

necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued on: November 27, 2023.

**Jazmyne Lewis,**

*Information Collection Officer.*

[FR Doc. 2023-26360 Filed 11-29-23; 8:45 am]

**BILLING CODE 4910-22-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations

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

**ACTION:** Notice of calendar year 2024 random drug and alcohol testing rates.

**SUMMARY:** This notice announces the calendar year 2024 drug and alcohol random testing rates for specific recipients of FTA financial assistance. The minimum random drug testing rate will remain at 50 percent, and the random alcohol testing rate will remain at 10 percent.

**DATES:** *Applicability Date:* January 1, 2024.

**FOR FURTHER INFORMATION CONTACT:** Iyon Rosario, Drug and Alcohol Program Manager in the Office of Transit Safety and Oversight, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: 202-366-2010 or email: [Iyon.Rosario@dot.gov](mailto:Iyon.Rosario@dot.gov)).

**SUPPLEMENTARY INFORMATION:** On January 1, 1995, FTA required large transit employers to begin drug and alcohol testing of employees performing safety-sensitive functions, and to submit annual reports by March 15 of each year beginning in 1996, pursuant to drug and alcohol regulations adopted by FTA at 49 CFR parts 653 and 654 in February 1994. The annual report includes the number of employees who had a verified positive test for the use of prohibited drugs, and the number of employees who tested positive for the misuse of alcohol during the reported

year. Small employers commenced the required testing on January 1, 1996, and began reporting the same information as the large employers beginning March 15, 1997.

FTA updated the testing rules by merging them into a new 49 CFR part 655, effective August 1, 2001 (66 FR 42002). The regulation maintained a random testing rate for prohibited drugs at 50 percent and the misuse of alcohol at 10 percent. The Administrator may lower the random testing rate to 25 percent if the violation rates drop below 1.0 percent for drug testing and 0.5 percent for alcohol testing for two consecutive years. Accordingly, in 2007, FTA reduced the random drug testing rate from 50 percent to 25 percent (72 FR 1057). In 2018, however, FTA returned the random drug testing rate to 50 percent for calendar year 2019 based on verified industry data for calendar year 2017, which showed that the rate had exceeded 1 percent (83 FR 63812).

Pursuant to 49 CFR 655.45, the Administrator's decision to determine the minimum annual percentage rate for random drug and alcohol testing is based, in part, on the reported positive drug and alcohol violation rates for the entire public transportation industry. The information used for this determination is drawn from the Drug and Alcohol Management Information System (MIS) reports required by 49 CFR 655.72. To ensure the reliability of the data, the Administrator must consider the quality and completeness of the reported data, may obtain additional information or reports from employers, and may make appropriate modifications in calculating the industry's verified positive results and violation rates.

For calendar year 2024, the Administrator has determined that the minimum random drug testing rate for covered employees will remain at 50 percent based on a verified positive rate for prohibited drug use of 1.09 percent for calendar year 2022 and 0.99 percent for calendar year 2021. Further, the Administrator has determined that the minimum random alcohol testing rate for calendar year 2024 will remain at 10 percent, because the violation rate again was lower than 0.5 percent for calendar years 2022 and 2021. The random alcohol violation rates were 0.18 percent for 2022 and 0.13 for 2021.

Detailed reports on FTA's drug and alcohol testing data collected from transit employers may be obtained from FTA, Office of Transit Safety and Oversight, 1200 New Jersey Avenue SE, Washington, DC, 20590, (202) 366-2010, or at: <https://transit-safety.fta.dot.gov/>

*DrugAndAlcohol/Publications/Default.aspx.*

**Nuria I. Fernandez,**  
*Administrator.*

[FR Doc. 2023-26347 Filed 11-29-23; 8:45 am]

**BILLING CODE 4910-57-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### Fiscal Year 2024 Competitive Funding Opportunity: All Stations Accessibility 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 approximately \$343 million in competitive grants under the fiscal year (FY) 2024 All Stations Accessibility Program (ASAP).

**DATES:** Complete proposals must be submitted electronically through the *GRANTS.GOV* "APPLY" function by 11:59 p.m. Eastern time on January 30, 2024. Prospective applicants should initiate the process by registering on the *GRANTS.GOV* website promptly to ensure completion of the application process before the submission deadline. 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*. The funding opportunity ID is FTA-2024-001-TPM-ASAP.

**FOR FURTHER INFORMATION CONTACT:** For further information concerning this notice, please contact Kevin Osborn, All Stations Accessibility Program Manager, via email at [Kevin.Osborn@dot.gov](mailto:Kevin.Osborn@dot.gov) or call 202-366-7519.

#### SUPPLEMENTARY INFORMATION:

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#### A. Program Description

Division J of the Bipartisan Infrastructure Law (enacted as the Infrastructure Investment and Jobs Act, Pub. L. 117-58) authorizes FTA to award grants for public transportation rail station accessibility projects, for

“legacy” stations, through a competitive process, as described in this notice. Legacy stations for purposes of this NOFO are defined as public transportation stations already constructed or where construction began prior to January 25, 1992, or for commuter rail stations already constructed or where construction began prior to October 7, 1991, that were not identified as key stations and remain not accessible to or usable by persons with disabilities, including wheelchair users. ASAP provides funding to States (including territories and Washington, DC) and local governmental authorities to help finance capital projects to upgrade the accessibility of legacy rail fixed guideway public transportation systems (e.g., subway, commuter rail, light rail) for persons with disabilities, including those who use wheelchairs, by increasing the number of existing stations or facilities, such as outdoor light-rail boarding and alighting areas, that are fully accessible. For purposes of this NOFO, “fully accessible” means all of the passenger-use publicly accessible areas in the station(s) or facilities for passenger use meet or exceed the standards for new construction under title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 *et seq.*) as incorporated into appendix A of 49 CFR part 37. Grants under this program are for (1) capital projects to repair, improve, modify, retrofit, or relocate infrastructure of stations or facilities for passenger use, including load-bearing members that are an essential part of the structural frame; or (2) for planning projects to develop or modify a plan for pursuing public transportation accessibility projects, assessments of accessibility, or assessments of planned modifications to stations or facilities for passenger use.

This funding opportunity can be found under Federal Assistance Listing 20.533. FTA seeks to fund projects that create proportional impacts to all populations in a project area, remove transportation related disparities to all populations in a project area, and increase equitable access to project benefits, consistent with Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009). In addition, the Department intends to use the program to support the creation of good-paying jobs with the free and fair choice to join a union and the incorporation of strong labor standards and training and placement programs, especially registered apprenticeships, in project

planning stages, consistent with Executive Order 14025, Worker Organizing and Empowerment (86 FR 22829), and Executive Order 14052, Implementation of the Infrastructure Investment and Jobs Act (86 FR 64335). The Department also intends to use the program to support wealth creation, consistent with the Department’s Equity Action Plan, through the inclusion of local inclusive economic development and entrepreneurship, such as the utilization of Disadvantaged Business Enterprises.

## **B. Federal Award Information**

The Bipartisan Infrastructure Law appropriated \$350,000,000 for FY 2024 for ASAP. After the administrative oversight and Office of Inspector General takedown of \$7,000,000, FTA is announcing the availability of \$343,000,000 for ASAP grants through this notice. FTA may also award any additional funds made available for ASAP prior to project selections. FTA may cap the amount a single recipient or State may receive as part of the selection process.

FTA will grant pre-award authority to incur costs for selected projects beginning on the date FY 2024 project selections are announced on FTA’s website. Funds are available for obligation for three fiscal years after the fiscal year in which the competitive awards are announced. Funds are available only for eligible costs incurred after the date project selections are announced. FTA intends to fund as many meritorious projects as possible.

## **C. Eligibility Information**

### *1. Eligible Applicants*

Eligible applicants for ASAP include designated recipients that operate or allocate funds to inaccessible pre-ADA—or “legacy”—rail fixed guideway public transportation systems, and States (including territories and Washington, DC) and local governmental entities that operate or financially support legacy rail fixed guideway public transportation systems and corresponding legacy stations/facilities. The law limits ASAP to legacy rail fixed guideway public transportation systems with stations or facilities for passenger use that are not already accessible to and usable by persons with disabilities, including wheelchair users. To be considered eligible, applicants must be able to demonstrate the requisite legal, financial, and technical capabilities to receive and administer Federal funds under this program. Assistance on this

requirement is available from FTA’s Regional Offices.

### *2. Cost Sharing or Matching*

The maximum Federal share as identified in the law for an eligible project shall not exceed 80 percent of the net project cost.

Eligible sources of match include the following: state or local government revenues; 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. Transportation development credits or in-kind match may be used for local match if identified and documented in the application.

### *3. Eligible Projects*

Eligible projects under ASAP include (1) capital projects to repair, improve, modify, retrofit, or relocate infrastructure of stations or facilities for passenger use, including load-bearing members that are an essential part of the structural frame; or (2) for planning projects to develop or modify a plan for pursuing public transportation accessibility projects, assessments of accessibility, or assessments of planned modifications to stations or facilities for passenger use projects; or programs of projects in an eligible area. Please note, capital projects are limited to only those that, upon completion, will meet or exceed the standards for new construction under title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 *et seq.*), as incorporated into appendix A of 49 CFR part 37. Eligible costs are limited to project costs associated with the accessibility improvements.

Neither a capital grant nor a planning grant awarded under this program may be used to upgrade a station or facility for passenger use that is already accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, consistent with the construction standards under title II of the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 12131 *et seq.*) in place at the time the station or passenger facility was originally constructed or upgraded. Only legacy stations or passenger facilities that existed prior to the ADA and were not

made accessible in the intervening time are therefore eligible.

Any project of station upgrades or passenger facility that does not result in full accessibility consistent with title II of the ADA as incorporated by appendix A of 49 CFR part 37 and usability by persons with disabilities, including wheelchair users, is not eligible under this program. Any project to upgrade a station previously identified as one already required to be accessible to and usable by persons with disabilities, including those that use wheelchairs, per the requirements of 49 CFR part 37, including key stations and intercity rail stations, is not eligible under this program. Projects for maintenance or repair activities for elements of existing accessible stations or passenger facilities that are otherwise subject to the ongoing maintenance requirements under 49 CFR 37.161(a) are not eligible under this program. Maintenance and repair activities for stations altered under this program are subject to the same ongoing maintenance provision, and are similarly ineligible.

#### D. Application and Submission Information

##### 1. Address To Request Application Package

Application materials may be accessed on [grants.gov](https://www.grants.gov). Applications must be submitted electronically through [GRANTS.GOV](https://www.grants.gov). General information for accessing and 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. A complete proposal submission for each program consists of two forms: the SF-424 Application for Federal Assistance (available at [GRANTS.GOV](https://www.grants.gov)) and the supplemental form for the FY 2024 All Stations Accessibility Program (downloaded from [GRANTS.GOV](https://www.grants.gov) or the FTA website at <https://www.transit.dot.gov/grants/all-stations-accessibility-program>). Please note that if an applicant is applying for both a planning and construction project, they must submit two different applications via [GRANTS.GOV](https://www.grants.gov). Failure to submit the information as requested can delay review or disqualify the application.

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

###### a. Proposal Submission

A complete proposal submission for each program consists of two forms: (1) the SF-424 Application for Federal Assistance; and (2) the supplemental form for the FY 2024 All Stations

Accessibility Program. 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 accept only one supplemental form per SF-424 submission. FTA encourages States and other applicants to consider submitting a single supplemental form that includes multiple activities to be evaluated as a consolidated proposal. If a State or other applicant chooses to submit separate proposals for individual consideration by FTA, each proposal must be submitted using a separate SF-424 and supplemental form. Applicants applying for both a planning and a construction project must submit two separate applications, one for each type of project.

Applicants may attach additional supporting information to the SF-424 submission, including but not limited to letters of support, project budgets, accessibility information, or excerpts from relevant planning documents. Any 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, 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. 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.

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.

###### b. Application Content

The SF-424 Application for Federal Assistance and the supplemental form will prompt applicants for the required information, including:

- i. Applicant name.
- ii. Unique Entity Identifier.
- iii. Key contact information (including contact name, address, email address, and phone).
- iv. Congressional district(s) where project will take place.
- v. Project information (including title, an executive summary, and type).
- vi. A detailed description of the need for the project.
- vii. A detailed description on how the project will support the Program’s objectives.
- viii. Evidence that the project is consistent with local and regional planning documents.
- ix. Evidence that the applicant can provide the local cost share.
- x. A description of the technical, legal, and financial capacity of the applicant.
- xi. A detailed project budget—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. Funding sources should be grouped into three categories: non-Federal, ASAP and other Federal with specific amounts from each funding source.
- xii. An explanation of the scalability of the project—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. Proposed scalable projects must still result in a station or passenger facility with full accessibility to and usability by persons with disabilities, including wheelchair users. 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.

xiii. Details on the non-Federal matching funds.

xiv. Details on any other Federal funds awarded or applied for.

xv. A detailed project timeline.

xvi. A system map and listing of accessible vs inaccessible stations, and which station(s) they are proposing to upgrade.

xvii. 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 has an exemption approved by FTA pursuant to 2 CFR 25.110(c) or is otherwise excepted from registration requirements. 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. Registration in SAM may take as little as 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 January 30, 2024. *GRANTS.GOV* attaches a time stamp to each application at the time of submission. Proposals submitted after the deadline will only be considered under extraordinary circumstances when the lateness was for reasons not under the applicant's control. 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 applications at least 72 hours prior to the due date to allow time to receive the validation messages and to correct any problems that may have caused a rejection notification. *GRANTS.GOV* scheduled maintenance and outage times are announced on the *GRANTS.GOV* website. Deadlines will not be extended due to scheduled website maintenance.

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, which may take several weeks to complete before an application can be submitted. Registered applicants may still be required to take steps to keep their registrations up to date before submissions can be made successfully. For example, registration in SAM is renewed annually, and 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 under this NOFO cannot be used to reimburse applicants for otherwise eligible expenses incurred prior to FTA award of a grant agreement until FTA has issued pre-award authority for selected projects. FTA expects to 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 awardees 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 Government-wide Uniform Administrative Requirements and Cost Principles (2 CFR part 200) and FTA Circular 5010.1E. Funds may not be used to support or oppose union organizing.

### 6. Other Submission Requirements

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. of this notice, Address to Request Application.

## E. Application Review Information

### 1. Criteria

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. FTA will evaluate proposals based on the criteria described in this notice.

#### a. Demonstration of Need

##### *For station or passenger facility accessibility improvement projects:*

FTA will evaluate the need for the project, including supporting information that describes the lack of accessibility at, the condition, of and age of the stations or passenger facilities for passenger use to be made fully accessible. Applicants are encouraged to include a detailed project description and scope that explains how the proposed project will make all of the passenger-use publicly accessible areas in the station(s) or facilities for passenger use fully accessible in accordance with title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 *et seq.*), as incorporated into appendix A of 49 CFR part 37. Applicants should demonstrate that this is a legacy rail station that was not already required to be made fully accessible in accordance with the ADA.

FTA will evaluate whether the project (1) addresses an overall lack of accessible stations in a particular geographic area; (2) is at a major interchange point with other transportation modes; (3) serves major activity or cultural centers, such as employment or government centers, sports or entertainment venues, centers of economic activity or commerce, cultural or community centers,

institutions of higher education, hospitals or other major health care facilities, or other facilities that are major trip generators; (4) is a transfer station(s) on a rail line, between rail lines, or is an end of the line station; (5) is a station or passenger facility where passenger boardings exceed average station or facility passenger boardings on the rail system and/or (6) is able to demonstrate reductions in ADA paratransit reliance through paratransit origin-to-destination pairs analysis.

*For planning projects:*

FTA will evaluate how well the applicant demonstrates that the proposed planning project will develop or modify a plan for pursuing public transportation accessibility projects, assessments of accessibility, or assessments of planned modifications to stations or facilities for passenger use. Applicants are encouraged to reference how the project supports local and regional prioritization of increased accessibility at their existing legacy rail fixed guideway public transportation stations or passenger facilities.

b. Demonstration of Benefits

*For station or passenger facility accessibility improvement projects:*

FTA will evaluate how well the applicant details how the project will increase the accessibility of legacy rail fixed guideway public transportation systems for persons with disabilities, including those who use wheelchairs, by increasing the number of existing stations or passenger facilities for passenger use that meet or exceed the standards for new construction under title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 *et seq.*) as incorporated into appendix A of 49 CFR part 37. See: <https://www.access-board.gov/files/ada/ADAdotstandards.pdf>. FTA will rate projects higher if they propose to exceed the construction standards, by providing multiple paths of travel for people with physical disabilities (including those who use wheelchairs) or technologies to improve accessibility for people with sensory or cognitive disabilities, as examples. FTA will evaluate if the applicant described how the proposed station, stations, or facilities for passenger use were analyzed and selected to improve accessibility and usability for passengers with disabilities within the system.

*For planning projects:*

FTA will evaluate how well the applicant details how the resulting planning project will advance accessibility for persons with disabilities, including wheelchair users, and result in a future capital project that

will make a legacy station or facility fully accessible. FTA will evaluate how well the applicant addresses the timeline and steps remaining after the project would be completed, before a construction project could commence to repair, improve, modify, retrofit, or relocate infrastructure of stations or facilities for passenger use.

c. Planning and Local or Regional Prioritization

FTA will evaluate how the applicant demonstrates how the proposed project is consistent with local and regional long-range planning documents and local government priorities. FTA will evaluate applications based on the extent to which the project is consistent with the transit priorities or illustrative projects identified in the metropolitan long-range plan or the investment prioritization portion of the transit asset management plan of the recipient pursuant to part 625 of title 49 of the Code of Federal Regulations. Applicants may submit copies of the relevant pages of such plans to support their application. FTA will also consider letters of support from local and regional planning organizations, local government officials, public agencies, non-profit or private sector organizations, and other relevant stakeholders.

FTA will evaluate if the applicant provided any information documenting outreach to, engagement with, and support for the project among the surrounding local disability community, such as centers for independent living, as well as other communities likely to be affected by the project, and explained how feedback received during the outreach was or was not meaningfully incorporated into project plans. Applications will be rated higher that demonstrate how the passenger stations or facilities proposed for investment were selected from a stakeholder engagement process with local disability community members and organizations, including individuals with physical disabilities (including those who use wheelchairs), sensory disabilities, and intellectual or developmental disabilities. Letters of support may be submitted with the application that demonstrate that each station proposed for investment is supported by stakeholders in the surrounding disability community.

FTA will evaluate if the applicant documented compliance with all civil rights and other applicable legal requirements, as well as any information relevant to advancing the goal of environmental justice for all, such as access for persons with limited

English proficiency, persons with disabilities, and persons experiencing environmental injustices.

FTA will evaluate if the applicant identified current and future climate and natural hazard risks to the proposed project, or provided information in support of or the lack thereof. This includes consideration of risks over the service life of the project and identification of approaches to reduce potential disruptions to passengers from natural hazards. To support this narrative, the applicant may reference and include applicable excerpts from climate and/or environmental justice planning documents such as local or regional climate action plans.

d. Local Financial Commitment

FTA will evaluate if the applicant identified the source of the non-Federal cost share and describe whether such funds are currently available for the project or will need to be secured if the project is selected for funding. FTA will consider the availability of the non-Federal cost share as evidence of local financial commitment to the project. FTA will evaluate if the applicant submitted evidence of the availability of funds for the project, for example, by including a board resolution, letter of support from the State, a budget document highlighting the line item or section committing funds to the proposed project, or other documentation of the source of non-Federal funds. The applicant should also identify other Federal funds the applicant is applying for or has been awarded, if any, that the applicant intends to use.

e. Project Implementation Strategy

FTA will rate projects higher if grant funds can be obligated within 12 months of selection and the project can be implemented within a reasonable time frame. In assessing when funds can be obligated, FTA will consider whether the project qualifies for a Categorical Exclusion (CE), or whether the required environmental work has been initiated or completed for a project that requires an Environmental Assessment (EA) or Environmental Impact Statement (EIS) under the National Environmental Policy Act of 1969 (NEPA). As such, applicants should submit information describing the project's anticipated path and timeline through the environmental review process for all proposals, including whether the project qualifies for a CE. The proposal must state when grant funds can be obligated and indicate the timeframe under which the Metropolitan Transportation Improvement Program (TIP) and

Statewide Transportation Improvement Program (STIP) can be amended, if necessary, to include the proposed project.

In assessing whether the proposed implementation plans are reasonable and complete, FTA will review the proposed project implementation plan, including all necessary project milestones and the overall project timeline. For projects that will require formal coordination, approvals, or permits from other agencies or project partners, the applicant must demonstrate coordination with these organizations and their support for the project, such as through letters of support.

#### f. Technical, Legal, and Financial Capacity

FTA will evaluate if the applicant demonstrates that they have the technical, legal, and financial capacity to undertake the project.

FTA will review relevant oversight assessments and records to determine whether there are any outstanding legal, technical, or financial issues with the applicant that would affect the outcome of the proposed project. Applicants with outstanding legal, technical, or financial compliance issues from an FTA compliance review or FTA grant-related Single Audit finding must explain how corrective actions taken will mitigate negative impacts on the proposed project.

#### 2. Review and Selection Process

A technical evaluation committee will evaluate proposals based on the published evaluation criteria. FTA may request additional information from applicants, if necessary. Based on the review of the technical evaluation committee, the FTA Administrator will determine the final selection of projects for program funding. In determining the allocation of program funds, FTA may consider geographic diversity, diversity in the size of the transit systems receiving funding, and the applicant's receipt of other competitive awards. FTA may also consider capping the amount a single applicant may receive.

After applying the above criteria, and in support of Executive Order 14052, Implementation of the Infrastructure Investment and Jobs Act, FTA will give priority based on several considerations.

FTA will provide priority consideration for applicants that describe how their projects support workforce development, job quality, and wealth creation as follows: Applicants for facility projects should identify whether they will commit to registered apprenticeship positions and use

apprentices on the funded project, sometimes called an apprenticeship utilization requirement (e.g., requiring that a certain percent of all labor hours will be performed by registered apprentices); and detail partnerships with high-quality workforce development programs with supportive services<sup>1</sup> to help train, place, and retain underrepresented communities in jobs and registered apprenticeships on the project; and, for facility projects over \$35 million in total project cost, whether the project will use a Project Labor/Community Workforce Agreement and, for facility projects over \$35 million, whether the recipient commits to participate in the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) Mega Construction Project Program if selected by OFCCP (see F.2.e. *Federal Contract Compliance*).

FTA will also give priority consideration to projects that support the Justice40 initiative, <https://www.transportation.gov/equity-Justice40>. In support of Executive Order 14008, DOT has been developing a geographic definition of Historically Disadvantaged Communities as part of its implementation of the Justice40 Initiative. Consistent with the Interim Guidance for the Justice40 Initiative, Historically Disadvantaged Communities include (a) certain qualifying census tracts identified as disadvantaged due to categories of environmental, climate, and socioeconomic burdens, as identified by the Climate and Economic Justice Screening Tool, and (b) any Federally Recognized Tribes or Tribal entities, whether or not they have land.<sup>2</sup> Applicants should use Climate & Economic Justice Screening Tool (CEJST), a new tool by the White House Council on Environmental Quality (CEQ), that aims to help Federal agencies identify disadvantaged communities as part of the Justice40 initiative to accomplish the goal that 40% of overall benefits from certain federal investments reach disadvantaged communities. See <https://screeningtool.geoplatform.gov/>. Applicants should use CEJST as the primary tool to identify disadvantaged communities (Justice40

<sup>1</sup> Supportive services are critical to help women and people facing systemic barriers to employment be able to participate and thrive in training and employment. Supportive services include childcare, tools, work clothing, application fees and other costs of apprenticeship or required pre-employment training, transportation and travel to training and work sites, and services aimed at helping to retain underrepresented groups such as mentoring, support groups, and peer networking.

<sup>2</sup> [https://www.whitehouse.gov/wp-content/uploads/2023/01/M-23-09\\_Signed\\_CEQ\\_CPO.pdf](https://www.whitehouse.gov/wp-content/uploads/2023/01/M-23-09_Signed_CEQ_CPO.pdf).

communities). Applicants are strongly encouraged to supplement their use of the CEJST by employing the USDOT Equitable Transportation Community (ETC) Explorer to understand how their community or project area is experiencing disadvantage related to lack of transportation investments or opportunities. Through understanding how a community or project area is experiencing transportation-related disadvantage, applicants are able to address how the benefits of a project will reverse or mitigate the burdens of disadvantage and demonstrate how the project will address challenges and accrued benefits. <https://www.transportation.gov/priorities/equity/justice40/etc-explorer>. Additionally, in support of the Justice40 Initiative, the applicant also should provide evidence of any strategies that the applicant has used in the planning process to seek out and consider the needs of those historically disadvantaged and underserved by existing transportation systems. For technical assistance using either mapping tool, please contact [GMO@dot.gov](mailto:GMO@dot.gov).<sup>3</sup>

#### 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 Federal Awardee Performance and Integrity Information Systems (FAPIS) accessible through SAM. An applicant may review and comment on information about itself that a Federal awarding agency previously entered. FTA will consider any comments by the applicant, in addition to the other information in FAPIS, 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 2 CFR 200.206.

#### F. Federal Award Administration Information

##### 1. Federal Award Notices

FTA will announce the final project selections on the FTA website. Selectees should contact their FTA Regional Offices for additional information regarding allocations for projects. At the time the project selections are announced, FTA expects to extend pre-award authority for the selected projects

<sup>3</sup> See also <https://static-data-screeningtool.geoplatform.gov/data-versions/1.0/data/score/downloadable/CEQ-CEJST-Instructions.pdf>.

(see section D.5 of this notice for more information). There is no pre-award authority for these projects before announcement.

## 2. Administrative and National Policy Requirements

### a. Grant Requirements

If selected, awardees will apply for a grant through FTA's Transit Award Management System (TrAMS). Recipients of funding in urban areas are subject to the grant requirements of the Urbanized Area Formula Grants program (49 U.S.C. 5307), including those of FTA Circular "Urbanized Area Formula Program: Program Guidance and Application Instructions" (FTA.C.9030.1E). Recipients of funding in rural areas are subject to the grant requirements of the Formula Grants for Rural Areas Program (49 U.S.C. 5311), including those of FTA Circular "Formula Grants for Rural Areas: Program Guidance and Application Instructions" (FTA.C.9040.1G). All recipients must accept the FTA Master Agreement and follow FTA Circular "Award Management Requirements" (FTA.C.5010.1E) and the labor protections required by Federal public transportation law (49 U.S.C. 5333(b)). Technical assistance regarding these requirements is available from the relevant FTA regional office.

By submitting a grant application, 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, including the Davis-Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). Further, 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 recent 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.

As authorized by section 25019 of the BIL, applicants are encouraged to implement a local or other geographical or economic hiring preference relating to the use of labor for construction of a project funded by the grant, including pre-hire agreements, subject to any applicable State and local laws, policies, and procedures.

### b. Made in America

A project funded under this NOFO must comply with FTA's Buy America (49 U.S.C. 5323(j)) and the Build America, Buy America Act's domestic preference requirements for infrastructure projects (sections 70901–70927 of the Infrastructure Investment and Jobs Act, Pub. L. 117–58), which together require that all iron, steel, manufactured goods, and construction materials used in the project be produced in the United States and set minimum domestic content and final assembly requirements for rolling stock.

Any proposal that will require a waiver of any domestic preference standard 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.

### c. Civil Rights Requirements

Applications should demonstrate that the recipient has a plan for compliance with civil rights obligations and nondiscrimination laws, including title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), section 504 of the Rehabilitation Act, and accompanying regulations. This should include a current title VI program plan and a completed Community Participation Plan (alternatively called a Public Participation Plan and often part of the overall title VI program plan), if applicable. Applicants who have not sufficiently demonstrated the conditions of compliance with civil rights requirements will be required to do so before receiving funds.

Recipients of Federal transportation funding will be required to comply fully with the DOT's regulations and guidance for the ADA and all relevant civil rights requirements. The Department's and FTA's Office of Civil Rights will work with awarded grant recipients to ensure full compliance with Federal civil rights requirements.

### d. Disadvantaged Business Enterprise

Recipients of planning or capital assistance that will award prime contracts, 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).

### e. Federal Contract Compliance

As a condition of grant award all applicants must comply with E.O. 11246, Equal Employment Opportunity (30 FR 12319, and as amended). 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.

The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) is charged with enforcing Executive Order 11246, section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974. OFCCP has a Mega Construction Project Program through which it engages with project sponsors as early as the design phase to help promote compliance with non-discrimination and affirmative action obligations. OFCCP may identify construction projects that receive an award under this notice that have a project cost above \$35 million to participate in OFCCP's Mega Construction Project Program. If selected and the applicant agrees to participate, OFCCP will ask selected project sponsors to make clear to prime contractors in the pre-bid phase that award terms may require their participation in the Mega Construction Project Program. Additional information on how OFCCP makes their selections for participation in the Mega Construction Project Program is outlined under "Scheduling" on the Department of Labor website: <https://www.dol.gov/agencies/ofccp/faqs/construction-compliance>.

As authorized by section 25019 of the BIL, applicants are encouraged to implement a local or other geographical or economic hiring preference relating to the use of labor for construction of a project funded by the grant, including pre-hire agreements, subject to any applicable State and local laws, policies, and procedures.

### f. Critical Infrastructure Security and Resilience

It is the policy of the United States to strengthen the security and resilience of its critical infrastructure against both physical and cyber threats. TSA issued Security Directive 1582–21–01B, "Enhancing Public Transportation and Passenger Railroad Cybersecurity" on October 24, 2023. The Security Directive, which extends previous Security Directives, applies to all public

passenger rail owners and operators identified in 49 CFR 1582.101, requires four critical actions:

1. Designate a cybersecurity coordinator who is required to be available to TSA and the DHS's CISA at all times (all hours/all days) to coordinate implementation of cybersecurity practices, and manage of security incidents, and serve as a principal point of contact with TSA and CISA for cybersecurity-related matters;

2. Report cybersecurity incidents to CISA;

3. Develop a Cybersecurity Incident Response Plan to reduce the risk of operational disruption should their Information and/or operational technology systems be affected by a cybersecurity incident; and

4. Conduct a cybersecurity vulnerability assessment using the form provided by TSA and submit the form to TSA. The vulnerability assessment will include an assessment of current practices and activities to address cyber risks to information and operational technology systems, identify gaps in current cybersecurity measures, and identify remediation measures and a plan for the owner/operator to implement the remediation measures to address any vulnerabilities and gaps.

TSA issued IC-2021-01, "Enhancing Surface Transportation Cybersecurity", dated December 31, 2021, which applies to each passenger railroad, public transportation agency, or rail transit system owner/operator identified in 49 CFR 1582.1. This circular provides the same four recommendations for enhancing cybersecurity practices listed above. While this document is guidance and does not impose any mandatory requirements, TSA strongly recommends the adoption of the measures set forth in the circular.

On February 10, 2023, FTA published a Cybersecurity Assessment Tool for Transit (CATT). This tool was developed with the goal to onboard public transit organizations develop and strengthen their cybersecurity program to identify risks and prioritize activities to mitigate these risks.

#### g. Planning

FTA encourages applicants to notify the appropriate State departments of transportation and Metropolitan Planning Organizations (MPOs) in areas likely to be served by the project funds made available under this program. Selected projects must be incorporated into the long-range plans and transportation improvement programs of States and metropolitan areas before they are eligible for FTA funding.

#### h. Performance and Program Evaluation

As a condition of grant award, grant recipients may be required to participate in an evaluation undertaken by DOT or another agency or partner. The evaluation may take different forms such as an implementation assessment across grant recipients, an impact and/or outcomes analysis of all or selected sites within or across grant recipients, or a benefit/cost analysis or assessment of return on investment. As a part of the evaluation, as a condition of award, grant recipients must agree to: (1) make records available to the evaluation contractor or DOT staff; (2) provide access to program records, and any other relevant documents to calculate costs and benefits; (3) in the case of an impact analysis, facilitate the access to relevant information as requested; and (4) follow evaluation procedures as specified by the evaluation contractor or DOT staff.

Recipients and subrecipients are also encouraged to incorporate program evaluation including associated data collection activities from the outset of their program design and implementation to meaningfully document and measure their progress towards meeting an agency priority goal(s). title I of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), Public Law 115-435 (2019) urges Federal awarding agencies and Federal assistance recipients and subrecipients to use program evaluation as a critical tool to learn, to improve equitable delivery, and to elevate program service and delivery across the program lifecycle. Evaluation means "an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency." 5 U.S.C. 311. Credible program evaluation activities are implemented with relevance and utility, rigor, independence and objectivity, transparency, and ethics (OMB Circular A-11, part 6 section 290).

#### 3. Reporting

Post-award reporting requirements include the electronic submission of Federal Financial Reports and Milestone Progress Reports in FTA's electronic grants management system. Recipients of funds made available through this NOFO are also required to regularly submit data to the National Transit Database. Recipients should include any goals, targets, and indicators referenced in their applications 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 exceeds \$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 Kevin Osborn, ASAP Program Manager, via email at [Kevin.Osborn@dot.gov](mailto:Kevin.Osborn@dot.gov), or by phone at 202-366-7519. A TDD is available for individuals who are deaf or hard of hearing at 800-877-8339. In addition, FTA will post answers to questions and requests for clarifications on FTA's ASAP homepage at: <https://www.transit.dot.gov/grants/all-stations-accessibility-program>. To ensure applicants receive accurate information about eligibility or the program, applicants are encouraged to contact FTA with questions directly, rather than through intermediaries or third parties. 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>.

For technical issues with GRANTS.GOV, please contact GRANTS.GOV by phone at 1-800-518-4726 or by email at [support@grants.gov](mailto:support@grants.gov).

## H. Other Information

User-friendly information and resources regarding DOT's discretionary 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>.

This program is not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

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 7.29. Only information that is in the separate document, marked in accordance with this section, and ultimately determined to be confidential will be exempt from disclosure under FOIA.

**Nuria I. Fernandez,**  
Administrator.

[FR Doc. 2023-26346 Filed 11-29-23; 8:45 am]

**BILLING CODE 4910-57-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2023-0210]

#### Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: **SPRAY (Sail)**; Invitation for Public Comments

**AGENCY:** Maritime Administration, DOT.  
**ACTION:** Notice.

**SUMMARY:** The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

**DATES:** Submit comments on or before January 2, 2024.

**ADDRESSES:** You may submit comments identified by DOT Docket Number MARAD-2023-0210 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Search MARAD-2023-0210 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD-2023-0210, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

**Note:** If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

**Instructions:** All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at [www.regulations.gov](https://www.regulations.gov), including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in

nature, see the section entitled Public Participation.

**FOR FURTHER INFORMATION CONTACT:** Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-461, Washington, DC 20590. Telephone: (202) 366-0903. Email [patricia.hagerty@dot.gov](mailto:patricia.hagerty@dot.gov).

**SUPPLEMENTARY INFORMATION:** As described in the application, the intended service of the vessel SPRAY is:  
—*Intended Commercial Use of Vessel:* "6 Pack Charter wind sailing in San Diego Bay."  
—*Geographic Region Including Base of Operations:* "California. (Base of Operations: Costa Mesa, CA)"  
—*Vessel Length and Type:* 34' Sail.

The complete application is available for review identified in the DOT docket as MARAD 2023-0210 at <https://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

### Public Participation

*How do I submit comments?*

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

*Where do I go to read public comments, and find supporting information?*

Go to the docket online at <https://www.regulations.gov>, keyword search MARAD-2023-0210 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that