

of employees affected by the assistance shall be protected under arrangements the Secretary of Labor concludes are fair and equitable. The agreement granting the assistance under sections 5307–5312, 5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b) shall specify the arrangements.

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

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

(B) the continuation of collective bargaining rights;

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

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

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

(F) paid training or retraining programs.

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

(Pub. L. 103–272, §1(d), July 5, 1994, 108 Stat. 835; Pub. L. 104–88, title III, §308(e), Dec. 29, 1995, 109 Stat. 947; Pub. L. 105–178, title III, §3029(b)(9), June 9, 1998, 112 Stat. 372.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5333(a) .....	49 App.:1609(a), (b).	July 9, 1964, Pub. L. 88–365, §13, 78 Stat. 307; Sept. 8, 1966, Pub. L. 89–562, §2(a)(1), (b)(2), 80 Stat. 715, 716; May 25, 1967, Pub. L. 90–19, §20(a), 81 Stat. 25.
5333(b) .....	49 App.:1609(c).	

In subsection (a), the words “take such action as may be necessary to”, “the performance of”, “the assistance of”, and “at rates” are omitted as surplus. The word “same” is added for clarity. The words “duties and powers” are substituted for “authority and functions” for consistency in the revised title and with other titles of the United States Code.

In subsection (b)(1), the reference to sections 5307, 5308, 5310, and 5311 of the revised title is added for clarity because of 49 App.:1607a(e)(1), 1607a–2(a), 1612(b), and 1614(f), restated as sections 5307(n)(2), 5308(b)(1), 5310(a), and 5311(i) of the revised title. The reference to section 5312 is added for clarity because it is intended that 49 App.:1609(c) cover research, development, training, and demonstration projects. The words “terms and conditions of the protective” are omitted as surplus.

In subsection (b)(2), before clause (A), the words “without being limited to” are omitted as being included in “include”. The words “such provisions as may be necessary for” are omitted as surplus. In clause (C), the word “individual” is omitted as surplus.

In subsection (b)(3), the words “section 11347 of this title” are substituted for and coextensive with “section 5(2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended” in section 13(c) of the Urban Mass Transportation Act of 1964 (Public Law 88–365, 78 Stat. 307) on authority of section 3(b) of the Act of October 17, 1978 (Public Law 95–473, 92 Stat. 1466).

REFERENCES IN TEXT

Act of March 3, 1931, referred to in subsec. (a), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, known as

the Davis-Bacon Act, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Reorganization Plan No. 14 of 1950, referred to in subsec. (a), is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105–178 substituted “5338(b)” for “5338(j)(5)” in two places.

1995—Subsec. (b)(3). Pub. L. 104–88 substituted “11326” for “11347”.

EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104–88 effective Jan. 1, 1996, see section 2 of Pub. L. 104–88, set out as an Effective Date note under section 701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5307, 5311, 5323, 5334, 5336 of this title; title 23 sections 106, 182, 322.

§ 5334. Administrative provisions

(a) GENERAL AUTHORITY.—In carrying out this chapter, the Secretary of Transportation may—

(1) prescribe terms for a project under sections 5307 and 5309–5311 of this title (except terms the Secretary of Labor prescribes under section 5333(b) of this title);

(2) sue and be sued;

(3) foreclose on property or bring a civil action to protect or enforce a right conferred on the Secretary of Transportation by law or agreement;

(4) buy property related to a loan under this chapter;

(5) agree to pay an annual amount in place of a State or local tax on real property acquired or owned under this chapter;

(6) sell, exchange, or lease property, a security, or an obligation;

(7) obtain loss insurance for property and assets the Secretary of Transportation holds;

(8) consent to a modification in an agreement under this chapter;

(9) include in an agreement or instrument under this chapter a covenant or term the Secretary of Transportation considers necessary to carry out this chapter; and

(10) collect fees to cover the costs of training or conferences, including costs of promotional materials, sponsored by the Federal Transit Administration to promote mass transportation and credit amounts collected to the appropriation concerned.

(b) PROCEDURES FOR PRESCRIBING REGULATIONS.—(1) The Secretary of Transportation shall prepare an agenda listing all areas in which the Secretary intends to propose regulations governing activities under this chapter within the following 12 months. The Secretary shall publish the proposed agenda in the Federal Register as part of the Secretary’s semiannual regulatory agenda that lists regulatory activities of the Federal Transit Administration. The Secretary shall submit the agenda to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate on the day the agenda is published.

(2) Except for emergency regulations, the Secretary of Transportation shall give interested parties at least 60 days to participate in a regulatory proceeding under this chapter by submitting written information, views, or arguments, with or without an oral presentation, except when the Secretary for good cause finds that public notice and comment are unnecessary because of the routine nature or insignificant impact of the regulation or that an emergency regulation should be issued. The Secretary may extend the 60-day period if the Secretary decides the period is insufficient to allow diligent individuals to prepare comments or that other circumstances justify an extension.

(3) An emergency regulation ends 120 days after it is issued.

(4) The Secretary of Transportation shall comply with this section (except subsections (h) and (i)) and sections 5323(a)(2), 5323(c), 5323(e), 5324(c), 5325(a), 5325(b), 5326(c), and 5326(d) when proposing or carrying out a regulation governing an activity under this chapter, except for a routine matter or a matter with no significant impact.

(c) BUDGET PROGRAM AND SET OF ACCOUNTS.—The Secretary of Transportation shall—

(1) submit each year a budget program as provided in section 9103 of title 31; and

(2) maintain a set of accounts for audit under chapter 35 of title 31.

(d) DEPOSITORY AND AVAILABILITY OF AMOUNTS.—The Secretary of Transportation shall deposit amounts made available to the Secretary under this chapter in a checking account in the Treasury. Receipts, assets, and amounts obtained or held by the Secretary to carry out this chapter are available for administrative expenses to carry out this chapter.

(e) BINDING EFFECT OF FINANCIAL TRANSACTION.—A financial transaction of the Secretary of Transportation under this chapter and a related voucher are binding on all officers and employees of the United States Government.

(f) DEALING WITH ACQUIRED PROPERTY.—Notwithstanding another law related to the Government acquiring, using, or disposing of real property, the Secretary of Transportation may deal with property acquired under subsection (a)(3) or (4) of this section in any way. However, this subsection does not—

(1) deprive a State or political subdivision of a State of jurisdiction of the property; or

(2) impair the civil rights, under the laws of a State or political subdivision of a State, of an inhabitant of the property.

(g) TRANSFER OF ASSETS NO LONGER NEEDED.—(1) If a recipient of assistance under this chapter decides an asset acquired under this chapter at least in part with that assistance is no longer needed for the purpose for which it was acquired, the Secretary of Transportation may authorize the recipient to transfer the asset to a local governmental authority to be used for a public purpose with no further obligation to the Government. The Secretary may authorize a transfer for a public purpose other than mass transportation only if the Secretary decides—

(A) the asset will remain in public use for at least 5 years after the date the asset is transferred;

(B) there is no purpose eligible for assistance under this chapter for which the asset should be used;

(C) the overall benefit of allowing the transfer is greater than the interest of the Government in liquidation and return of the financial interest of the Government in the asset, after considering fair market value and other factors; and

(D) through an appropriate screening or survey process, that there is no interest in acquiring the asset for Government use if the asset is a facility or land.

(2) A decision under paragraph (1) of this section must be in writing and include the reason for the decision.

(3) This subsection is in addition to another law related to using and disposing of a facility or equipment under an assistance agreement.

(4) PROCEEDS FROM THE SALE OF TRANSIT ASSETS.—

(A) IN GENERAL.—When real property, equipment, or supplies acquired with assistance under this chapter are no longer needed for mass transportation purposes as determined under the applicable assistance agreement, the Secretary may authorize the sale, transfer, or lease of the assets under conditions determined by the Secretary and subject to the requirements of this subsection.

(B) USE.—The net income from asset sales, uses, or leases (including lease renewals) under this subsection shall be used by the recipient to reduce the gross project cost of other capital projects carried out under this chapter.

(C) RELATIONSHIP TO OTHER AUTHORITY.—The authority of the Secretary under this subsection is in addition to existing authorities controlling allocation or use of recipient income otherwise permissible in law or regulation in effect prior to the date of enactment of this paragraph.

(h) TRANSFER OF AMOUNTS AND NON-GOVERNMENT SHARE.—(1) Amounts made available for a mass transportation project under title 23 shall be transferred to and administered by the Secretary of Transportation under this chapter. Amounts made available for a highway project under this chapter shall be transferred to and administered by the Secretary under title 23.

(2) The provisions of title 23 related to the non-Government share apply to amounts under title 23 used for mass transportation projects. The provisions of this chapter related to the non-Government share apply to amounts under this chapter used for highway projects.

(i) AUTHORITY OF SECRETARY OF HOUSING AND URBAN DEVELOPMENT.—The Secretary of Housing and Urban Development shall—

(1) carry out section 5312(a) and (b)(1) of this title related to—

(A) urban transportation systems and planned development of urban areas; and

(B) the role of transportation planning in overall urban planning; and

(2) advise and assist the Secretary of Transportation in making findings under section 5323(a)(1)(A) of this title.

(j) RELATIONSHIP TO OTHER LAWS.—(1) Section 9107(a) of title 31 applies to the Secretary of Transportation under this chapter.

(2) Section 3709 of the Revised Statutes (41 U.S.C. 5) applies to a contract for more than \$1,000 for services or supplies related to property acquired under this chapter.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 836; Pub. L. 104-287, §5(9), Oct. 11, 1996, 110 Stat. 3389; Pub. L. 104-316, title I, §127(a), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105-178, title III, §§3023(c), 3025(a), (b)(1), (c), June 9, 1998, 112 Stat. 364, 365.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5334(a) .....	49 App.:1608(a) (1st sentence related to 12:1749a(c) (1)-(3) (1st sentence), (4)-(8), (10)).	July 9, 1964, Pub. L. 88-365, §12(a), 78 Stat. 306; Sept. 8, 1966, Pub. L. 89-562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25.
5334(b) .....	49 App.:1608(i)(1), (2).  49 App.:1608(i)(3).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §12(i)(1), (2); added Apr. 2, 1987, Pub. L. 100-17, §318(a), 101 Stat. 233.  July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §12(i)(3); added Dec. 18, 1991, Pub. L. 102-240, §3017, 105 Stat. 2108.
5334(c) .....	49 App.:1608(a) (1st sentence related to 12:1749a(a) (less proviso)).	
5334(d) .....	49 App.:1608(a) (1st sentence related to 12:1749a(b), last sentence).	
5334(e) .....	49 App.:1608(a) (1st sentence related to 12:1749a(a) (proviso)).	
5334(f) .....	49 App.:1608(a) (1st sentence related to 12:1749a(c)(3) (last sentence)).	
5334(g) .....	49 App.:1608(k).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §12(k); added Dec. 18, 1991, Pub. L. 102-240, §3018, 105 Stat. 2108.
5334(h) .....	49 App.:1607(k).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §8(k); added Nov. 6, 1978, Pub. L. 95-599, §305(b), 92 Stat. 2743; Apr. 2, 1987, Pub. L. 100-17, §310, 101 Stat. 227; re-stated Dec. 18, 1991, Pub. L. 102-240, §3012, 105 Stat. 2104; Oct. 6, 1992, Pub. L. 102-368, §502(a), 106 Stat. 1566.
5334(i) .....	49 App.:1608 (note) (related to authority and functions reserved to Secretary of Housing and Urban Development).	Reorg. Plan No. 2 of 1968, eff. June 30, 1968, §1(a)(1) (related to authority and functions reserved to Secretary of Housing and Urban Development), 82 Stat. 1369.
5334(j)(1) ....	49 App.:1608(a) (1st sentence related to 12:1749a(e)).	
5334(j)(2) ....	49 App.:1608(a) (1st sentence related to 12:1749a(d)).	

In subsections (c)-(f), and (j), the relevant substantive provisions of 12:1749a are substituted for “shall . . . have the functions, powers, and duties set forth in section 1749a of title 12, except subsections (c)(2) and (f) of such section” for clarity. The reference to subsection (c)(2) is omitted as obsolete because section 201(d)(1) of the Housing and Community Development Technical Amendments Act of 1984 (Public Law 98-479, 98 Stat. 2228) repealed 12:1749a(c)(2). The words “(in addition to any authority otherwise vested in him)” are omitted as surplus.

In subsection (a), the text of 49 App.:1608(a) (1st sentence related to 12:1749a(c)(8)) is omitted as obsolete. Before clause (1), the words “carrying out this chapter” are substituted for “the performance of, and with respect to, the functions, powers, and duties vested in him by this chapter” to eliminate unnecessary words.

In clause (1), the words “(except terms the Secretary of Labor prescribes under section 5333(b) of this title)” are added for clarity because 49 App.:1608(a) only applies to the Secretary of Transportation and does not supersede the responsibility of the Secretary of Labor. In clause (3), the word “civil” is added for clarity. The words “contract, or other” are omitted as surplus. In clause (4), the words “bid for and . . . at any foreclosure or any other sale” are omitted as surplus. In clause (6), the words “at public or private sale”, “real or personal”, and “upon such terms as he may fix” are omitted as surplus. Clause (8) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(c)(7)) to eliminate unnecessary words. In clause (9), the word “provisions” is omitted as surplus. The words “carry out this chapter” are substituted for “assure that the purposes of this subchapter will be achieved” to eliminate unnecessary words.

In subsection (b), the words “regulatory” and “regulatory proceeding” are substituted for “rulemaking” for consistency in the revised title and because “rule” and “regulation” are synonymous.

In subsection (b)(1), the words “Federal Transit Administration” are substituted for “Urban Mass Transportation Administration” because of section 3004(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 2088). The words “also” and “required by the first sentence of this paragraph” are omitted as surplus.

In subsection (c), before clause (1), the words “In the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter . . . notwithstanding the provisions of any other law” are omitted as surplus. In clause (1), the words “prepare . . . and” and “for wholly owned Government corporations” are omitted as surplus.

Subsection (d) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(b) and last sentence) to eliminate unnecessary words.

In subsection (e), the words “such . . . as the making of loans” are omitted as surplus. The words “under this chapter” are added for clarity. The word “related” is substituted for “in connection with such financial transactions” to eliminate unnecessary words. The words “approved by the Secretary” are omitted as surplus. The word “binding” is substituted for “final and conclusive” to eliminate unnecessary words. The words “and employees” are added for consistency in the revised title and with other titles of the United States Code.

In subsection (f), before clause (1), the words “in any way” are substituted for “complete, administer, remodel and convert, dispose of, lease and otherwise” to eliminate unnecessary words. In clause (1), the words “civil or criminal” are omitted as surplus. In clause (2), the words “political subdivision of a State” are substituted for “local” for consistency.

In subsection (g)(1), before clause (A), the words “facilities and equipment and other”, “(including land)”, and “first” are omitted as surplus.

In subsection (g)(3), the words “and not in lieu of” are omitted as surplus.

Subsection (i) is substituted for section 1(a)(1) (related to authority and functions reserved to Secretary of Housing and Urban Development) of Reorganization Plan No. 2 of 1968 to eliminate unnecessary words. The reference to 49 App.:1602(c)(1) is translated as a reference to 49 App.:1602(e)(1) because section 2(1) of the Urban Mass Transportation Assistance Act of 1970 (Public Law 91-453, 84 Stat. 962) redesignated subsection (c) as subsection (e). The references to 49 App.:1603(a) (1st sentence), 1604, and 1607c(b) and former 49 App.:1607a are omitted as obsolete because of section 103(a) of the National Mass Transportation Act of 1974 (Public Law 93-503, 88 Stat. 1567) and sections 303(b), 305(a), and 307 of the Federal Public Transportation Act of 1978 (Public Law 95-599, 92 Stat. 2737, 2743, 2747). Reference to 49 App.:1607c(c) is omitted because it was enacted after the Reorganization Plan and was not intended to be within the scope of the Plan.

Subsection (j)(1) is substituted for 49 App.:1608(a) (1st sentence related to 12:1749a(e)) to eliminate unnecessary words.

## REFERENCES IN TEXT

The date of enactment of this paragraph, referred to in subsec. (g)(4)(C), is the date of enactment of Pub. L. 105-178, which was approved June 9, 1998.

## AMENDMENTS

1998—Pub. L. 105-178, §3025(b)(1), inserted “provisions” after “Administrative” in section catchline.

Subsec. (a)(10). Pub. L. 105-178, §3025(a), added par. (10).

Subsec. (b)(4). Pub. L. 105-178, §3023(c), substituted “5323(a)(2), 5323(c), 5323(e), 5324(c), 5325(a), 5325(b), 5326(c), and 5326(d)” for “5323(a)(2), (c) and (e), 5324(c), and 5325 of this title”.

Subsec. (g)(4). Pub. L. 105-178, §3025(c), added par. (4). 1996—Subsec. (b)(1). Pub. L. 104-287 substituted “Transportation and Infrastructure” for “Public Works and Transportation”.

Subsec. (c)(2). Pub. L. 104-316 substituted “for” for “the Comptroller General shall”.

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5302, 5312, 5338 of this title.

## § 5335. Reports and audits

(a) NATIONAL TRANSIT DATABASE.—(1) To help meet the needs of individual mass transportation systems, the United States Government, State and local governments, and the public for information on which to base mass transportation service planning, the Secretary of Transportation shall maintain a reporting system, using uniform categories to accumulate mass transportation financial and operating information and using a uniform system of accounts. The reporting and uniform systems shall contain appropriate information to help any level of government make a public sector investment decision. The Secretary may request and receive appropriate information from any source.

(2) The Secretary may make a grant under section 5307 of this title only if the applicant, and any person that will receive benefits directly from the grant, are subject to the reporting and uniform systems.

(b) BIENNIAL TRANSFERABILITY REPORT.—In January 1993, the Comptroller General shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on carrying out section 5307(b)(5)<sup>1</sup> of this title. The report shall—

(1) identify, by State, the amount of mass transportation money transferred for non-mass transportation purposes under section 5307(b)(5)<sup>1</sup> of this title during the prior fiscal year;

(2) include an assessment of the impact of the transfers on the mass transportation needs of individuals and communities in the State, including the impact on—

(A) the State’s ability to meet the mass transportation needs of elderly individuals and individuals with disabilities;

(B) efforts to meet the objectives of the Clean Air Act (42 U.S.C. 7401 et seq.) and the

Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

(C) the State’s efforts to extend public mass transportation services to unserved rural areas; and

(3) examine the relative levels of Government mass transportation assistance and services in urban and rural areas in the fiscal year that ended September 30, 1991, and the extent to which the assistance and service has changed in later fiscal years because of mass transportation resources made available under this chapter and the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 1914).

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 838; Pub. L. 104-287, §5(9), (18), Oct. 11, 1996, 110 Stat. 3389, 3390; Pub. L. 104-316, title I, §127(b), Oct. 19, 1996, 110 Stat. 3840; Pub. L. 105-178, title III, §3026, June 9, 1998, 112 Stat. 365.)

## HISTORICAL AND REVISION NOTES

## PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5335(a) .....	49 App.:1608(j).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §12(j); added Apr. 2, 1987, Pub. L. 100-17, §319, 101 Stat. 234.
	49 App.:1611(a).	July 9, 1964, Pub. L. 88-365, §15(a), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89-562, §§2(a)(1), 4, 80 Stat. 715, 717; Oct. 15, 1970, Pub. L. 91-453, §7, 84 Stat. 967; re-stated Nov. 26, 1974, Pub. L. 93-503, §111, 88 Stat. 1573.
	49 App.:1611(b).	July 9, 1964, Pub. L. 88-365, §15(b), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89-562, §§2(a)(1), 4, 80 Stat. 715, 717; Oct. 15, 1970, Pub. L. 91-453, §7, 84 Stat. 967; re-stated Nov. 26, 1974, Pub. L. 93-503, §111, 88 Stat. 1573; Jan. 6, 1983, Pub. L. 97-424, §304(c), 96 Stat. 2150.
5335(b) .....	49 App.:1603(b)(1).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §4(b)(1); added Nov. 6, 1978, Pub. L. 95-599, §303(e), 92 Stat. 2738; re-stated Apr. 2, 1987, Pub. L. 100-17, §307, 101 Stat. 226; Dec. 18, 1991, Pub. L. 102-240, §3006(h) (1), 105 Stat. 2090.
5335(c) .....	49 App.:1623(a).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §27; added Dec. 18, 1991, Pub. L. 102-240, §3028, 105 Stat. 2115.
5335(d) .....	49 App.:1623(b).	

In subsection (a), the text of 49 App.:1608(j) is omitted as superseded by 31:ch. 75.

In subsection (a)(1), the words “by January 10, 1977” are omitted as executed. The word “maintain” is substituted for “develop, test, and prescribe” for clarity. The text of 49 App.:1611(a) (3d and 4th sentences) is omitted as executed. The words “or data as he deems” and “public or private” are omitted as surplus.

In subsection (a)(2), the words “After July 1, 1978” are omitted as executed. The reference to 49 App.:1604 is omitted as obsolete. The words “for such grant”, “or organization”, “each . . . both”, and “prescribed under subsection (a) of this section” are omitted as surplus.

In subsection (b)(1), the words “commitments, and reservations” are omitted as surplus.

In subsection (b)(2) and (3), the words “uncommitted, and unreserved” are omitted as surplus.

In subsection (b)(3) and (5), the words “last day” are substituted for “close” for consistency.

In subsection (b)(4), the words “a listing of” are omitted as surplus.

<sup>1</sup> See References in Text note below.