants for this program. This is a departure from most other FTA programs for which the direct applicant must be a state or local public body. FTA does not award grants to public bodies under this program.

#### Eligible Projects

Projects to finance the incremental capital and training costs of complying with DOT's over-the-road bus accessibility rule (49 CFR part 37) are eligible for funding. Incremental capital costs eligible for funding include adding lifts, tie-downs, moveable seats, doors and all labor costs associated with work on the vehicle needed to make vehicles accessible. Retrofitting vehicles with such accessibility components is also an eligible expense. Please see Buy America section for further determination of eligibility.

FTA may award funds for costs already incurred by the applicants. Any new wheelchair accessible vehicles delivered since June 8, 1998, the date that the Transportation Equity Act for the 21st Century was effective, are eligible for funding under the program. Vehicles of any age that have been retrofitted with lifts and other accessibility components since June 8, 1998 are also eligible for funding.

Eligible training costs are those required by the final accessibility rule as described in 49 CFR 37.209. These

activities include training in proper operation and maintenance of accessibility features and equipment, boarding assistance, securement of mobility aids, sensitive and appropriate interaction with passengers with disabilities, and handling and storage of mobility devices. The costs associated with developing training materials or providing training for local providers of over-the-road bus services for these purposes are eligible expenses.

FTA will not fund the incremental costs of acquiring used wheelchair accessible OTRBs, as it may be impossible to verify whether or not FTA funds were already used to make the vehicles accessible. Also, it would be difficult to place a value on the accessibility features based upon the depreciated value of the vehicle. FTA wishes to increase the number of wheelchair accessible over-the-road buses available to persons with disabilities throughout the country, and the purchase of used accessible vehicles, whether or not they were previously funded by FTA, does not further this objective.

FTA has sponsored the development of accessibility training materials for public transit operators. FTA-funded Project Action is a national technical assistance program to promote cooperation between the disability community and the transportation industry. Project Action provides training, resources and technical assistance to thousands of disability organizations, consumers with disabilities, and transportation operators. It maintains a resource center with the most up-to-date information on transportation accessibility. Project Action may be contacted at: Project Action, 700 Thirteenth Street NW., Suite 200, Washington, DC 20590. Phone: 1-800-659-6428. Internet address: <http://www.projectaction.org/>.

#### 2. Cost Sharing or Matching

Federal transit funds are available to intercity fixed-route providers and other OTRB providers at up to 90 percent of the project cost. A 10 percent match is required.

### IV. Application and Submission Information

#### 1. Address To Request Application Package

This announcement includes all of the information that you need to apply. It is available on the Internet on the FTA Web site at <http://www.fta.dot.gov>. FTA will announce final selections on the Web site and in the **Federal Register**. A synopsis of this announcement will be

posted in the FIND module of the government-wide electronic grants Web site at <http://www.grants.gov>.

#### 2. Content and Form of Application Submission

##### Guidelines for Preparing Grant Application

FTA is conducting a national solicitation for applications under the OTRB Accessibility program. Grant awards will be made on a competitive basis. The application should provide information on all items for which you are requesting funding in FY 2006. If you use another company's previous application as a guide, remember to modify all elements as appropriate to reflect your company's situation. The application must include a project narrative in the format provided in Appendix A, in addition to Standard Form 424, "Application for Federal Assistance".

#### Application Content

- Applicant Information
  - This addresses basic identifying information, including:
    - a. Company name.
    - b. Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number.
    - c. Contact information for notification of project selection: Contact name, address, fax and phone number.
    - d. Description of services provided by company, including areas served.
    - e. For fixed-route carriers, whether you are a large (Class I, with gross annual operating revenues of \$5.3 million or more) or small (gross operating revenues of less than \$5.3 million annually) carrier.
    - f. Existing fleet and employee information, including number of over-the-road buses used for (1) intercity fixed-route service, and (2) other service, and number of employees.
    - g. If you provide both intercity fixed-route service and another type of service, such as commuter, charter or tour service, please provide an estimate of the proportion of your service that is intercity.
    - h. Description of your technical, legal, and financial capacity to implement the proposed project. Include evidence that you currently possess appropriate operating authority—e.g. DOT number if you operate interstate or identifier assigned by state if you do not operate interstate service.

- Project Information

Every application must:

- a. Provide the Federal amount requested for each purpose for which

funds are sought in the format in Appendix A.

b. Document matching funds, including amount and source.

c. Describe project, including components to be funded, *i.e.*, lifts, tie-downs, moveable seats, etc., and/or training.

d. Provide project time-line, including significant milestones such as date or contract for purchase of vehicle(s), and actual or expected delivery date of vehicles.

e. Address each of the five statutory evaluation criteria described in V.

f. If requesting funding for intercity service, provide evidence that:

1. The applicant provides scheduled, intercity, fixed route, over-the-road bus service that interlines with one or more scheduled, intercity bus operators. (Such evidence includes applicant's membership in the National Bus Traffic Association or participation in separate interline agreements, and participation in interline tariffs or price lists issued by, or on behalf of, scheduled, intercity bus operators with whom the applicant interlines); and

2. The applicant has obtained authority from the Federal Motor Carrier Safety Administration or the Interstate Commerce Commission to operate scheduled, intercity, fixed route service; and as many of the following as are applicable;

3. The applicant is included in Russell's Official National Motor Coach Guide showing that it provides regularly scheduled, fixed route over-the-road bus service with meaningful connections with scheduled intercity bus service to more distant points.

4. The applicant maintains a website showing routes and schedules of its regularly scheduled, fixed route over-the-road bus service and its meaningful connections to other scheduled, intercity bus service.

5. The applicant maintains published schedules showing its regularly scheduled, fixed route over-the-road bus service and its meaningful connections to other scheduled, intercity bus service.

6. The applicant participates in the International Registration Plan (IRP) apportionment program.

- Labor Information

a. Identify any labor organizations that may represent your employees and all labor organizations that represent the employees of any transit providers in the service area of the project. For each local of a nationally affiliated union, the applicant must provide the name of the national organization and the number or other designation of the local union. (For example, Amalgamated Transit

Union local 1258.) Since DOL makes its referral to the national union's headquarters, there is no need to provide a means of contacting the local organization.

b. For each independent labor organization (*i.e.*, a union that is not affiliated with a national or international organization) the local information will be necessary (name of organization, address, contact person, phone, fax numbers).

c. Where a labor organization represents transit employees in the service area of the project, DOL must refer the proposed protective arrangements to each union and to each recipient. For this reason, please provide DOL with a contact person, address, telephone number and fax number for your company and associated union information.

### 3. Submission Dates and Times

Complete applications for OTRB Accessibility Program grants must be submitted to the appropriate FTA regional office (see Appendix C) April 3, 2006 or submitted electronically through the <http://grants.gov> Web site by the same date. Applicants planning to apply electronically are encouraged to begin the process of registration on the <http://grants.gov> site well in advance of the submission deadline. Registration is a multi-step process, which may take several weeks to complete before an application can be submitted. FTA will announce grant selections when the competitive selection process is complete.

### 4. Intergovernmental Review

This program is not generally subject to Executive Order (EO) 12372, "Intergovernmental Review of Federal Programs." For more information, contact the State's Single Point of Contact (SPOC) to find out about and comply with the State's process under EO 12372. The names and addresses of the SPOCs are listed in the Office of Management and Budget's home page at <http://www.whitehouse.gov/omb/grants/spoc.html>.

### 5. Funding Restrictions

Only applications from eligible recipients for eligible activities will be considered for funding (see Section III). Due to funding limitations, applicants that are selected for funding may receive less than the amount requested.

### 6. Other Submission Requirements

Applicants should submit 3 copies of their project proposal application, consistent with the application format provided at Appendix A, to the

appropriate regional office or apply electronically through the government wide electronic grant application portal at <http://www.grants.gov>.

## V. Application Review Information

### 1. Project Evaluation Criteria

Projects will be evaluated according to the following criteria:

A. The identified need for over-the-road bus accessibility for persons with disabilities in the areas served by the applicant. (20 points)

B. The extent to which the applicant demonstrated innovative strategies and financial commitment to providing access to over-the-road buses to persons with disabilities. (20 points)

C. The extent to which the over-the-road bus operator acquired equipment required by DOT's over-the-road bus accessibility rule prior to the required time-frame in the rule. (20 points)

D. The extent to which financing the costs of complying with DOT's rule presents a financial hardship for the applicant. (20 points)

E. The impact of accessibility requirements on the continuation of over-the-road bus service with particular consideration of the impact of the requirements on service to rural areas and for low-income individuals. (20 points)

**Note:** These are the statutory criteria upon which funding decisions will be made. In addition to these criteria, FTA may also consider other factors, such as the size of the applicant's fleet and the level of FTA funding that may already have been awarded to applicants in prior years. Applicants will not be considered for funding as intercity fixed-route operators unless they satisfy at a minimum the first two criteria and at least one of criteria three through five listed in Project Information in the application content applicable to intercity fixed-route applicants.

### 2. Review and Selection Process

Each application is screened by a panel of members represented by FTA headquarters and regional staff. Incomplete or non-responsive applications will be disqualified. Intercity fixed-route service providers must provide evidence that they meet at a minimum the first two criteria and at least one of the next three criteria set forth in Project Information, if funds are requested under this category (see Appendix A, 2, B). Applicants that do not qualify as intercity-fixed route operators may be considered for funding in the "other" category. FTA will make an effort to award every qualified applicant at least one lift. Prior year funding under the program is a factor, however, so depending upon demand,

an applicant that received significant prior year funding may not be selected to receive additional funding.

## VI. Award Administration Information

### 1. Award Notices

FTA will screen all applications to determine whether all required eligibility elements, as described in III. "Eligibility Information" are present. An FTA evaluation team will evaluate each application according to the criteria described in this announcement. FTA will notify all applicants, both those selected for funding and those not selected when the competitive selection process is complete. Projects selected for funding will be published in a **Federal Register** notice. Applicants selected for funding must then apply to the FTA regional office for the actual grant award, sign Certifications and Assurances, and execute a grant contract before funds can be drawn down.

### 2. Administrative and National Policy Requirements

#### A. Grant Requirements

Applicants selected for funding must include documentation necessary to meet the requirements of FTA's Nonurbanized Area Formula program (Section 5311 under Title 49, United States Code). Technical assistance regarding these requirements is available from each FTA regional office. The regional offices will contact those applicants selected for funding regarding procedures for making the required certifications and assurances to FTA before grants are made.

The authority for these requirements is provided by the Transportation Equity Act for the 21st Century, Pub. L. 105-178, June 9, 1998, as amended by the TEA-21 Restoration Act 105-206, 112 Stat. 685, July 22, 1998, 49 U.S.C. chapter 53, Title 23, United States Code, DOT and FTA regulations at 49 CFR, and FTA Circulars.

#### B. Buy America

In the OTRB Accessibility program, FTA's Buy America regulations, 49 CFR Part 661, apply to the incremental capital cost of making vehicles accessible. Those regulations do not apply to associated labor costs. The following discussion relates to the contract between the grantee and the prime contractor.

The "General Requirements" found at 49 CFR 661.5 apply to that portion of the accessibility system being funded. That section requires that all of the manufacturing processes for the product take place in the United States and that all components of the product be made

in the United States. A component is considered domestic if it is manufactured in the U.S.A., regardless of the origin of its subcomponents. The lift, the moveable seats, and the securement devices will all be considered components for purposes of this program; accordingly, as components, each must be manufactured in the United States. Should a recipient choose to request funding for only a specific component, such as the lift or the securement device, then the Buy America requirements would apply only to that item funded by FTA.

Three exceptions to the general requirements can be found at 49 CFR 661.7: first, a waiver may be requested when the application of the regulation is not in the public interest; second, a waiver may be requested if the materials and products being procured are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; and third, a price differential waiver may be requested where the results of competitive procurement show that there is a 25 percent price difference between the domestic and foreign products. FTA approval of a waiver must be received by the recipient of FTA funds prior to the execution of contract.

It should also be noted that FTA has issued a general public interest waiver for all purchases under the Federal "small purchase" threshold, which is currently \$100,000.

This waiver can be found in 49 CFR 661.7, Appendix A(e). In Section 3038(b) of TEA-21, Congress authorized FTA financing of the incremental capital costs of compliance with DOT's OTRB accessibility rule. Consistent with this provision, the small purchase waiver applies only to the incremental cost of the accessibility features FTA is funding. Where more than one bus is purchased, the grantee must consider the incremental cost increase for the entire procurement when determining if the small purchase waiver applies. For example, if \$30,000 is the incremental cost for the accessibility features eligible under this program per bus (regardless of the Federal share contribution), then a procurement of three buses with a total such cost of \$90,000, would qualify for the small purchase waiver. No special application to FTA would be required.

The grantee must obtain a certification from the bus manufacturer that all items included in the incremental cost for which the applicant is applying for funds meet Buy America requirements. The Buy America

regulations can be found at <http://www.fta.dot.gov/library/legal/buyamer/>.

#### C. Labor Protection

Before FTA may award a grant for capital assistance, 49 U.S.C. 5333(b) requires that fair and equitable arrangements must be made to protect the interests of transit employees affected by FTA assistance. Those arrangements must be certified by the Secretary of Labor as meeting the requirements of the statute. When a labor organization represents a group of affected employees in the service area of an FTA project, the employee protective arrangement is usually the product of negotiations or discussions with the union. The grant applicant can facilitate Department of Labor (DOL) certification by identifying in the application any previously certified protective arrangements that have been applied to similar projects undertaken by the grant applicant, if any. Receiving funds under the OTRB Accessibility program, however, will not require the grantee's employees to be represented by organized labor. Nothing in the labor protection provisions in 49 U.S.C. 5333(b) requires a motorcoach operator to become a union carrier or encourages union organizing in any manner. Upon receipt of a grant application requiring employee protective arrangements, FTA will transmit the application to DOL and request certification of the employee protective arrangements. In accordance with DOL guidelines, DOL notifies the relevant unions in the area of the project that a grant for assistance is pending and affords the grant applicant and union the opportunity to agree to an arrangement establishing the terms and conditions of the employee protections. If necessary, DOL furnishes technical and mediation assistance to the parties during their negotiations. The Secretary of Labor may determine the protections to be certified if the parties do not reach an agreement after good faith bargaining and mediation efforts have been exhausted. DOL will also set the protective conditions when affected employees in the service area are not represented by a union. When DOL determines that employee protective arrangements comply with labor protection requirements, DOL will provide a certification to FTA. The grant agreement between FTA and the grant applicant incorporates by reference the employee protective arrangements certified by DOL.

Applicants must identify any labor organizations that may represent their employees and all labor organizations that represent the employees of any

other transit providers in the service area of the project.

For each local of a nationally affiliated union, the applicant must provide the name of the national organization and the number or other designation of the local union. (*For example*, Amalgamated Transit Union local 1258) Since DOL makes its referral to the national union's headquarters, there is no need to provide a means of contacting the local organization.

However, for each independent labor organization (*i.e.*, a union that is not affiliated with a national or international organization) the local information will be necessary (name of organization, address, contact person, phone, fax numbers).

Where a labor organization represents transit employees in the service area of the project, DOL must refer the proposed protective arrangements to each union and to each recipient. For this reason, please provide DOL with a contact person, address, telephone number and fax number for your company, and associated union information.

DOL issued a **Federal Register** notice addressing the new TEA-21 programs, including the OTRB Accessibility Program, "Amendment to Section 5333(b) Guidelines to Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century (TEA-21)"; Final Rule, dated July 28, 1999. FTA issued a "Dear Colleague" letter, dated December 5, 2000, addressing DOL processing of grant applications. Attached to the letter is an application checklist, which provides information that DOL must have in order to review and certify FTA grant applications. This letter and attachment can be found at: <http://www.fta.dot.gov/office/public/c0019.html>. Questions concerning protective arrangements and related matters pertaining to transit employees should be addressed to the Division of Statutory Programs, Department of Labor, 200 Constitution Avenue NW., Room N-5411, Washington, DC 20210; telephone (202) 693-0126, fax (202) 219-5338.

#### D. Planning

Applicants are encouraged to notify the appropriate state departments of transportation and metropolitan planning organizations (MPO) in areas likely to be served by equipment made accessible through funds made available in this program. Those organizations, in turn, should take appropriate steps to inform the public, and individuals requiring fully accessible services in particular, of operators' intentions to

expand the accessibility of their services. Incorporation of funded projects in the plans and transportation improvement programs of states and metropolitan areas by states and MPOs also is encouraged, but is not required.

#### E. Standard Assurances

The Applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out any project supported by the FTA grant. The Applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with FTA. The Applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and affect the implementation of the project. The Applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise. The Applicant must submit the Certifications and Assurances for the FTA Over-the-Road Bus Accessibility Program found at Appendix B.

#### 3. Reporting

Post-award reporting requirements include submission of final Financial Status Report and milestone report, or annual reports for grants remaining open at the end of each Federal fiscal year (September 30). Documentation is required for payment.

#### VII. Agency Contact(s)

Contact the appropriate FTA Regional Administrator (see Appendix C) for application-specific information and issues. For general program information, contact Blenda Younger, Office of Transit Programs, (202) 366-2053, e-mail: [blenda.younger@fta.dot.gov](mailto:blenda.younger@fta.dot.gov). A TDD is available at 1-800-877-8339 (TDD/FIRS).

Issued on: January 27, 2006.

**David B. Horner,**  
Chief Counsel.

#### Appendix A—Over-the-Road Bus Accessibility Program Project Proposal Application (Paper or Electronic Project Narrative)

(See Section IV.2 of **Federal Register** announcement for detailed explanation of application content).

In addition to OMB Standard Form 424, Application For Federal Assistance, provide the following information:

##### 1. Applicant Information

- A. Company Name:
- B. DUNS Number:

##### C. For Notification of Project Selection Contact:

- Name of Individual:
- Address:
- FAX:
- Telephone number:
- D. Describe Services Provided by Company, including Areas Served:
- E. Intercity Fixed-Route Carriers:
  - \_\_\_ Large/Class I (gross annual operating revenues of \$5.3 Million or more)
  - \_\_\_ Small (gross annual revenues of less than \$5.3 Million)
- F. Existing Fleet and Employee Information:
  - \_\_\_ Total number of over-the-road buses in fleet
  - \_\_\_ Number of over-the-road buses in fleet used for intercity fixed-route service
  - \_\_\_ Number of over-the-road buses intercity-fixed-route service that currently have lifts
  - \_\_\_ Number of over-the-road buses in fleet used for Other Service, *e.g.*, Charter, Tour, & Commuter
  - \_\_\_ Number of over-the-road buses used in "other" service that currently have lifts
  - \_\_\_ Number of Employees
- G. Estimate of the proportion of service, if any, that is intercity fixed-route
  - \_\_\_ % of services is intercity fixed-route.
- H. Describe your technical, legal, and financial capacity to implement the proposed project. Include evidence of operating authority.

##### 2. Project Information

###### A. Federal Amount Requested (Up to 90% Federal Share):

Intercity Fixed Route Service:  
 \$ \_\_\_\_\_ for # \_\_\_\_\_ New Over-the-road Buses  
 \$ \_\_\_\_\_ for # \_\_\_\_\_ Retrofits  
 \$ \_\_\_\_\_ for # \_\_\_\_\_ Employees—  
 Training

Other Service (Commuter, Charter, or Tour)  
 \$ \_\_\_\_\_ for # \_\_\_\_\_ New Over-the-road Buses  
 \$ \_\_\_\_\_ for # \_\_\_\_\_ Retrofits  
 \$ \_\_\_\_\_ for # \_\_\_\_\_ Employees—  
 Training

###### B. If requesting funding for intercity service, provide evidence that:

1. The applicant provides scheduled, intercity, fixed route, over-the-road bus service that interlines with one or more scheduled, intercity bus operators. Such evidence includes applicant's membership in the National Bus Traffic Association or participation in separate interline agreements, and participation in interline tariffs or price lists issued by, or on behalf of, scheduled, intercity bus operators with whom the applicant interlines.
2. The applicant has obtained authority from the Federal Motor Carrier Safety Administration or the Interstate Commerce Commission to operate scheduled, intercity, fixed route service.
3. The applicant is included in Russell's Official National Motor Coach Guide showing that it provides regularly scheduled, fixed route over-the-road bus service with meaningful connections with scheduled intercity bus service to more distant points.
4. The applicant maintains a website showing routes and schedules of its regularly

scheduled, fixed route over-the-road bus service and its meaningful connections to other scheduled, intercity bus service.

5. The applicant maintains published schedules showing its regularly scheduled, fixed route over-the-road bus service and its meaningful connections to other scheduled, intercity bus service.

6. The applicant participates in the International Registration Plan (IRP) apportionment program.

C. Document Matching Funds, including Amount and Source.

D. Describe Project, including Components to be funded, *i.e.*, Lifts, Tie-downs, Moveable Seats, etc. and/or Training.

E. Provide Project Time Line, including Significant Milestones such as Date of Contract for Purchase of Vehicle(s), and actual or expected delivery date of vehicles.

F. Project Evaluation Criteria. Provide information addressing the following criteria:

- The identified need for over-the-road bus accessibility for persons with disabilities in the areas served by the applicant. (20 points)
- The extent to which the applicant demonstrated innovative strategies and financial commitment to providing access to over-the-road buses to persons with disabilities. (20 points)
- The extent to which the over-the-road bus operator acquired equipment required by DOT's over-the-road bus accessibility rule prior to the required time frame in the rule. (20 points)
- The extent to which financing the costs of complying with DOT's rule presents a financial hardship for the applicant. (20 points)
- The impact of accessibility requirements on the continuation of over-the-road bus service with particular consideration of the impact of the requirements on service to rural areas and for low income individuals. (20 points)

G. Labor Information

- List labor organizations that may represent your employees and all labor organizations that represent the employees of any transit providers in the service area of the project.
- For each local of a nationally affiliated union, provide the name of the national organization and the number or other designation of the local union.
- For each independent labor organization, provide the local information, including: name of organization, address, contact person, phone and fax numbers.
- For transit employee unions in service area of project, provide information including: contact person, address, telephone number and fax number for your company and associated union information.

#### Appendix B—Federal Fiscal Year 2006 Certifications and Assurances for the Federal Transit Administration Over-the-Road Bus Accessibility Grants

This list is a comprehensive compilation of the certifications and assurances required by Federal law for the OTRB Accessibility Grants. At the end of this list is a Signature Page on which the Applicant and its attorney certify compliance with all certifications and

assurances applicable to the OTRB Accessibility Grants. All Applicants are advised to read the entire text of these certifications and assurances to be confident of their responsibilities and commitments.

If an Applicant has submitted the Federal Transit Administration's (FTA) standard comprehensive Federal Fiscal Year 2006 Certifications and Assurances for Federal Transit Administration Assistance Programs, the Applicant need not submit these certifications and assurances. This is because the Categories I and II of certifications and assurances below are identical, respectively, to Categories 01 and 02 of FTA's standard certifications and assurances for Fiscal Year 2006.

*References:* The Transportation Equity Act for the 21st Century, Pub. L. 105-178, June 9, 1998, as amended, 49 U.S.C. chapter 53, Title 23, U.S.C., U.S. DOT and FTA regulations at 49 CFR, joint U.S. Architectural and Transportation Barriers Compliance Board/U.S. DOT regulations at 36 CFR Part 1194, and FTA Circulars.

#### Category I. For Each Applicant

Each Applicant for FTA assistance must provide all assurances in this Category "I."

Unless FTA expressly determines otherwise in writing, FTA may not award any Federal assistance until the Applicant provides the following assurances by selecting Category "I."

#### A. Assurance of Authority of the Applicant and Its Representative

The authorized representative of the Applicant and the attorney who sign these certifications, assurances, and agreements affirm that both the Applicant and its authorized representative have adequate authority under applicable state and local law and the Applicant's by-laws or internal rules to:

- (1) Execute and file the application for Federal assistance on behalf of the Applicant;
- (2) Execute and file the required certifications, assurances, and agreements on behalf of the Applicant binding the Applicant; and
- (3) Execute grant agreements and cooperative agreements with FTA on behalf of the Applicant.

#### B. Standard Assurances

The Applicant assures that it will comply with all applicable Federal statutes and regulations in carrying out any project supported by an FTA grant or cooperative agreement. The Applicant agrees that it is under a continuing obligation to comply with the terms and conditions of the grant agreement or cooperative agreement issued for its project with FTA. The Applicant recognizes that Federal laws and regulations may be modified from time to time and those modifications may affect project implementation.

The Applicant understands that Presidential executive orders and Federal directives, including Federal policies and program guidance may be issued concerning matters affecting the Applicant or its project. The Applicant agrees that the most recent Federal laws, regulations, and directives will

apply to the project, unless FTA issues a written determination otherwise.

#### C. Intergovernmental Review Assurance

The Applicant assures that each application for Federal assistance it submits to FTA has been or will be submitted for intergovernmental review to the appropriate state and local agencies as determined by the state. Specifically, the Applicant assures that it has fulfilled or will fulfill the obligations imposed on FTA by U.S. Department of Transportation (U.S. DOT) regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17.

#### D. Nondiscrimination Assurance

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), by Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and by U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Applicant assures that it will comply with all requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Applicant receives Federal assistance awarded by the U.S. DOT or FTA.

Specifically, during the period in which Federal assistance is extended to the project, or project property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits, or as long as the Applicant retains ownership or possession of the project property, whichever is longer, the Applicant assures that:

(1) Each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.

(2) It will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Applicant assures that it will submit the required information pertaining to its compliance with these provisions.

(3) It will include in each subagreement, property transfer agreement, third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements imposed by or

issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d and 49 CFR part 21 to other parties involved therein including any subrecipient, transferee, third party contractor, third party subcontractor at any level, successor in interest, or any other participant in the project.

(4) Should it transfer real property, structures, or improvements financed with Federal assistance provided by FTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits.

(5) The United States has a right to seek judicial enforcement with regard to any matter arising under the Act, regulations, and this assurance.

(6) It will make any changes in its Title VI implementing procedures as U.S. DOT or FTA may request to achieve compliance with the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21.

#### *E. Assurance of Nondiscrimination on the Basis of Disability*

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR 27.9, the Applicant assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Applicant assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*, and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any other applicable Federal laws that may be enacted or Federal regulations that may be promulgated.

#### *F. U.S. Office of Management and Budget (OMB) Assurances*

Consistent with OMB assurances set forth in SF-424B and SF-424D, the Applicant assures that, with respect to itself or its project, the Applicant:

(1) Has the legal authority to apply for Federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in its application;

(2) Will give FTA, the Comptroller General of the United States, and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives;

(3) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain;

(4) Will initiate and complete the work within the applicable project time periods following receipt of FTA approval;

(5) Will comply with all applicable Federal statutes relating to nondiscrimination including, but not limited to:

(a) Title VI of the Civil Rights Act, 42 U.S.C. 2000d, which prohibits discrimination on the basis of race, color, or national origin;

(b) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 through 1683, and 1685 through 1687, and U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25, which prohibit discrimination on the basis of sex;

(c) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicap;

(d) The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 through 6107, which prohibits discrimination on the basis of age;

(e) The Drug Abuse Office and Treatment Act of 1972, Pub. L. 92-255, March 21, 1972, and amendments thereto, 21 U.S.C. 1174 *et seq.* relating to nondiscrimination on the basis of drug abuse;

(f) The Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, Pub. L. 91-616, Dec. 31, 1970, and amendments thereto, 42 U.S.C. 4581 *et seq.* relating to nondiscrimination on the basis of alcohol abuse or alcoholism;

(g) The Public Health Service Act of 1912, as amended, 42 U.S.C. 290dd-3 and 290ee-3, related to confidentiality of alcohol and drug abuse patient records;

(h) Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*, relating to nondiscrimination in the sale, rental, or financing of housing;

(i) Any other nondiscrimination provisions in the specific statutes under which Federal assistance for the project may be provided including, but not limited, to 49 U.S.C. 5332, which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity, and section 1101(b) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), 23 U.S.C. 101 note, which provides for participation of disadvantaged business enterprises in FTA programs; and

(j) Any other nondiscrimination statute(s) that may apply to the project;

(6) To the extent applicable, will comply with, or has complied with, the requirements

of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (Uniform Relocation Act) 42 U.S.C. 4601 *et seq.*, which, among other things, provide for fair and equitable treatment of persons displaced or persons whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes and displacement caused by the project regardless of Federal participation in any purchase. As required by sections 210 and 305 of the Uniform Relocation Act, 42 U.S.C. 4630 and 4655, and by U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR 24.4, the Applicant assures that it has the requisite authority under applicable state and local law to comply with the requirements of the Uniform Relocation Act, 42 U.S.C. 4601 *et seq.*, and U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR part 24, and will comply with that Act or has complied with that Act and those implementing regulations, including but not limited to the following:

(a) The Applicant will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24;

(b) The Applicant will provide fair and reasonable relocation payments and assistance as required by 42 U.S.C. 4622, 4623, and 4624; 49 CFR part 24; and any applicable FTA procedures, to or for families, individuals, partnerships, corporations, or associations displaced as a result of any project financed with FTA assistance;

(c) The Applicant will provide relocation assistance programs offering the services described in 42 U.S.C. 4625 to such displaced families, individuals, partnerships, corporations, or associations in the manner provided in 49 CFR part 24;

(d) Within a reasonable time before displacement, the Applicant will make available comparable replacement dwellings to displaced families and individuals as required by 42 U.S.C. 4625(c)(3);

(e) The Applicant will carry out the relocation process in such manner as to provide displaced persons with uniform and consistent services, and will make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin;

(f) In acquiring real property, the Applicant will be guided to the greatest extent practicable under state law, by the real property acquisition policies of 42 U.S.C. 4651 and 4652;

(g) The Applicant will pay or reimburse property owners for necessary expenses as specified in 42 U.S.C. 4653 and 4654, with the understanding that FTA will provide Federal financial assistance for the Applicant's eligible costs of providing payments for those expenses, as required by 42 U.S.C. 4631;

(h) The Applicant will execute such amendments to third party contracts and subagreements financed with FTA assistance



and execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement the assurances provided herein; and

(i) The Applicant agrees to make these assurances part of or incorporate them by reference into any third party contract or subagreement, or any amendments thereto, relating to any project financed by FTA involving relocation or land acquisition and provide in any affected document that these relocation and land acquisition provisions shall supersede any conflicting provisions;

(7) To the extent applicable, will comply with the Davis-Bacon Act, as amended, 40 U.S.C. 3141 *et seq.*, the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. 874, and the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3701 *et seq.*, regarding labor standards for federally assisted subagreements;

(8) To the extent applicable, will comply with the flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), requiring Applicants and their subrecipients in a special flood hazard area to participate in the program and purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more;

(9) To the extent applicable, will comply with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures;

(10) To the extent applicable, will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities on which a construction project supported with FTA assistance takes place without permission and instructions from FTA;

(11) To the extent required by FTA, will record the Federal interest in the title of real property, and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project;

(12) To the extent applicable, will comply with FTA provisions concerning the drafting, review, and approval of construction plans and specifications of any construction project supported with FTA assistance. As required by U.S. DOT regulations, "Seismic Safety," 49 CFR 41.117(d), before accepting delivery of any building financed with FTA assistance, it will obtain a certificate of compliance with the seismic design and construction requirements of 49 CFR part 41;

(13) To the extent applicable, will provide and maintain competent and adequate engineering supervision at the construction site of any project supported with FTA assistance to ensure that the complete work conforms with the approved plans and specifications, and will furnish progress reports and such other information as may be required by FTA or the state;

(14) To the extent applicable, will comply with any applicable environmental standards that may be prescribed to implement the following Federal laws and executive orders:

(a) Institution of environmental quality control measures under the National

Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 through 4335 and Executive Order No. 11514, as amended, 42 U.S.C. 4321 *note*;

(b) Notification of violating facilities pursuant to Executive Order No. 11738, 42 U.S.C. 7606 *note*;

(c) Protection of wetlands pursuant to Executive Order No. 11990, 42 U.S.C. 4321 *note*;

(d) Evaluation of flood hazards in floodplains in accordance with Executive Order No. 11988, 42 U.S.C. 4321 *note*;

(e) Assurance of project consistency with the approved state management program developed pursuant to the requirements of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 through 1465;

(f) Conformity of Federal actions to State (Clean Air) Implementation Plans under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 through 7671q;

(g) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f through 300j-6;

(h) Protection of endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 through 1544; and

(i) Environmental protections for Federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, state, or local significance or any land from a historic site of national, state, or local significance to be used in a transportation project as required by 49 U.S.C. 303(b) and 303(c);

(j) Protection of the components of the national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 through 1287; and

(k) Provision of assistance to FTA in complying with section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f; with the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469 through 469c; and with Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 *note*;

(15) To the extent applicable, will comply with the requirements of the Hatch Act, 5 U.S.C. 1501 through 1508 and 7324 through 7326, which limit the political activities of state and local agencies and their officers and employees whose primary employment activities are financed in whole or part with Federal funds including a Federal loan, grant agreement, or cooperative agreement except, in accordance with 49 U.S.C. 5307(k)(2) and 23 U.S.C. 142(g), the Hatch Act does not apply to a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA assistance to whom that Act does not otherwise apply;

(16) To the extent applicable, will comply with the National Research Act, Pub. L. 93-348, July 12, 1974, as amended, 42 U.S.C. 289 *et seq.*, and U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11, regarding the protection of human subjects involved in research, development, and related activities supported by Federal assistance;

(17) To the extent applicable, will comply with the Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. 2131 *et seq.*, and U.S. Department of Agriculture regulations, "Animal Welfare," 9 CFR subchapter A, parts 1, 2, 3, and 4, regarding the care, handling, and treatment of warm blooded animals held or used for research, teaching, or other activities supported by Federal assistance;

(18) Will have performed the financial and compliance audits as required by the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.*, OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," Revised, and the most recent applicable OMB A-133 Compliance Supplement provisions for the U.S. DOT; and

(19) To the extent applicable, will comply with all applicable provisions of all other Federal laws, regulations, and directives governing the project, except to the extent that FTA has expressly approved otherwise in writing.

## II. Lobbying Certification

An Applicant that submits or intends to submit an application to FTA for Federal assistance exceeding \$100,000 is required to provide the following certification. FTA may not award Federal assistance exceeding \$100,000 until the Applicant provides this certification by selecting Category "II."

A. As required by 31 U.S.C. 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, the Applicant's authorized representative certifies to the best of his or her knowledge and belief that for each application to FTA for Federal assistance exceeding \$100,000:

(1) No Federal appropriated funds have been or will be paid by or on behalf of the Applicant to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress regarding the award of Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; and

(2) If any funds other than Federal appropriated funds have been or will be paid to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application for Federal assistance, the Applicant assures that it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," including information required by the instructions accompanying the form, which form may be amended to omit such information as authorized by 31 U.S.C. 1352.

(3) The language of this certification shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, subagreements, contracts under grants, loans, and cooperative agreements).

B. The Applicant understands that this certification is a material representation of fact upon which reliance is placed by the Federal Government and that submission of this certification is a prerequisite for

providing Federal assistance for a transaction covered by 31 U.S.C. 1352. The Applicant also understands that any person who fails to file a required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### Signature Page

#### Certifications and Assurances for the FTA Over-the-Road Bus Accessibility Program

The Applicant agrees to comply with the applicable requirements of the following Categories of certifications and assurances it has selected below:

Category	Description
I. ....	For Each Applicant ... _____
II. ....	Lobbying ..... _____

#### Affirmation of Applicant

Name of Applicant: \_\_\_\_\_  
Name and Relationship of Authorized Representative: \_\_\_\_\_

BY SIGNING BELOW, on behalf of the Applicant, I declare that the Applicant has duly authorized me to make the certifications and assurances set forth above and bind the Applicant's compliance. Thus, the Applicant agrees to comply with all Federal statutes, regulations, executive orders, and Federal requirements applicable to each application it makes to the Federal Transit Administration (FTA) in Federal Fiscal Year 2006.

FTA intends that the certifications and assurances the Applicant selects above, as representative of the certifications and assurances in set forth in this document, should apply, as required, to each Over-the-Road Bus Accessibility Grant for which the Applicant seeks now, or may later, seek FTA assistance during Federal Fiscal Year 2006.

The Applicant affirms the truthfulness and accuracy of the certifications and assurances it has made in the statements submitted herein with this document and any other submission made to FTA, and acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 *et seq.*, as implemented by U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31 apply to any certification, assurance or submission made to FTA. The criminal fraud provisions of 18 U.S.C. 1001 apply to any certification, assurance, or submission made in connection with a Federal Transit program authorized in Chapter 53 or any other statute

In signing this document, I declare under penalties of perjury that the foregoing certifications and assurances, and any other statements made by me on behalf of the Applicant are true and correct.

Signature \_\_\_\_\_

Date: \_\_\_\_\_

Name \_\_\_\_\_

Authorized Representative of Applicant

### Signature Page

Each Applicant for an FTA Over-the-Road Bus Accessibility Grant must provide an Affirmation of Applicant's Attorney

pertaining to the Applicant's legal capacity. The Applicant may enter its signature in lieu of the Attorney's signature, provided the Applicant has on file this Affirmation, signed by the attorney and dated this Federal fiscal year, and the Attorney's Affirmation has been entered into the TEAM-Web system as an attachment.

#### Affirmation of Applicant's Attorney

For (Name of Applicant): \_\_\_\_\_

As the undersigned Attorney for the above named Applicant, I hereby affirm to the Applicant that it has authority under state and local law to make and comply with the certifications and assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the certifications and assurances have been legally made and constitute legal and binding obligations on the Applicant.

I further affirm to the Applicant that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these certifications and assurances, or of the performance of the project.

Signature \_\_\_\_\_

Date: \_\_\_\_\_

Name \_\_\_\_\_

Attorney for Applicant

(These Signature Pages must be appropriately completed and signed as indicated.)

#### Appendix C—FTA Regional Offices

*Region I*—Massachusetts, Rhode Island, Connecticut, New Hampshire, Vermont and Maine, Richard H. Doyle, FTA Regional Administrator, Volpe National Transportation Systems Center, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142-1093, (617) 494-2055.

*Region II*—New York, New Jersey, Virgin Islands, Letitia Thompson, FTA Regional Administrator, One Bowling Green, Room 429, New York, NY 10004-1415, (212) 668-2170.

*Region III*—Pennsylvania, Maryland, Virginia, West Virginia, Delaware, Washington, DC, Susan Borinsky, FTA Regional Administrator, 1760 Market Street, Suite 500, Philadelphia, PA 19103-4124, (215) 656-7100.

*Region IV*—Georgia, North Carolina, South Carolina, Florida, Mississippi, Tennessee, Kentucky, Alabama, Puerto Rico, Yvette G. Taylor, FTA Regional Administrator, 61 Forsyth Street, SW., Suite 17T50, Atlanta, GA 30303, (404) 562-3500.

*Region V*—Illinois, Indiana, Ohio, Wisconsin, Minnesota, Michigan, Marisol R. Simon, FTA Regional Administrator, 200 West Adams Street, Suite 320, Chicago, IL 60606-5232, (312) 353-2789.

*Region VI*—Texas, New Mexico, Louisiana, Arkansas, Oklahoma, Robert Patrick, FTA Regional Administrator, 819 Taylor Street, Room 8A36, Ft. Worth, TX 76102, (817) 978-0550.

*Region VII*—Iowa, Nebraska, Kansas, Missouri, Mokhtee Ahmad, FTA Regional Administrator, 901 Locust Street, Suite 404, Kansas City, MO 64106, (816) 329-3920.

*Region VIII*—Colorado, North Dakota, South Dakota, Montana, Wyoming, Utah, Lee Waddleton, FTA Regional Administrator,

12300 West Dakota Avenue Suite 310, Lakewood, CO 80228-2583, (720) 963-3300.

*Region IX*—California, Arizona, Nevada, Hawaii, American Samoa, Guam, Leslie Rogers, FTA Regional Administrator, 201 Mission Street, Suite 1650, San Francisco, CA 94105-1831, (415) 744-3133.

*Region X*—Washington, Oregon, Idaho, Alaska, Richard Krochalis, FTA Regional Administrator, Jackson Federal Building, 915 Second Avenue, Suite 3142, Seattle, WA 98174-1002, (206) 220-7954.

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[NHTSA-2006-23772]

#### Incentive Grant Program To Prohibit Racial Profiling

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Announcement of an incentive grant program to encourage States to enact and enforce laws that prohibit the use of racial profiling in the enforcement of traffic laws on Federal-aid highways, and to maintain and allow public inspection of statistics on motor vehicle stops.

**SUMMARY:** The National Highway Traffic Safety Administration (NHTSA) announces a new incentive grant program concerning racial profiling under section 1906 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users (SAFETEA-LU). This Notice informs the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, through their Governors' Representatives for Highway Safety, of the application procedures for grants available in fiscal years 2006 through 2009.

**DATES:** Applications must be received by the appropriate NHTSA Regional Office on or before July 1 of the fiscal year for which a State seeks a grant.

**ADDRESSES:** Applications must be submitted to the appropriate Regional Administrator.

**FOR FURTHER INFORMATION CONTACT:** For program issues, Keith Williams, Office of Traffic Injury Control, Enforcement & Justice Services Division (NTI-122), NHTSA, 400 Seventh Street, SW., Room 5130, Washington, DC, 20590, by phone at (202) 366-0543 or by e-mail at [keith.williams@nhtsa.dot.gov](mailto:keith.williams@nhtsa.dot.gov). For legal issues, Dana Sade, Office of Chief