

scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at <http://www.regulations.gov>.

Follow the online instructions for submitting comments.

Communications received by May 30, 2023 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FY 2023 Competitive Funding Opportunity: Public Transportation on Indian Reservations Program; Tribal Transit Program

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of Funding Opportunity (NOFO).

SUMMARY: The Federal Transit Administration (FTA) announces the opportunity to apply for \$8,935,753 in competitive grants for the Fiscal Year (FY) 2023 Public Transportation on Indian Reservations (Tribal Transit)

Program. As required by Federal public transportation law, funds will be awarded competitively for any purpose eligible under FTA's Formula Grants for Rural Areas Program, including planning, capital, and operating assistance for Tribal public transit services in rural areas. FTA may award additional funding that is made available to the program prior to the announcement of project selections.

DATES: Complete proposals must be submitted electronically through the [GRANTS.GOV](https://www.grants.gov) "APPLY" function by 11:59 p.m. Eastern time June 26, 2023. Any applicant intending to apply should initiate the process of registering on the [GRANTS.GOV](https://www.grants.gov) site immediately to ensure completion of registration before the submission deadline.

ADDRESSES: Instructions for applying can be found on FTA's website at <https://www.transit.dot.gov/howtoapply> and in the "FIND" module of [GRANTS.GOV](https://www.grants.gov). The funding opportunity ID is FTA-2023-010-TPM-Tribal. Mail and fax submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT: Elan Flippin, Office of Program Management, (202) 366-3800 or email TribalTransit@dot.gov. A TDD is available at 1-800-877-8339 (TDD/FIRS).

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A. Program Description

Federal public transportation law (49 U.S.C. 5311(c)(2)(A)) authorizes FTA to award competitive grants "under such terms and conditions as may be established by the Secretary" to Indian Tribes for any purpose eligible under FTA's Formula Grants for Rural Areas Program, 49 U.S.C. 5311, including planning, capital, and operating assistance. Tribes may apply for this funding directly.

The Tribal Transit Program (Federal Assistance Listing: 20.509) supports FTA's strategic goals and objectives through investments that (1) enhance safety, (2) renew our transit systems; (3) reduce greenhouse gas emissions in the public transportation sector, (4) improve equity, and (5) connect communities. This program also supports the President's Building a Better America initiative to mobilize American ingenuity to build a modern

infrastructure and an equitable, clean energy future. Investments made in tribal communities through this program will also advance the Department of Transportation's Justice40 Initiative, created by Executive Order 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619). For purposes of Justice40, all Tribal areas are considered to be disadvantaged communities. In addition, FTA seeks to fund projects under the Tribal Transit Program that reduce greenhouse gas emissions in the transportation sector, incorporate evidence-based climate resilience measures and features, reduce the lifecycle greenhouse gas emissions from the project materials, and avoid adverse environmental impacts to air or water quality, wetlands, and endangered species, and address the disproportionate negative environmental impacts of transportation on disadvantaged communities, consistent with Executive Order 14008.

Furthermore, the Tribal Transit Program and this NOFO will advance the goals of Executive Order 13985 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009).

Competitive funds distributed to Indian Tribes under the Tribal Transit Program do not replace or reduce funds that Indian Tribes receive from states through FTA's Formula Grants for Rural Areas Program (Section 5311 Program). Specific project eligibility under this competitive allocation is described in Section C of this notice.

B. Federal Award Information

Federal public transportation law (49 U.S.C. 5338(a)(2)(F) and (49 U.S.C. 5311(c)(1)(A)), as amended by the Infrastructure Investment and Jobs Act (Pub. L. 117-58, the "Bipartisan Infrastructure Law" or "BIL")) authorizes, and the Consolidated Appropriations Act, 2023 (Pub. L. 117-328) appropriates \$8,935,753 in FY 2023 for competitive grants under the Tribal Transit Program. Additional funds made available prior to project selection may be allocated to eligible projects.

FTA will set a \$25,000 cap on planning grant awards, and FTA has discretion to cap capital and operating awards. There is no minimum or maximum grant award amount for operating and capital projects. Planning projects do not have a minimum grant award amount but will not receive an award of more than \$25,000.

In FY 2022, the program received applications for 47 eligible projects requesting a total of \$18,060,946.

Twenty-five projects were funded to 25 Tribes at a total of \$8,635,124.

FTA will grant pre-award authority to incur costs for selected projects beginning on the date FY 2023 project selections are announced on FTA's website. Funds are available for obligation for two fiscal years after the fiscal year in which the competitive awards are announced. Funds are available only for projects that have not incurred costs prior to the announcement of project selections.

C. Eligibility Information

1. Eligible Applicants

Eligible applicants include federally recognized Indian Tribes or Alaska Native Villages, groups, or communities as identified by the U.S. Department of the Interior (DOI) Bureau of Indian Affairs (BIA). This list can be found at: <https://www.bia.gov/service/tribal-leaders-directory/federally-recognized-tribes>. To be an eligible recipient, an Indian Tribe must have the requisite legal, financial, and technical capabilities to receive and administer Federal funds under this program. Additionally, applicants must provide service in a rural area with a population of less than 50,000. A service area can include some portions of urban areas (as identified in the most recent decennial census), so long as rural areas are also served. For purposes of this funding opportunity, eligible service areas are rural areas as defined under the 2010 census.

2. Cost Sharing or Matching

There is no local match requirement for operating, capital, or planning projects under this program. All projects will be awarded at a 100 percent Federal share, unless the applicant chooses to provide a local match at its own discretion. If choosing to provide a local match, the proposal should include a description of the Indian Tribe's financial commitment.

If desired by the applicant, Tribes may use any local match eligible under Chapter 53 of Title 49, including cash from non-Government sources other than revenues from providing public transportation services; revenues derived from the sale of advertising and concessions; amounts received under a service agreement with a State or local social service agency or private social service organization; revenues generated from value capture financing mechanisms; funds from an undistributed cash surplus; replacement or depreciation cash fund or reserve; new capital; or in-kind contributions. Amounts appropriated or otherwise

made available to a department or agency of the Government that are eligible to be expended for transportation, including amounts made available to carry out the Federal Lands Highway Program established by Section 204 of Title 23 are eligible sources of local match. Transportation development credits or in-kind match may be used for local match if identified and documented in the application. More information about eligible sources of local match can be found in FTA Circular 9040.1G, available on the FTA website.

3. Eligible Projects

Eligible projects include any purpose eligible under FTA's Formula Grants for Rural Areas Program, 49 U.S.C. 5311, including public transportation planning, capital, or operating expenses.

Public transportation includes regular, continuing shared-ride surface transportation services open to the public or open to a segment of the public defined by age, disability, or low income. Specific types of projects include: capital investment for start-ups, replacement, or expansion needs; operating assistance; and planning projects up to \$25,000. Applications that include requests for more than one project type must identify the specific funds requested for each project type (planning, capital, or operating).

Indian Tribes applying for capital replacement or expansion needs must demonstrate a sustainable source of operating funds for existing or expanded services.

D. Application and Submission Information

1. Address To Request Application Package

Applications must be submitted electronically through [GRANTS.GOV](https://www.grants.gov). General information for submitting applications through [GRANTS.GOV](https://www.grants.gov) can be found at <https://www.fta.dot.gov/howtoapply> along with specific instructions for the forms and attachments required for submission.

2. Content and Form of Application Submission

(i) Proposal Submission

Applications must be submitted electronically through [GRANTS.GOV](https://www.grants.gov). Mail and fax submissions will not be accepted. A complete proposal submission consists of two forms and their supporting attachments: the SF-424 Application for Federal Assistance (available at [GRANTS.GOV](https://www.grants.gov)) and the supplemental form for the FY 2023 Tribal Transit Program (available for

download at [GRANTS.GOV](https://www.grants.gov) or the FTA website at <https://www.transit.dot.gov/tribal-transit>). Failure to submit the information as requested can delay review or disqualify the application. The Tribal Transit supplemental form provides guidance and a consistent format for applicants to respond to the criteria outlined in this NOFO. The supplemental form and any supporting documents must be attached to the "Attachments" section of the SF-424. The application must include responses to all sections of the SF-424 Application for Federal Assistance and the supplemental form, unless indicated as optional. The information on the supplemental form will be used to determine applicant and project eligibility for the program and to evaluate the proposal against the selection criteria described in Section E of this notice.

FTA will only accept one supplemental form per SF-424 submission. Applicants may attach additional supporting information to the SF-424 submission, including but not limited to letters of support, project budgets, fleet status reports, or excerpts from relevant planning documents. Supporting documentation must be described and referenced by file name in the appropriate response section of the supplemental form, or it may not be reviewed.

Information such as applicant name, Federal amount requested, local match amount, if applicable, description of areas served, etc. may be requested in varying degrees of detail on both the SF-424 and Supplemental Form. Applicants must fill in all fields unless stated otherwise on the forms. Applicants should not place "N/A" or "refer to attachment" in lieu of typing in responses in the field sections. If information is copied into the supplemental form from another source, applicants should verify that pasted text is fully captured on the supplemental form and has not been truncated by the character limits built into the form. Applicants should use both the "Check Package for Errors" and the "Validate Form" validation buttons on both forms to check all required fields on the forms and ensure that the Federal and local amounts specified are consistent. Applicants should enter their information in the supplemental form (fillable PDF) that is made available on FTA's website or through the [GRANTS.GOV](https://www.grants.gov) application package and should attach this to the application in its original format. Applicants should not use scanned versions of the form, "print" the form to PDF, convert or create a version using another text

editor, etc. Complete instructions on the application process can be found at <https://www.transit.dot.gov/howtoapply>.

(ii) Application Content

The SF-424 Mandatory Form and the Supplemental Form will prompt applicants for the required information, including:

a. Name of Federally recognized Tribe and, if appropriate, the specific tribal agency submitting the application.

b. Unique Entity ID (UEI) assigned by SAM.gov.

c. *Contact information including:* Contact name, title, address, phone number, and email address.

d. Congressional district(s) where project will take place.

e. Description of public transportation services, including areas currently served by the Tribe, if any.

f. Name of person(s) authorized to apply on applicant's behalf (must accompany the proposal with a signed transmittal letter).

g. *Complete Project Description:* Indicate the category for which funding is requested (*i.e.*, project type: capital, operating, or planning), and then indicate the project purpose (*i.e.*, start-up, expansion, or replacement). Describe the proposed project and what it will accomplish (*e.g.*, number and type of vehicles, routes, service area, schedules, type of services, fixed route or demand responsive, safety aspects), route miles (if fixed route), ridership numbers expected (actual if an existing system, estimated if a new system), major origins and destinations, population served, and whether the Tribe provides the service directly or contracts for services, and note vehicle maintenance plans.

h. *Project Timeline:* Include significant milestones such as date of contract for purchase of vehicles, actual or expected delivery date of vehicles; facility project phases (*e.g.*, environmental reviews, design, construction); or dates for completion of planning studies. If applying for operating funding for new services, indicate the period of time that funds would be used to operate the system (*e.g.*, one year). This section should also include any needed timelines for Tribal council project approvals, if applicable.

i. *Budget:* Provide a detailed budget for each proposed purpose, noting the Federal amount requested and any additional funds that will be used. Project budgets should show how different funding sources will share in each activity and present those data in dollars and percentages. The budget should identify other Federal funds the applicant is applying for or has been

awarded, if any, that the applicant intends to use. If applying for more than one project type (planning, capital, or operating), please specify the total amount of funds requested for each project type. An Indian Tribe may use up to fifteen percent of a grant award for capital projects for specific project-related planning and administration. The indirect cost rate may not exceed ten percent of the total amount awarded. Indian Tribes must also provide their annual operating budget as an attachment or under the "Financial Commitment and Operating Capacity" section of the supplemental form.

j. *Technical, Legal, Financial Capacity:* Applicants must be able to demonstrate adequate technical, legal, and financial capacity to be considered for funding. Every proposal must describe this capacity to implement the proposed project.

1. *Technical Capacity:* Provide examples of management of other Federal projects, including previously funded FTA projects or similar types of projects for which funding is being requested. Describe the resources available to implement the proposed transit project.

2. *Legal Capacity:* Provide documentation or other evidence to demonstrate status as a federally recognized Indian Tribe. Further, demonstrate evidence of an authorized representative with authority to bind the applicant and execute legal agreements with FTA. If applying for capital or operating funds, identify whether appropriate Federal or State operating authority exists.

3. *Financial Capacity:* Provide documentation or other evidence demonstrating current adequate financial systems to receive and manage a Federal grant. Fully describe: (1) all financial systems and controls; (2) other sources of funds currently managed; and (3) the long-term financial capacity to maintain the proposed or existing transit services.

k. Address all the applicable criteria and priority considerations identified in Section E.

3. *Unique Entity Identifier and System for Award Management (SAM)*

Each applicant is required to: (1) be registered in SAM before submitting an application; (2) provide a valid unique entity identifier in its application; and (3) continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by FTA. These requirements do not apply if the applicant is excepted from

registration by FTA or the U.S. Office of Management and Budget under 2 CFR 25.110. FTA may not make an award until the applicant has complied with all applicable unique entity identifier and SAM requirements. If an applicant has not fully complied with the requirements by the time FTA is ready to make an award, FTA may determine that the applicant is not qualified to receive an award and use that determination as a basis for making a Federal award to another applicant.

All applicants must provide a unique entity identifier provided by SAM. SAM registration takes approximately 3–5 business days, but since there could be unexpected steps or delays (for example, if there is a need to obtain an Employer Identification Number), FTA recommends allowing ample time, up to several weeks, for completion of all steps. For additional information on obtaining a unique entity identifier, please visit <https://www.sam.gov>.

4. *Submission Dates and Times*

Project proposals must be submitted electronically through *GRANTS.GOV* by 11:59 p.m. Eastern time on June 26, 2023. Proposals submitted after the deadline will only be considered under extraordinary circumstances not under the applicant's control. Applications are time and date stamped by *GRANTS.GOV* upon successful submission. Mail and fax submissions will not be accepted.

Within 48 hours after submitting an electronic application, the applicant should receive an email message from *GRANTS.GOV* with confirmation of successful transmission to *GRANTS.GOV*. If a notice of failed validation or incomplete materials is received, the applicant must address the reason for the failed validation, as described in the email notice, and resubmit before the submission deadline. If making a resubmission for any reason, include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating this is a resubmission.

FTA urges applicants to submit their project proposals at least 72 hours prior to the due date to allow time to receive the validation message and to correct any problems that may have caused a rejection notification. FTA will not accept submissions after the stated submission deadline, except under extraordinary circumstances not under the applicant's control. *GRANTS.GOV* scheduled maintenance and outage times are announced on the *GRANTS.GOV* website at <https://www.GRANTS.GOV>. The deadline will

not be extended due to scheduled maintenance or outages.

Applicants are encouraged to begin the process of registration on the *GRANTS.GOV* site well in advance of the submission deadline. Registration is a multi-step process that may take several weeks to complete before an application can be submitted. Registered applicants may still be required to take steps to keep their registration up to date before submissions can be made successfully. For example, (1) registration in the SAM is renewed annually, and (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in *GRANTS.GOV* by the AOR to make submissions.

5. Funding Restrictions

Funds must be used only for the specific purposes requested in the application and described in the resulting award. Funds under this NOFO cannot be used to reimburse projects for otherwise eligible expenses incurred prior to an FTA award under this program or until FTA has issued pre-award authority for selected projects. FTA will issue pre-award authority to incur costs for selected projects beginning on the date that project selections are announced. FTA does not provide pre-award authority for competitive funds until projects are selected, and even then, there are Federal requirements that must be met before costs are incurred. FTA will issue specific guidance to selectees regarding pre-award authority at the time of selection. For more information about FTA's policy on pre-award authority, please see the most recent Apportionment Notice on FTA's website. Refer to Section C.3., Eligible Projects, for information on activities that are allowable in this grant program. Allowable direct and indirect expenses must be consistent with the Governmentwide Uniform Administrative Requirements and Cost Principles (2 CFR 200) and FTA Circular 5010.1E.

6. Other Submission Requirements

Applicants are encouraged to identify scaled funding options in case insufficient funding is available to fund a project at the full requested amount. If an applicant indicates that a project is scalable, the applicant must provide an appropriate minimum funding amount that will fund an eligible project that achieves the objectives of the program and meets all relevant program requirements. The applicant must provide a clear explanation of how the project budget would be affected by a

reduced award. FTA may award a lesser amount regardless of whether a scalable option is provided.

All applications must be submitted via the *GRANTS.GOV* website. FTA does not accept applications on paper, by fax machine, email, or other means. For information on application submission requirements, please see Section D.1., Address to Request Application Package.

The Department may share application information within the Department or with other Federal agencies if the Department determines that sharing is relevant to the respective program's objectives.

E. Application Review Information

1. Criteria

A. Criteria for Capital and Operating Assistance Projects

Proposals for capital and operating assistance projects will be evaluated primarily on the responses provided in the supplemental form. Additional information may be provided to support the responses; however, any additional documentation must be directly referenced on the supplemental form, including the file name where the additional information can be found. Applications will be evaluated based on the quality and extent to which the following evaluation criteria are addressed. Applications will be evaluated based on the degree to which the applicant describes how the proposed project was developed; demonstrates that a sound basis for the project exists; and demonstrates that the applicant is ready to implement the project if funded.

(i). Planning and Local/Regional Prioritization

Information may vary depending upon how the planning process for the project was conducted and what is being requested. Planning and local/regional prioritization should:

- a. Describe the planning document or the planning process conducted to identify the proposed project;
- b. Provide a detailed project description, including the proposed service, vehicle and facility needs, and other pertinent characteristics of the proposed or existing service implementation;
- c. Identify existing transportation services in and near the proposed service area, and document in detail whether the proposed project will provide opportunities to coordinate service with existing transit services, including human service agencies,

intercity bus services, or other public transit providers;

d. Discuss the level of support by the community and Tribal government for the proposed project;

e. Describe how the mobility and client-access needs of Tribal human services agencies were considered in the planning process;

f. Describe what opportunities for public participation were provided in the planning process;

g. Describe how the proposed service complements rather than duplicates any currently available services;

h. If the Tribe is already providing transit service, describe if this project is included in the Tribe's transit asset management plan;

i. Describe the implementation schedule for the proposed project, including time period, staffing, and procurement; and

j. Describe any other planning or coordination efforts not mentioned above.

(ii). Project Readiness

Applications will be evaluated on the degree to which the applicant describes readiness to implement the project. The project readiness factor involves assessing whether:

a. The project qualifies for a categorical exclusion (see 23 CFR 771.118), or the required environmental work has been initiated or completed, for construction projects requiring an environmental assessment or environmental impact statement under, among other laws, the National Environmental Policy Act of 1969;

b. Project implementation plans are complete, including initial design of facilities projects;

c. Project funds can be obligated and the project can be implemented quickly if selected; and

d. The applicant demonstrates the ability to carry out the proposed project successfully.

(iii). Demonstration of Need

Applications will be evaluated based on the degree to which the applicant identifies the need for transit resources. In addition to project-specific criteria, FTA will consider the project's impact on service delivery and whether the project represents a one-time or periodic need that cannot reasonably be funded from FTA program formula allocations or State and local resources. FTA will evaluate how the proposal demonstrates the transit needs of the Indian Tribe as well as how the proposed transit improvements or the new service will address identified transit needs. Proposals should include information

such as destinations and services not currently accessible by transit; needs for access to jobs or health care; safety enhancements; special needs of elders or individuals with disabilities; behavioral health care needs of youth; income-based community needs; or other mobility needs. If an applicant received a planning grant in previous fiscal years, the proposal should indicate the status of the planning study and how the proposed project relates to that study.

If the proposal is for capital funding associated with an expansion or expanded service, the applicant should describe how current or growing demand for the service necessitates the expansion (and therefore, more capital) or the degree to which the project will address a current capacity constraint. Capital replacement projects should include information about the age, condition, and performance of the asset to be replaced by the proposed project or how the replacement is necessary to maintain the transit system in a state of good repair.

(iv). Demonstration of Benefits

Applications will be evaluated based on the degree to which the applicant identifies expected or, in the case of applications for operating assistance for existing service, achieved project benefits. FTA is particularly interested in how these investments will improve the quality of life for the Tribe and surrounding communities in which it is located. Applicants should describe how the transportation service or capital investment will provide greater access to employment opportunities, educational centers, healthcare, or other needs that impact the quality of life for the community and how it is expected to improve the environment. Possible examples include: increased or sustained ridership and daily trips; improved service; elimination of gaps in service; improved operations and coordination; increased reliability; and other applicable community benefits related to health care, education, the economy, or the environment. Benefits can be demonstrated by identifying the population of Tribal members and non-tribal members in the proposed project service area and estimating the number of daily one-way trips the proposed transit service will provide or the actual number of individual riders served. Applicants are encouraged to consider qualitative and quantitative benefits to the Indian Tribe and to the surrounding communities that are meaningful to them.

Using the information provided under this criterion, FTA will rate proposals

based on the quality and extent to which they discuss the following four factors:

- a. The project's ability to improve transit efficiency or increase ridership;
- b. Whether the project will improve or maintain mobility or eliminate gaps in service for the Indian Tribe;
- c. Whether the project will improve or maintain access to important destinations and services;
- d. Any other qualitative benefits, such as greater access to jobs, education, and health care services, and environmental considerations.

(v). Financial Commitment and Technical, Legal, Financial and Operating Capacity

Provision of a local match for the FY 2023 Tribal Transit Competitive Program is not required. Applications that include a local match will not be evaluated more favorably than those that do not. However, FTA is interested in ensuring that projects that receive funding are sustainable.

Applications must identify the source of local match (if any is included) and any other funding sources used by the Indian Tribe to support proposed transit services, including human service transportation funding, the Federal Highway Administration's Tribal Transportation Program funding, or other FTA programs. If applicable, the applicant also should describe how prior year Tribal Transit Program funds were spent to date to support the service. Additionally, Indian Tribes applying to operate new services should provide a sustainable funding plan that demonstrates how it intends to maintain operations.

If applicable, FTA will consider any other resources the Indian Tribe will contribute to the project, including in-kind contributions, commitments of support from local businesses, donations of land or equipment, and human resources. The proposal should describe to what extent the new project or funding for existing service leverages other funding. Based upon the information provided, the proposals will be rated on the extent to which the proposal demonstrates that:

- a. Tribal Transit Program funding does not replace existing funding;
- b. The Indian Tribe will provide non-financial support to the project;
- c. The Indian Tribe is able to demonstrate a sustainable funding plan; and
- d. Project funds are used in coordination with other services for efficient utilization of funds.

B. Criteria for Planning Proposals

For planning grants, the proposal must describe the need for and a general scope of the proposed study. Applications will be evaluated based on the degree to which the applicant addresses the following:

- a. The Tribe's long-term commitment to transit; and
- b. The method used to implement the proposed study and/or further tribal transit.

2. Review and Selection Process

An FTA technical evaluation committee will review proposals under the project evaluation criteria. FTA may seek clarification about any statement in an application. After consideration of the findings of the technical evaluation committee, the FTA Administrator will determine the final selection and amount of funding for each project. Geographic diversity and the applicant's receipt and management of other Federal transit funds may be considered in FTA's award decisions.

After applying the above criteria, in support of the President's January 20, 2021 Executive Order 14008, Tackling the Climate Crisis at Home and Abroad, FTA will give priority consideration to applications that are expected to create significant community benefits relating to the environment, including those projects that incorporate low or no emission technology or specific elements to address greenhouse gas emissions and climate change impacts. FTA encourages applicants to demonstrate whether they have considered climate change and environmental justice in terms of the transportation planning process or anticipated design components with outcomes that address climate change (e.g., resilience or adaptation measures). In particular, applicants may address how the project reduces greenhouse gas emissions in the transportation sector, incorporates evidence-based climate resilience measures and features, and reduces the lifecycle greenhouse gas emissions from the project materials. Applicants also may address the extent to which the project avoids adverse environmental impacts to air or water quality, wetlands, and endangered species, as well as address disproportionate negative impacts of climate change and pollution on disadvantaged communities, including natural disasters, with a focus on prevention, response, and recovery.

FTA intends to fund as many meritorious projects as possible. Only proposals from eligible recipients for eligible activities will be considered for

funding. Due to funding limitations, applicants that are selected for funding may receive less than the amount originally requested. In those cases, applicants must be able to demonstrate that the proposed projects are still viable and can be completed with the amount awarded.

3. Integrity and Performance Review

Prior to making an award with a total amount of Federal share greater than the simplified acquisition threshold (currently \$250,000), FTA is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). An applicant may review and comment on any information about itself that a Federal awarding agency previously entered into FAPIIS. FTA will consider any comments by the applicant, in addition to the other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in the Uniform Requirements for Federal Awards (2 CFR 200.206).

F. Federal Award Administration Information

1. Federal Award Notice

FTA will publish a list of the selected projects, including Federal dollar amounts and award recipients, on FTA's website. If selected, awardees will apply for a grant through FTA's Transit Award Management System (TrAMS). The appropriate FTA Regional Office and Tribal Liaison will manage project agreements. Project recipients should contact their FTA Regional Offices and Tribal Liaison for information about setting up grants in FTA's TrAMS.

2. Administrative and National Policy Requirements

a. Pre-Award Authority

FTA will issue specific guidance to recipients regarding pre-award authority at the time the project selections are announced. There is no blanket pre-award authority for these projects before announcement. FTA does not provide pre-award authority for competitive funds until projects are selected, and even then, there are Federal requirements that must be met before costs are incurred. For more information about FTA's policy on pre-award authority, please see the most recent Apportionment Notice at [https://](https://www.transit.dot.gov/funding/apportionments/current-apportionments)

www.transit.dot.gov/funding/apportionments/current-apportionments.

b. Grant Requirements

Except as otherwise provided in this NOFO, Tribal Transit Program grants are subject to the requirements of 49 U.S.C. 5311(c)(1), as described in FTA Circular 9040.1G for the Formula Grants for Rural Areas Program, and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200. All recipients must also follow the Award Management Requirements (FTA Circular 5010.1E). Recipients of capital assistance grants are required to either develop a Transit Asset Management Plan in compliance with 49 CFR part 625 or else to participate in a compliant group TAM Plan sponsored by a State DOT or other eligible entity (see <https://www.transit.dot.gov/TAM/Tribes> for more information). Technical assistance regarding these requirements is available from each FTA regional office.

c. Buy America and Domestic Preferences for Infrastructure Projects

As expressed in Executive Order 14005, 'Ensuring the Future Is Made in All of America by All of America's Workers' (86 FR 7475), the executive branch should maximize, consistent with law, the use of goods, products, and materials produced in, and services offered in, the United States. All capital procurements must comply with FTA's Buy America requirements (49 U.S.C. 5323(j)), which require that all iron, steel, and manufactured products be produced in the United States, and impose minimum domestic content and final assembly requirements for rolling stock. The cost of rolling stock components and subcomponents produced in the United States must be more than 70 percent of the cost of all components, and final assembly of rolling stock must occur in the United States. In addition, any award must comply with the Build America, Buy America Act (BABA) (Pub. L. 117-58, sections 70901-27). BABA provides that none of the funds provided under an award made pursuant to this notice may be used for a project unless all iron, steel, manufactured products, and construction materials are produced in the United States. FTA's Buy America requirements are consistent with BABA requirements for iron, steel, and manufactured products.

Any proposal that will require a waiver must identify the items for which a waiver will be sought in the application. Applicants should not

proceed with the expectation that waivers will be granted.

d. Disadvantaged Business Enterprise

Recipients of planning, capital, or operating assistance that will award prime contracts (excluding transit vehicle purchases), the cumulative total of which exceeds \$250,000 in FTA funds in a Federal fiscal year, must comply with the Disadvantaged Business Enterprise (DBE) program regulations (49 CFR part 26).

To be eligible to bid on any FTA-assisted transit vehicle procurement, entities that manufacture transit vehicles or perform post-production alterations or retrofitting must be certified Transit Vehicle Manufacturers (TVM). If a vehicle remanufacturer is responding to a solicitation for new or remanufactured vehicles with a vehicle to which the remanufacturer has provided post-production alterations or retrofitting (e.g., replacing major components such as engine to provide a "like new" vehicle), the vehicle remanufacturer must be a certified TVM.

The TVM rule requires that, prior to bidding on any FTA-assisted vehicle procurement, manufacturers of transit vehicles submit a DBE Program plan and annual goal methodology to FTA. FTA then will issue a TVM concurrence and certification letter. Grant recipients must verify each manufacturer's TVM status before accepting its bid. A list of compliant, certified TVMs is posted on FTA's website at <https://www.transit.dot.gov/TVM>. Recipients should contact FTA before accepting a bid from a manufacturer not on this list. In lieu of using a certified TVM, a recipient may establish project-specific DBE goals for its vehicle procurement. FTA will provide additional guidance as grants are awarded. For more information on DBE requirements, please contact Monica McCallum, FTA Office of Civil Rights, 206-220-7519, Monica.McCallum@dot.gov.

e. Standard Assurances

The applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, directives, 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 may

affect the implementation of the project. The applicant agrees that the most current Federal requirements will apply to the project, unless FTA issues a written determination otherwise. The applicant must submit the Certifications and Assurances before receiving a grant if it does not have current certifications on file.

f. Autonomous Vehicles

If an applicant is proposing to deploy autonomous vehicles or other innovative motor vehicle technology, the application should demonstrate that all vehicles will comply with applicable safety requirements, including those administered by the National Highway Traffic Safety Administration (NHTSA) and Federal Motor Carrier Safety Administration (FMCSA). Specifically, the application should show that vehicles acquired for the proposed project will comply with applicable Federal Motor Vehicle Safety Standards (FMVSS) and Federal Motor Carrier Safety Regulations (FMCSR). If the vehicles may not comply, the application should either (1) show that the vehicles and their proposed operations are within the scope of an exemption or waiver that has already been granted by NHTSA, FMCSA, or both agencies, or (2) directly address whether the project will require exemptions or waivers from the FMVSS, FMCSR, or any other regulation and, if the project will require exemptions or waivers, present a plan for obtaining them.

g. Federal Contract Compliance

As a condition of grant award and consistent with E.O. 11246, Equal Employment Opportunity (30 FR 12319, and as amended), all Federally assisted contractors are required to make good faith efforts to meet the goals of 6.9 percent of construction project hours being performed by women, in addition to goals that vary based on geography for construction work hours and for work being performed by people of color. Under Section 503 of the Rehabilitation Act and its implementing regulations, affirmative action obligations for certain contractors include an aspirational employment goal of 7 percent workers with disabilities.

3. Reporting

Post-award reporting requirements include submission of the Federal Financial Report (FFR) and Milestone Progress Report (MPR) in TrAMS, and FTA's National Transit Database (NTD) reporting as appropriate (see FTA Circular 9040.1G). Reports to TrAMS

and NTD are due annually. Applicants should include any goals, targets, and indicators referenced in their application to the project in the Executive Summary of the TrAMS application.

FTA is committed to making evidence-based decisions guided by the best available science and data. In accordance with the Foundations for Evidence-based Policymaking Act of 2018 (Evidence Act), FTA may use information submitted in discretionary funding applications; information in FTA's Transit Award Management System (TrAMS), including grant applications, Milestone Progress Reports (MPRs), Federal Financial Reports (FFRs); transit service, ridership and operational data submitted in FTA's National Transit Database; documentation and results of FTA oversight reviews, including triennial and state management reviews; and other publicly available sources of data to build evidence to support policy, budget, operational, regulatory, and management processes and decisions affecting FTA's grant programs.

As part of completing the annual certifications and assurances required of FTA grant recipients, a successful applicant must report on the suspension or debarment status of itself and its principals. If the award recipient's active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceed \$10,000,000 for any period of time during the period of performance of an award made pursuant to this Notice, the recipient must comply with the Recipient Integrity and Performance Matters reporting requirements described in Appendix XII to 2 CFR part 200.

G. Federal Awarding Agency Contacts

For further information concerning this notice, please contact Elan Flippin, Office of Program Management, (202) 366-3800, or email: TribalTransit@dot.gov. A TDD is available at 1-800-877-8339 (TDD/FIRS).

H. Other Information

User-friendly information and resources regarding DOT's competitive grant programs relevant to rural applicants can be found on the Rural Opportunities to Use Transportation for Economic Success (ROUTES) website at <https://www.transportation.gov/rural>. Information about FTA programs that is specific to Tribes can be found on FTA's Tribal Governments landing page at <https://www.transit.dot.gov/funding/tribal-governments>.

This program is not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs." FTA will consider applications for funding only from eligible recipients for eligible projects listed in Section C of this Notice.

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If an applicant submits information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant must provide that information in a separate document, which the applicant may reference from the application narrative or other portions of the application. For the separate document containing confidential information, the applicant must do the following: (1) state on the cover of that document that it "Contains Confidential Business Information (CBI)"; (2) mark each page that contains confidential information with "CBI"; (3) highlight or otherwise denote the confidential content on each page; and (4) at the end of the document, explain how disclosure of the confidential information would cause substantial competitive harm. FTA will protect confidential information complying with these requirements to the extent required under applicable law. If FTA receives a Freedom of Information Act (FOIA) request for the information that the applicant has marked in accordance with this section, FTA will follow the procedures described in DOT's FOIA regulations at 49 CFR part 7. Only information that is in the separate document, marked in accordance with this section, and ultimately determined to be confidential under § 7.29 will be exempt from disclosure under FOIA.

To assist Tribes with understanding requirements under the Tribal Transit Program, FTA has conducted Tribal Transit Technical Assistance Workshops. FTA has expanded its technical assistance to Tribes receiving funds under this program. Through the Tribal Transit Technical Assistance Assessments Initiative, FTA collaborates with Tribal Transit recipients to review processes and identify areas in need of improvement and then assists to offer solutions to address these needs—all in a supportive and mutually beneficial manner that results in technical assistance. These assessments include discussions of compliance areas pursuant to the Master Agreement, a site visit, promising practices reviews, and technical assistance from FTA and its contractors. These workshops and

assessments have received excellent feedback from Tribal Transit grantees and provided FTA with invaluable opportunities to learn more about Tribe's perspectives and better honor the sovereignty of Tribal Nations.

FTA will post information about upcoming workshops to its website and will disseminate information about the assessments through its regional offices. Contact information for FTA's regional offices can be found on FTA's website at <https://www.transit.dot.gov/about/regional-offices/regional-offices>.

Applicants may also receive technical assistance by contacting their FTA regional Tribal Liaison. A list of Tribal Liaisons is available on FTA's website at <https://www.transit.dot.gov/funding/grants/federal-transit-administrations-regional-tribal-liaisons>.

Additionally, FTA plans to expand its technical assistance efforts and collaboration opportunities with Tribes through formal consultation to take place this year.

If awarded, grant funding made available through this program may be included in a Tribal Transportation Self-Governance funding agreement if there is an existing Self-Governance compact in place between the Tribe and the U.S. Department of Transportation. If funds are administered under a Tribal Self-Governance funding agreement, the funds will be subject to the requirements and provisions of the Tribal Transportation Self-Governance Program regulation at 49 CFR part 29 and may be used only for the purpose for which they were awarded.

Nuria I. Fernandez,
Administrator.

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BILLING CODE 4910-57-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT-OST-2023-0045]

Increasing Public Access to the Results of USDOT-Funded Transportation Research

Issue Date: March 23, 2023.

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice; request for information.

SUMMARY: The United States Department of Transportation (DOT) invites public comment on issues or topics the DOT should consider as it updates the DOT Public Access Plan in response to new White House Office of Science and Technology Policy (OSTP) guidance.

DATES: Comments are requested by May 10, 2023. See the **SUPPLEMENTARY INFORMATION** section on "Public Participation," below, for more information about written comments.

ADDRESSES: Written Comments: Comments should refer to the docket number above and be submitted by one of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
 - *Email:* public.access@dot.gov
- Include the docket number in the subject line of the message.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590-0001. Include docket number on the outside of the envelope.
 - *Hand Delivery:* 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays. Include docket number on outside or first page of your submission.
- Instructions:* All submission received must include the agency name and the docket number. All comments received in the Federal Rulemaking Portal will be posted without change, including any personal information provided.

For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Privacy Act: Except as provided below, all comments received into the docket will be made public in their entirety. The comments will be searchable 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 should not include information in your comment that you do not want to be made public. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or at <https://www.transportation.gov/privacy>.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Mx. Leighton L Christiansen, Data Curator,

National Transportation Library, Bureau of Transportation Statistics, Office of the Assistant Secretary for Research and Technology, by email at public.access@dot.gov or by phone at (202) 578-0185.

SUPPLEMENTARY INFORMATION:

Purpose

DOT seeks public input on the Increasing Public Access to the Results of USDOT Funded Transportation Research (DOT Public Access Plan).

Background

On February 22, 2013, the White House Office of Science and Technology Policy (OSTP) released a memorandum entitled "Increasing Access to the Results of Federally Funded Scientific Research" <<https://obamawhitehouse.archives.gov/sites/default/files/microsites/ostp/ostp_public_access_memo_2013.pdf>>, which called for all Executive Departments with greater than \$100 million in yearly research and development expenditures to prepare a plan for improving the Public's access to the results of Federally funded research. On December 16, 2015, the DOT published its "Plan to Increase Public Access to the Results of Federally-Funded Scientific Research, Version 1.1" <<<https://doi.org/10.21949/1503646>>> in response. The 2015 Public Access Plan codified and extended DOT's longstanding commitment to and practice of sharing DOT-supported research results. Further, the 2015 plan included making the digital datasets underlying the research results accessible by the public.

On August 25, 2022, the White House Office of Science and Technology Policy (OSTP) released a memorandum entitled "Ensuring Free, Immediate, and Equitable Access to Federally Funded Research" <<<https://www.whitehouse.gov/wp-content/uploads/2022/08/08-2022-OSTP-Public-Access-Memo.pdf>>> which establishes new guidance for improving public access to scholarly publications and data resulting from Federally supported research. This second OSTP memorandum calls on all Federal Departments and Agencies to prepare new or updated Public Access plans to ensure the Public's immediate access to the results of Federally funded research, which will further advance research transparency and advance U.S. economic competitiveness by raising awareness of new research discoveries and innovations.

In response, DOT will draft a version 2 of its Public Access Plan. The updated plan will: