



## **Nashville Metropolitan Transit Authority (MTA)**

### **FEDERAL TRANSIT ADMINISTRATION JOB ACCESS REVERSE COMMUTE PROGRAM AND NEW FREEDOM PROGRAM**

**REQUEST FOR PROPOSAL  
RFP NO 2011271**

**ISSUED: November 15, 2011  
PROPOSALS DUE: December 15, 2011**

**REQUEST FOR PROPOSAL**

Main Office  
130 Nestor Street  
Nashville, TN 37210

**PROPOSALS MUST BE RECEIVED  
PRIOR TO 3:00 P.M. CST**

**December 15, 2011**  
**RFP 2011271**

**INSTRUCTIONS:**

1. SUBMIT (1) ORIGINAL, (5) ADDITIONAL, AND (1) ELECTRONIC COPIES OF YOUR PROPOSAL.
2. RETURN THIS PAGE SIGNED TO RECEIVE ANY ADDENDA.
3. ALL PROPOSALS ARE TO BE IDENTIFIED WITH RFP#, AND RETURNED IN A SEALED ENVELOPE OR PACKAGE.
4. DURING THE RFP PROCESS, NO VERBAL COMMUNICATION. ALL QUESTIONS IN WRITING AND MUST BE DIRECTED TO THE PROCUREMENT DEPARTMENT.

**ADDENDA REQUEST FORM**

**The Nashville MTA is soliciting Proposals from agencies qualified to receive Federal Transit Administration, Job Access Reverse Commute Program and/or New Freedom Program funding. This Request for Proposal(s) (hereinafter RFP) is set out in the following format:**

- SECTION I. Introduction
- SECTION II. Instructions to Proposers
- SECTION III. Proposal Response Requirements
- SECTION IV. Scope
- SECTION V. Required Forms
- SECTION VI. Appendix
- SECTION VII. Proposed Contract

**Proposals will be accepted, at the Nashville Area Metropolitan Planning Organization (MPO) offices located at 800 2<sup>nd</sup> Ave South, Nashville, TN 37219, until 3:00 p.m., Central Standard Time (CST), Thursday, December 15, 2011, Attn: Lou Edwards. Proposals received after this date and time will not be accepted. Proposals are not opened with regular mail.**

All questions and inquiries related to this RFP must be directed to: Debbie Tunnell, Procurement and Project Administrator, until 3:00 p.m. (CST), Wednesday, December 7, 2011. At 130 Nestor Street, Nashville TN 37210, e-mail [debbie.tunnell@nashville.gov](mailto:debbie.tunnell@nashville.gov) or phone 615-880-2469. We do not recommend requests by fax (fax # 615-862-6208), because we cannot guarantee receipt of or response to these requests.

Proposers are not to contact other Nashville MTA personnel with any questions or clarifications concerning this RFP. The Nashville MTA Procurement Department will provide all official communication concerning this RFP.

**I HAVE READ AND UNDERSTOOD THIS REQUEST FOR PROPOSAL (RFP) and our agency desires to receive copies or notices of addenda. You must provide the information requested below no later than, 3:00 p.m. (CST), Friday, November 25, 2011.**

Company Name	Phone Number	Fax Number
Address		
Name of person to contact in reference to this Proposal		Title
E-mail Address		

**Delivery Criteria: one (1) original, five (5) numbered copies, one (1) electronic copy**

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**DEFINITIONS**

Designated Recipient – The Nashville Metropolitan Transit Authority (MTA) is the Designated Recipient for FTA Jobs Access and Reverse Commute Funds (JARC-5316) as well as New Freedom Funds (NF-5317) for the Nashville Urbanized Area. This means that Nashville MTA is responsible for coordinating the use of these funds in accordance with FTA guidelines as well as developing the Coordinated Human Services Transportation Plan. Nashville MTA has established an agreement with Nashville MTA for Nashville MTA to lead this process.

Evaluation Committee – The Evaluation Committee will include members of the Nashville Area Metropolitan Planning Organization (MPO) Staff. Each member of the Evaluation Committee scores each proposal individually and then the Committee develops a consensus score for each.

Federal Transit Administration (FTA) – FTA is the agency of the U.S. Department of Transportation which administers the federal program of financial assistance to public transit.

Nashville Area MPO (MPO) – This is a federally mandated, regional transportation planning body that coordinates transportation planning for the Nashville Urbanized Area.

Review Committee – This committee is comprised of several organizations that participated as the Steering Committee for the development of the Coordinated Human Services Transportation Plan (A full list of the participants is available in the CHSTP document). This committee will review the proposals to ensure they meet the requirements of the RFP, however, this committee will not be involved in the proposal evaluation and selection process.

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## I. INTRODUCTION

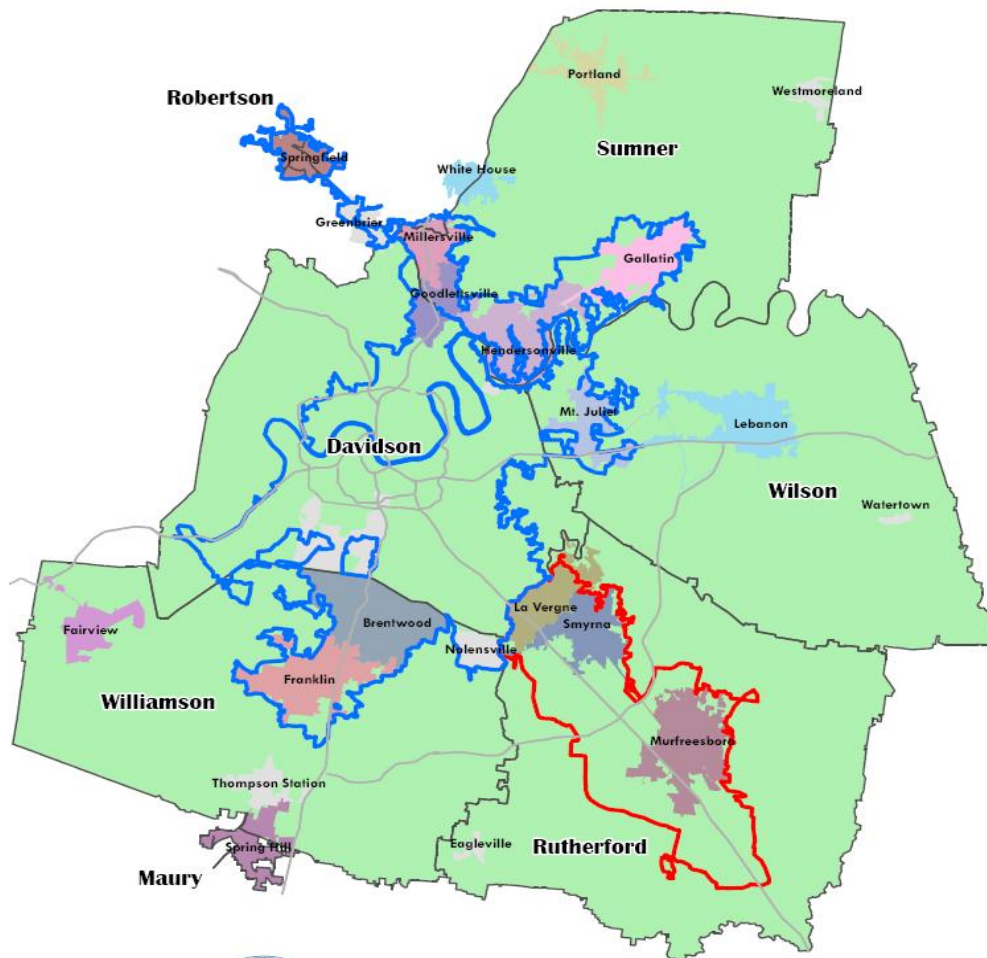
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Nashville MTA is seeking Proposals for projects from qualified and interested Agencies to plan and implement transportation projects designed to serve disadvantaged populations in the Nashville Urbanized Area. These populations are Low-Income, Persons with Disabilities and Older Adults.

### 1. GENERAL INFORMATION

1.0 The Nashville Metropolitan Transit Authority (MTA) is the designated recipient for the Nashville urbanized region. Nashville MTA has contracted with the Regional Transportation Authority (RTA) to administer the application process and contract management process for the allocation of Federal Transit Administration (FTA) Section 5316 Job Access Reverse Commute (JARC) and Section 5317 New Freedom funding program for the Nashville Urbanized Area.



## **2. BACKGROUND**

2.0 In August of 2005, legislation was signed for the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) which requires a locally developed, coordinated public transit-human services transportation plan (CHSTP). The purpose of a plan is to improve transportation services for persons with disabilities, older adults, and individuals with lower incomes by ensuring that communities coordinate transportation resources provided through multiple federal programs. Coordination will enhance transportation access, minimize duplication of services, and facilitate the most appropriate and cost-effective transportation possible with available resources.

2.1 The plan has been developed through the coordinating partnership of Nashville MTA, RTA, Nashville MPO, TDOT, Greater Nashville Regional Council (GNRC) Neighborhoods Resource Center, Center For Independent Living, Council on Aging of Greater Nashville, The TMA Group, and In Shuttle Transportation. The plan applies to the urbanized areas within Davidson, Rutherford, Sumner, Williamson and Wilson counties and will also provide for coordination with Springfield, TN in Robertson County and Spring Hill in Maury County.

## **3. THE PLAN**

3.0 Nashville MTA is the Designated Recipient for the JARC and New Freedom funds for the Nashville Urbanized Area. As the designated recipient for JARC and New Freedom funds, Nashville MTA is required to have a coordinated human services transportation plan on file with FTA. It is on file with FTA. This is the fourth issuance of this plan and Nashville MTA has contracted with RTA to develop, coordinate, and implement the plan in order to provide greater regional coordination.

3.1 RTA and Nashville MTA will continue to work closely with other transportation providers, consumers and advocates, human service agencies/providers and others to assess available transportation services, identify transportation gaps, and look for innovative strategies and solutions.

3.2 In summary, the CHSTP process indicates a need for the following:

- Lower cost on demand, accessible service for lower income mobility impaired
- More on-demand service for seniors and disabled
- More door to door and door through door services for seniors
- More fixed route deviated services
- More service on the weekends
- Better information and communications about existing transportation services
- Better information on transportation services available and the relationship of services available for those transportation needs (i.e. transportation to jobs, health care, child care and other services available in that area).

## **4. FTA JARC PROGRAM DESCRIPTION**

### **4.0 JARC Program History**

The Job Access and Reverse Commute (JARC) program has had a dramatic impact on the lives of thousands of welfare recipients and low-income families, helping individuals successfully transition from welfare to work and reach needed employment support services such as childcare and job training activities. JARC was established as part of TEA-21 to address the unique transportation challenges faced by welfare recipients and low-income persons seeking to get and keep jobs. With many new entry-level jobs located in suburban areas, low-income and/or welfare recipients have found it difficult to access these jobs from their inner city, urban and rural neighborhoods on a daily basis. Further, many entry-level jobs require working late at night or on weekends when conventional transit services in many communities are either reduced or non-existent. Finally, many employment-related trips are complex for low-income persons, often involving multiple destinations, including reaching childcare facilities and other services as part of the work trip.

#### **4.1 JARC Program Goal**

The goal of the JARC program is to improve access to transportation services to employment and employment related activities for welfare recipients and eligible low-income individuals and to transport residents of urbanized areas and non-urbanized areas to suburban employment opportunities. Toward this goal, the Federal Transit Administration (FTA) provides financial assistance for transportation services planned, designed, and carried out to meet the transportation needs of eligible low-income individuals, and of reverse commuters regardless of income. The program requires coordination of Federally-assisted programs and services in order to make the most efficient use of Federal resources.

#### **4.2 JARC Program Measures**

Under the Government Performance Results Act (GPRA), FTA is required by law to “establish performance goals to define the level of performance” and to also “establish performance indicators to be used in measuring relevant outputs, service levels, and outcomes” for each of its programs. The performance measures described here are designed to fulfill FTA’s obligations under this Act. These measures will be used at a program level, and will not be used to assess individual grants.

4.2.0 FTA will be capturing overall program measures to be used with the GPRA and the Performance Assessment Rating Tool process for the U.S. Office of Management and Budget (OMB). FTA will conduct independent evaluations of the program focused on specific data elements in order to better understand the implementation strategies and related outcomes associated with the program. The following indicators are targeted to capture overarching program information as part of the Annual Report that each grantee submits to FTA. Specific reporting requirements for recipients can be found in Chapter VI.

4.2.1 The two measures established for the JARC Program are:

- a. Actual or estimated number of jobs that can be accessed as a result of geographic or temporal coverage of JARC projects implemented in the current reporting year.
- b. Actual or estimated number of rides (as measured by one-way trips) provided as a result of the JARC projects implemented in the current reporting year.

#### **4.3 Eligible Sub-Recipients**

There are three categories of eligible sub-recipients of JARC funds:

- a. Private non-profit organizations;
- b. State or local governmental authority; and
- c. Operators of public transportation services, including private operators of public transportation services.

#### **4.3.0 Eligible Activities**

Funds from the JARC program are available for capital, planning, and operating expenses that support the development and maintenance of transportation services designed to transport low-income individuals to and from jobs and activities related to their employment and to support reverse commute projects.

In the conference report accompanying SAFETEA-LU, the conferees stated an expectation that FTA would “continue its practice of providing maximum flexibility to job access projects that are designed to meet the needs of individuals who are not effectively served by public transportation, consistent with the use of funds described in the *Federal Register*, Volume 67 (April 8, 2002)” (H.R. Report 109–203, at Section 3018 (July 28, 2005)). Therefore, eligible projects may include, but are not limited to capital, planning, and operating assistance to support activities such as:

- a. Late-night and weekend service;
- b. Guaranteed ride home service;
- c. Shuttle service;

- d. Expanding fixed-route public transit routes;
- e. Demand-responsive van service;
- f. Ridesharing and carpooling activities;
- g. Transit-related aspects of bicycling (such as adding bicycle racks to vehicles to support individuals that bicycle a portion of their commute or providing bicycle storage at transit stations);
- h. Local car loan programs that assist individuals in purchasing and maintaining vehicles for shared rides;
- i. Promotion, through marketing efforts, of the:
  - (1) use of transit by workers with non-traditional work schedules;
  - (2) use of transit voucher programs by appropriate agencies for welfare recipients and other low-income individuals;
  - (3) development of employer-provided transportation such as shuttles, ridesharing, carpooling; or
  - (4) use of transit pass programs and benefits under Section 132 of the Internal Revenue Code of 1986;
- j. Supporting the administration and expenses related to voucher programs. This activity is intended to supplement existing transportation services by expanding the number of providers available or the number of passengers receiving transportation services. Vouchers can be used as an administrative mechanism for payment to providers of alternative transportation services. The JARC program can provide vouchers to low-income individuals to purchase rides, including (1) mileage reimbursement as part of a volunteer driver program, (2) a taxi trip, or (3) trips provided by a human service agency. Providers of transportation can then submit the voucher to the JARC project administering agency for payment based on pre-determined rates or contractual arrangements. Transit passes for use on fixed route or Americans with Disabilities Act of 1990 (ADA) complementary paratransit service are not eligible. Vouchers are an operational expense which requires a 50/50 (Federal/local) match;
- k. Acquiring Geographic Information System (GIS) tools;
- l. Implementing Intelligent Transportation Systems (ITS), including customer trip information technology;
- m. Integrating automated regional public transit and human service transportation information, scheduling and dispatch functions;
- n. Deploying vehicle position-monitoring systems;
- o. Subsidizing the costs associated with adding reverse commute bus, train, carpool van routes or service from urbanized areas and non-urbanized areas to suburban work places;
- p. Subsidizing the purchase or lease by a non-profit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace;
- q. Otherwise facilitating the provision of public transportation services to suburban employment opportunities;
- r. Supporting new mobility management and coordination programs among public transportation providers and other human service agencies providing transportation. Mobility management is an eligible capital cost. Mobility management techniques may enhance transportation access for populations beyond those served by one agency or organization within a community. For example, a

non-profit agency could receive JARC funding to support the administrative costs of sharing services it provides to its own clientele with other low-income individuals and coordinate usage of vehicles with other non-profits, but not the operating costs of the service. Mobility management is intended to build coordination among existing public transportation providers and other transportation service providers with the result of expanding the availability of service. Mobility management activities may include:

- (1) The promotion, enhancement, and facilitation of access to transportation services, including the integration and coordination of services for individuals with disabilities, older adults, and low-income individuals;
- (2) Support for short term management activities to plan and implement coordinated services;
- (3) The support of State and local coordination policy bodies and councils;
- (4) The operation of transportation brokerages to coordinate providers, funding agencies and customers;
- (5) The provision of coordination services, including employer-oriented Transportation Management Organizations' and Human Service Organizations' customer-oriented travel navigator systems and neighborhood travel coordination activities such as coordinating individualized travel training and trip planning activities for customers;
- (6) The development and operation of one-stop transportation traveler call centers to coordinate transportation information on all travel modes and to manage eligibility requirements and arrangements for customers among supporting programs; and
- (7) Operational planning for the acquisition of intelligent transportation technologies to help plan and operate coordinated systems inclusive of Geographic Information Systems (GIS) mapping, Global Positioning System technology, coordinated vehicle scheduling, dispatching and monitoring technologies as well as technologies to track costs and billing in a coordinated system and single smart customer payment systems (acquisition of technology is also eligible as a stand alone capital expense).

***Please refer to Circular JARC FTA – C 9050.1 for more information***  
***[http://www.fta.dot.gov/documents/FTA\\_C\\_9050.1\\_JARC\(1\).pdf](http://www.fta.dot.gov/documents/FTA_C_9050.1_JARC(1).pdf)***

## **5. FTA NEW FREEDOM PROGRAM DESCRIPTION**

### **5.0 New Freedom Program Goal**

The New Freedom formula grant program aims to provide additional tools to overcome existing barriers facing Americans with disabilities seeking integration into the work force and full participation in society. Lack of adequate transportation is a primary barrier to work for individuals with disabilities. The 2000 Census showed that only 60 percent of people between the ages of 16 and 64 with disabilities are employed. The New Freedom formula grant program seeks to reduce barriers to transportation services and expand the transportation mobility options available to people with disabilities beyond the requirements of the ADA of 1990.

### **5.1 New Freedom Program Measures**

Under the Government Performance Results Act (GPRA), The Federal Transit Administration (FTA) is required by law to “establish performance goals to define the level of performance” and to also “establish performance indicators to be used in measuring relevant outputs, service levels, and outcomes” for each of its programs. The performance measures described here are designed to fulfill FTA’s obligations under this Act. These measures will be used at our program level. They are as follows:

- a. Increases or enhancements related to geographic coverage, service quality and/or service times that impact availability of transportation services for individuals with disabilities as a result of the New Freedom projects implemented in the current reporting year.
- b. Additions or changes to environmental infrastructure (e.g., transportation facilities, side-walks, etc), technology, and vehicles that impact availability of transportation services as a result of the New Freedom projects implemented in the current reporting year.
- c. Actual or estimated number of rides (as measured by one-way trips) provided for individuals with disabilities as a result of the New Freedom projects implemented in the current reporting year.

## 5.2 Eligible New Freedom Sub-Recipients

There are three categories of eligible sub-recipients of New Freedom funds:

- a. Private non-profit organizations;
- b. State or local governmental agency; and
- c. Operators of public transportation services including private operators of public transportation services.

## 5.3 Eligible New Freedom Activities

New Freedom Program funds are available for capital and operating expenses that support new public transportation services beyond those required by the Americans with Disabilities Act of 1990 (ADA) and new public transportation alternatives beyond those required by the ADA designed to assist individuals with disabilities with accessing transportation services, including transportation to and from jobs and employment support services. For the purpose of the New Freedom Program, “new” service is any service or activity that was not operational on August 10, 2005, and did not have an identified funding source as of August 10, 2005, as evidenced by inclusion in the Transportation Improvement Plan (TIP) or the STIP. In other words, if not for the New Freedom Program, these projects would not have consideration for funding and proposed service enhancements would not be available for individuals with disabilities.

5.3.0 Maintenance of Effort: Recipients or sub-recipients may not terminate ADA paratransit enhancements or other services funded as of August 10, 2005, in an effort to reintroduce the services as “new” and then receive New Freedom funds for those services.

Eligible projects funded with New Freedom funds may continue to be eligible for New Freedom funding indefinitely as long as the project(s) continue to be part of the coordinated plan.

5.3.1 Both new public transportation services and new public transportation alternatives are required to go beyond the requirements of the ADA and must (1) be targeted toward individuals with disabilities; and (2) meet the intent of the program by removing barriers to transportation and assisting persons with disabilities with transportation, including transportation to and from jobs and employment services.

5.3.2 The list of eligible activities is intended to be illustrative, not exhaustive. Recipients are encouraged to develop innovative solutions to meet the needs of individuals with disabilities in their communities.

- A) New Public Transportation Services Beyond the ADA. The following activities are examples of eligible projects meeting the definition of new public transportation.

(1) Enhancing paratransit beyond minimum requirements of the ADA. ADA complementary paratransit services can be eligible under New Freedom in several ways as long as the services provided meet the definition of “new:”

- (a) Expansion of paratransit service parameters beyond the three-fourths mile required by the ADA;

- (b) Expansion of current hours of operation for ADA paratransit services that are beyond those provided on the fixed-route services;
- (c) The incremental cost of providing same day service;
- (d) The incremental cost of making door-to-door service available to all eligible ADA paratransit riders, but not as a reasonable modification for individual riders in an otherwise curb-to-curb system;
- (e) Enhancement of the level of service by providing escorts or assisting riders through the door of their destination;
- (f) Acquisition of vehicles and equipment designed to accommodate mobility aids that exceed the dimensions and weight ratings established for common wheelchairs under the ADA and labor costs of aides to help drivers assist passengers with over-sized wheelchairs. This would permit the acquisition of lifts with a larger capacity, as well as modifications to lifts with a 600 lb design load, and the acquisition of heavier-duty vehicles for paratransit and/or demand-response service; and
- (g) Installation of additional securement locations in public buses beyond what is required by the ADA.

(2) Feeder services. New “feeder” service (transit service that provides access) to commuter rail, commuter bus, intercity rail, and intercity bus stations, for which complementary paratransit service is not required under the ADA.

(3) Making accessibility improvements to transit and intermodal stations not designated as key stations. Improvements for accessibility at existing transportation facilities that are not designated as key stations established under **49 CFR 37.47, 37.51, or 37.53, and that are not required under 49 CFR 37.43** as part of an alteration or renovation to an existing station, so long as the projects are clearly intended to remove barriers that would otherwise have remained. **New Freedom** funds are eligible to be used for **new** accessibility enhancements that remove barriers to individuals with disabilities so they may access greater portions of public transportation systems, such as fixed-route bus service, commuter rail, light rail and rapid rail. This may include:

- (a) Building an accessible path to a bus stop that is currently inaccessible, including curbcuts, sidewalks, accessible pedestrian signals or other accessible features,
- (b) Adding an elevator or ramps, detectable warnings, or other accessibility improvements to a non-key station that are not otherwise required under the ADA,
- (c) Improving signage, or way-finding technology, or
- (d) Implementation of other technology improvements that enhance accessibility for people with disabilities including Intelligent Transportation Systems (ITS).

(4) Travel training. New training programs for individual users on awareness, knowledge, and skills of public and alternative transportation options available in their communities. This includes travel instruction and travel training services.

B) New Public Transportation Alternatives Beyond the ADA. The following activities are examples of projects that are eligible as new public transportation alternatives beyond the ADA under the New Freedom Program:

- (1) Purchasing vehicles to support new accessible taxi, ride sharing, and/or vanpooling programs. New Freedom funds can be used to purchase and operate accessible vehicles for use in taxi, ridesharing

and/or van pool programs provided that the vehicle has the capacity to accommodate a passenger who uses a "common wheelchair" as defined under **49 CFR 37.3**, at a minimum, while remaining in his/her personal mobility device inside the vehicle, and meeting the same requirements for lifts, ramps and securement systems specified in **49 CFR part 38, subpart B**.

- (2) Supporting the administration and expenses related to new voucher programs for transportation services offered by human service providers. This activity is intended to support and supplement existing transportation services by expanding the number of providers available or the number of passengers receiving transportation services. Only new voucher programs or expansion of existing programs are eligible under the New Freedom Program. Vouchers can be used as an administrative mechanism for payment of alternative transportation services to supplement available public transportation. The New Freedom Program can provide vouchers to individuals with disabilities to purchase rides, including: (a) mileage reimbursement as part of a volunteer driver program; (b) a taxi trip; or (c) trips provided by a human service agency. Providers of transportation can then submit the voucher for reimbursement to the recipient for payment based on pre-determined rates or contractual arrangements. Transit passes for use on existing fixed route or ADA complementary paratransit service are not eligible. Vouchers are an operational expense which requires a 50/50 (Federal/local) match.
- (3) Supporting new volunteer driver and aide programs. New volunteer driver programs are eligible and include support for costs associated with the administration, management of driver recruitment, safety, background checks, scheduling, coordination with passengers, and other related support functions, mileage reimbursement, and insurance associated with volunteer driver programs. The costs of new enhancements to increase capacity of existing volunteer driver programs are also eligible. FTA notes that any volunteer program supported by New Freedom must meet the requirements of both "new" and "beyond the ADA." FTA encourages communities to offer consideration for utilizing all available funding resources as an integrated part of the design and delivery of any volunteer driver/aide program.
- (4) Supporting new mobility management and coordination programs among public transportation providers and other human service agencies providing transportation. Mobility management is an eligible capital cost. Mobility management techniques may enhance transportation access for populations beyond those served by one agency or organization within a community. For example, a non-profit agency could receive New Freedom funding to support the administrative costs of sharing services it provides to its own clientele with other individuals with disabilities and coordinate usage of vehicles with other non-profits, but not the operating costs of the service. Mobility management is intended to build coordination among existing public transportation providers and other transportation service providers with the result of expanding the availability of service. Mobility management activities may include:
  - (a) The promotion, enhancement, and facilitation of access to transportation services, including the integration and coordination of services for individuals with disabilities, older adults, and low-income individuals;
  - (b) Support for short term management activities to plan and implement coordinated services;
  - (c) The support of State and local coordination policy bodies and councils;
  - (d) The operation of transportation brokerages to coordinate providers, funding agencies and customers;
  - (e) The provision of coordination services, including employer-oriented Transportation Management Organizations' and Human Service Organizations' customer-oriented travel navigator systems and neighborhood travel coordination activities such as coordinating individualized travel training and trip planning activities for customers;

(f) The development and operation of one-stop transportation traveler call centers to coordinate transportation information on all travel modes and to manage eligibility requirements and arrangements for customers among supporting programs; and

(g) Operational planning for the acquisition of intelligent transportation technologies to help plan and operate coordinated systems inclusive of Geographic Information Systems (GIS) mapping, Global Positioning System Technology, coordinated vehicle scheduling, dispatching and monitoring technologies as well as technologies to track costs and billing in a coordinated system and single smart customer payment systems (acquisition of technology is also eligible as a stand alone capital expense).

**Please refer to Circular New Freedom FTA – C 9045.1 for more information**  
[http://www.fta.dot.gov/documents/FTA\\_C\\_9045.1\\_New\\_Freedom\(1\).pdf](http://www.fta.dot.gov/documents/FTA_C_9045.1_New_Freedom(1).pdf)

**C) ADA REQUIREMENTS FOR AN ACCESSIBLE VEHICLE:**

1. The lift controls shall be interlocked with the vehicle brakes, transmission or door or shall provide other appropriate mechanisms or systems to ensure that the vehicle cannot be moved when the lift is not stowed and so the lift cannot be deployed unless the interlocks or systems are engaged.
2. Handicap lifts must meet ADA requirements such as 30"x 48" clear platform, two handrails, back-up pumps, barriers and so on.
3. Lift door height. The overhead clearance between the top of the door opening and the raised lift platform (or highest point of the ramp) shall be a minimum of 56 inches.
4. Vehicles under 22 feet must be equipped with one wheelchair securement system with a clear floor area of 30- by 48-inches. The wheelchair may be secured facing toward the front or rear of the vehicle. When wheelchair securement position/s face rearward on 18-inch-wide padded barrier, 38 to 56 inches high from the vehicle floor, must be provided laterally centered immediately in back of the seated individual.
5. Wheelchair attachments to vehicle must restrain a force in the forward longitudinal direction of up to 2,500 pounds per securement leg or clamping mechanism and a minimum of 5,000 pounds for each mobility aid. When secured, the wheelchair cannot move more than two inches in normal vehicle operation.
6. For each wheelchair or mobility aid securement device provided, a passenger seat belt and shoulder harness, complying with Part 571, shall be provided for use by wheelchair or mobility aid users. Seat belts and shoulder harnesses shall not be used in lieu of a device that secures the wheelchair or mobility aid itself.
7. Each wheelchair securement location shall have a sign designating it as such. Sign characters must be 5/8-inch minimum in height with wide spacing and a contrasting background. Sign(s) shall be placed on the wall below the window garnish at wheelchair positions. The sign(s) placed at forward facing wheelchair position(s) shall read: "Forward facing wheelchair securement location." The sign(s) placed at rearward facing wheelchair position(s) shall read: "Rearward facing wheelchair securement location."
8. At least one of the forward-facing seats in the front of the vehicle shall be designated as priority seats for persons with disabilities. Sign(s) must be provided in the vehicle that indicate the seats in the front of the vehicle as priority seats for persons with disabilities and that other passengers should make such seats available to those who wish to use them. Priority seating signs must have a minimum character height of 5/8-inch with wide spacing and a contrasting background. Sign(s) shall be placed on the light bar panel above the window. Sign(s) placed over priority seats shall read: "Priority seating for persons with disabilities. Other passengers should make these seats available to those who wish to use them."

9. Step-wells and doorways, including doorways in which lifts are installed, shall have at all time two-foot candles of illumination measured on the step tread or lift when deployed at the vehicle floor level.

10. The vehicle doorways, including doorways in which lifts are installed, shall have outside lights that, when the door is open, provide at least one foot candle of illumination on the street surface for a distance of three feet perpendicular to all points on the bottom step tread outer edge. Such light shall be located below window level and shielded to protect the eyes of entering and exiting passengers.

11. Handrails (1.25 to 1.5 inches in diameter) and stanchions shall be provided in the entrance to the vehicle in a configuration that allows persons with disabilities to grasp the assists from outside the vehicle while starting to board and to continue using such assists throughout the boarding and fare collection process. All handrails must provide a minimum knuckle clearance of 1.5 inches from the nearest adjacent surface.

12. Floor colors on step edges, thresholds and bordering edges of lifts must be of contrasting color. Refer to RCA Rubber Co. contrast chart for approved color combinations. Aisles, steps, floor areas where people walk, and floors in securement locations shall have slip-resistant surfaces.

13. Where destination or route information is displayed on the exterior of a vehicle, each vehicle shall have illuminated signs on the front and boarding side of the vehicle. Characters used in signs on the boarding side must be minimum 1-inch in height. Characters used in signs on the front must be minimum 2-inches in height. Characters shall have a width to height ratio between 3:5 and 1:1 and a stroke width to height ratio between 1:5 to 1:10. The space between letters shall be 1/16 the height of upper case letters.

14. Overhead handrails shall be provided that shall be continuous except for a gap at the rear doorway. All handrails must provide a minimum knuckle clearance of 1.5 feet from the nearest adjacent surface.

## 6. PROSALSCHEDULE

### 6.0 Proposal Solicitation

RTA will announce availability of JARC and New Freedom funds though the RTA website, Nashville MTA website, MPO website, newspaper and direct mail to entities on the stakeholders list.

### 6.1 Schedule

The following estimated time line should be used as a working guide for planning purposes. Nashville MTA reserves the right to adjust this schedule as required during the course of the RFP process. Nashville MTA will make good faith efforts to notify potential Proposers of adjustments to the schedule; however, ultimate responsibility for obtaining notice of changes lies with the Proposer. Any changes to the proposed schedule will be listed on our Websites, [www.nashvillemta.org](http://www.nashvillemta.org) and [www.rtarelaxandride.com](http://www.rtarelaxandride.com).

RFP Release Date	Tuesday, November 15, 2011
Addenda Request Form Due	Friday, November, 25, 2011, 3:00 pm (CST)
RFP Pre-proposal Meeting	Thursday, December 1, 2011, 10:00 am (CST)
Deadline for all RFP Questions	Wednesday, December, 7, 2011, 3:00 pm (CST)
Proposal due Date	Thursday, December 15, 2011, 3:00 pm (CST)
Review of Proposals	Friday, December 16, 2011
Evaluation of Proposals	December 16, 2011 – January 15, 2012
Project Award Announced	January 16, 2012
Awarded projects submitted to Federal Transit Administration for review	January 17 – April 30, 2012
FTA Project Approval	May 1, 2012 (estimate)
Projected Project Start Date	October 1, 2012

**The pre-proposal meeting will be conducted Thursday, December 1, 2011 at 10:00 am (CST), at Music City**

**Central, 400 Charlotte Ave, Nashville, TN 37219. It will be conducted in the MCC Board Room located on the second floor of Music City Central.**

6.2 Evaluation of Proposals - A Review Committee will examine the proposals to ensure they meet the stated requirements of the RFP. After the initial examination by the Review Committee an Evaluation Committee, that includes members of the Nashville Area Metropolitan Planning Organization (MPO) Staff, will conduct the Proposal Evaluation.

6.3 The Evaluation Committee will apply the evaluation criteria set forth in the RFP, or in any addenda issued. A detailed evaluation that follows the initial examination may require additional information and/or clarification. At that point, the Evaluation Committee may request additional information, request a presentation, request an interview, request revised or best and final offers.

6.4 Should presentations and/or interviews become necessary, Nashville MTA will contact the top-scoring firm(s) from the evaluation to schedule a date and time.

6.5 Nashville MTA reserves the right to select one or more from among the Proposals submitted and to enter into discussions with the top-ranked Proposer(s).

6.6 Nashville MTA reserves the right to enter into discussions with the top-ranked Proposers without requesting interviews to reach final agreement on specific terms of the Contract. Proposals should be submitted initially on the most favorable and effective terms within reason.

6.7 The Evaluation and Review Committee shall have the right to use all ideas, or adaptations of those ideas, contained in any proposal received in response to this RFP. Selection or rejection of the proposal shall not affect this right.

**7. EVALUATION CRITERIA**

7.0 Project Evaluation Criteria

The evaluation criteria were derived directly from the goals established by the CHSTP Steering Committee. They are designed to encourage innovative strategies for serving transportation disadvantaged populations. A set of broad categories was created for which applicants will receive scores based on their ability to achieve said objective. Within each category, suggestions are made of strategies that might be used to complete the goal; however these guidelines are only suggestions and are not meant to be interpreted as a checklist of required components. These criteria and their guidelines are as follows:

Key Evaluation Areas	Scoring Criteria	Possible Points
1. Statement of Need & Proposed Activity	<p>Describe efforts to meet these criteria in as much detail as possible to help us determine the quality of service provided by your agency and its financial capability.</p> <p><i>Guidelines may include:</i></p> <ul style="list-style-type: none"> <li>• <b>Need and Use of Proposed Funds:</b> Applicant must include: the degree and urgency of need for funds; applicant's ability to conduct the proposed project; proposed use of funds; and, if appropriate ridership projections.</li> <li>• <b>Target Population:</b> Describe the target population which this project is designed to serve and what gap in public services will be filled through the use of these funds.</li> <li>• <b>Measures of Effectiveness:</b> Describe the measures which will be used to evaluate the effectiveness of the project. Explain how the project will demonstrate to have had a positive impact and how those impacts will be assessed.</li> <li>• <b>Sustainability:</b> Describe what steps have been taken to ensure continuation of projects during reimbursement period and what proactive efforts will be undertaken to insure the continuation of the project at the end of the grant period.</li> </ul>	0 - 30

	<i>Also include how this proposed activity does the following for the target populations: Increase transportation options, Improve mobility for the target populations, Simplify the use of services, Fill gaps in existing transportation infrastructure, Utilize technology such as ITS</i>	
2. Organization Capacity to Meet Need	<b>Fiscal and Managerial Capability</b> Applicant must describe its ability to provide efficient/effective accessible transportation services that may include scheduling, dispatching, compliance with reporting and monitoring requirements; its fiscal accountability; process for hiring and training of drivers and other personnel, if applicable. <i>Also, include how the organization has policy and procedures in place to address federal supplementary conditions as it pertains to the following:</i> <ul style="list-style-type: none"> <li>• Title VI of the 1964 Civil Rights Act</li> <li>• Drug Free Work Place Certification</li> <li>• No Suspension and Debarment (refer to DUNS and CCR information)</li> </ul>	<b>0 - 20</b>
3. Improve coordination among other agencies and providers	<b>Guidelines may include:</b> Serve cross-jurisdictional trips, Develop trip sharing agreements with partner agencies and other agencies, Interface with existing transportation systems, Utilize and or expand on existing fixed-route transit systems, Reduce barriers to coordinated service delivery (geographic, political, funding, etc.), Establish or expand programmatic relationships with other providers, Partner with other local and federal agencies and the private sector to provide more flexible and friendly transportation services.	<b>0 - 20</b>
4. Maximize project cost effectiveness	<b>Guidelines may include:</b> Maximize use and operating efficiency of existing vehicles, Eliminate duplicative services (either intra- or inter-agency), Maximize financial resources available through good coordination and trip sharing agreements with other providers, Share vehicles during off-peak times, Increase number of riders per trip	<b>0 - 15</b>
5. Project budget part 1 & 2 (10% of score)	<ul style="list-style-type: none"> <li>• Outline specific project expenses by task</li> <li>• Provide documentation of matching funds</li> <li>• Provide a budget narrative with reasonableness of budget</li> <li>• <b>Provide a timeline/milestones for expenditures</b></li> </ul>	<b>0 - 10</b>

## 8. AVAILABLE FUNDING

8.0 The Nashville Urbanized Area has **\$426,651.00** in JARC FTA funds available and **\$265,891.00** in New Freedom FTA funds available from the federal Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for users (SAFTEA-LU) FY2011 for this Request for Proposals. Nashville MTA will provide up to **one year** of funding for eligible grant proposals for each successful proposers. The focus of this request is for projects addressing the transportation needs identified in the CHSTP that is available at [www.RTArelaxandride.com](http://www.RTArelaxandride.com).

### 8.1 Eligible Use of Funds

The Nashville Urbanized Area JARC and New Freedom funds may be used for operating projects and capital projects, with the following federal and local share breakdown:

	<b>FTA</b>	<b>TDOT</b>	<b>Local Share/Match</b>	<b>Total Project Cost</b>
<b>Operating</b>	50%	25%	25%	100%
<b>Capital</b>	80%	10%	10%	100%

8.2 Depending on the type of project, the proposer will need to contribute between 10% and 25% of the total project cost, called the local share or local match. **Fare revenue or user fees generated on the service to be supported may not be used as matching funds. JARC and New Freedom funds may not be used to pay for transit fares or passes.** There are many potential sources for the local match including any non-Department of Transportation federal funds, foundations grants, donations, and state or local funds.

8.3 Volunteer services or other in-kind contributions are examples of non-cash share. These contributions are eligible to be counted toward the local share/match as long as the value of each is documented and supported,

represents a cost that would otherwise be eligible under the program, and is included in the net project cost in the project budget. In either case, the cost of providing the contract service is included in the total project cost.

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## **II. INSTRUCTIONS TO PROPOSERS**

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### **1. REQUESTS FOR CLARIFICATION**

1.0 If any person submitting a Proposal is in doubt as to the true meaning of any part of the Scope, other RFP documents, finds discrepancies in or omissions from the specifications; they may submit to the Procurement Department, a written request for an interpretation or correction by **3:00 p.m. (CST), December 7, 2011. Only written requests will be accepted.** E-mailed questions to the Procurement Department are acceptable. The person submitting the request will be responsible for its prompt delivery and verification of delivery.

1.1 The request must be fully supported with detailed information and referenced to a section of the RFP, if applicable, to assist Nashville MTA in determining whether the request is or is not valid. Any corrections or changes to this RFP will be distributed to Proposers who submitted the "Addenda Request," at the address provided. **Verbal questions will not be answered, thus preventing an unfair advantage to any Proposer.**

### **2. DELIVERY OF PROPOSALS**

**2.0 The Proposer must submit one (1) original, five (5) numbered copies, one (1) electronic copy of the Proposal with all required forms by Thursday, December 15, 2011 3:00 p.m. CST to the following address:**

The Nashville Metropolitan Planning Organization  
800 2<sup>nd</sup> Avenue South  
Nashville, TN 37219  
Attn: Lou Edwards

**PLEASE NOTE: For delivery service (UPS, FedEx, DHL, etc.) use zip code 37210**

2.1 The sealed envelope, box, or appropriate package must be clearly marked with "**NASHVILLE MTA-FTA JOB ACCESS REVERSE COMMUTE PROGRAM AND NEW FREEDOM PROGRAM - RFP 2011271**" on the lower left side and "**DO NOT OPEN WITH REGULAR MAIL.**" Nashville MTA will not consider Proposals received after the time and date specified. **All Proposals will be date & time stamped, and logged by MPO.**

2.2 Proposers are solely responsible for delivery of their Proposal on time. Proposers who rely on overnight delivery services, local couriers, or delivery services remain solely responsible for timely delivery of the Proposal and assume all risk of late delivery or no delivery.

#### **2.3 Proposals will NOT be opened publicly.**

2.4 Nashville MTA reserves the right to cancel this RFP in writing or postpone, or extend the date and time for submitting Proposals at any time. Nashville MTA reserves the right to reject any or all Proposals, to waive any or all informalities or irregularities in the Proposals received, to investigate the qualifications and experience of any Proposer, to reject any provisions in any Proposal, to modify RFP contents, to obtain new Proposals, to negotiate the requested goods, services and contract terms with any Proposer. Nashville MTA reserves the right to award the RFP requested goods & services in full, in part and/or a single item to one or more Proposers. The Nashville MTA, will determine the most responsive, Proposer whose Proposal is most advantageous. The Board of Directors will give final approval for the award of goods and services.

2.5 The submission of a Proposal shall constitute an acknowledgement that the Proposer has thoroughly examined and is familiar with the RFP, including the Scope of Services, the addenda if any, and has reviewed and inspected all applicable statutes, regulations, ordinances and resolutions dealing with or related to the services requested.

2.6 Proposals must indicate that the agency is prepared to enter into a contract with Nashville MTA in accordance with the terms and conditions set forth in this RFP, Proposed Contract and any addenda. Proposal's shall be valid for a minimum period of (120) days from the proposed closing date for acceptance by Nashville MTA.

### **3. PROPOSAL WITHDRAWAL**

3.0 Proposers will be given permission to withdraw their Proposal after it has been deposited with Nashville MTA provided Proposer makes their request by telephone, e-mail or in writing, (24) hours before the due time. Requests pertaining to withdrawal by telephone or e-mail must be confirmed in writing by the Proposer and must reach the office of Debbie Tunnell, not later than one (1) hour prior to the time fixed for submission of Proposals. Proposals which are timely withdrawn shall be returned to the Proposer unopened, at Proposers expense.

### **4. UNACCEPTABLE PROPOSAL**

4.0 Nashville MTA will not accept Proposals or award any contract to any person, agency, firm or corporation that is in arrears or is in default to any debt or contract, has defaulted on surety or other obligation or has failed to perform faithfully any previous contract for the Nashville MTA.

### **5. REJECTION OR ACCEPTANCE OF PROPOSAL**

5.0 The Chief Executive Officer and the Board of Directors reserve the right to accept or reject any or all or any part of any Proposal. Any Proposal which is incomplete, conditional, obscure, or which contains additions not called for, or irregularities of any kind, may be cause for rejection of the Proposal. If there is, a discrepancy between the price written and the price listed in figures, Nashville MTA acknowledges that the price written is the correct price.

### **6. PUBLIC RECORDS/CONFIDENTIALITY**

6.0 The Proposals received become the exclusive property of Nashville MTA. When a contract award is approved by the Nashville MTA, all Proposals submitted in response to this RFP shall become a matter of public record and shall be regarded as public records, with the exception of those elements of each Proposal that are marked as "TRADE SECRET," "CONFIDENTIAL" or "PROPRIETARY." If required by law or by an order of a court, Nashville MTA may be required to disclose such records or portions thereof, including without limitation those so marked. Proposals that indiscriminately identify all or most of the Proposal as exempt from disclosure without justification may be found to be technically unacceptable.

### **7. FORMS PROVIDED**

7.0 Proposers must submit their Proposal on the forms provided or copies thereof. The Proposer or an authorized representative of the firm must sign the Proposal. Any erasures, corrections or other changes appearing on the Proposal form must be initialed and dated by the person signing the Proposal.

**Section V of the RFP provides required forms for Proposer to submit with their Proposal.**

### **8. PAYMENT TERMS**

#### **8.0 PLEASE NOTE: The JARC and New Freedom funds are reimbursement grants.**

A successful proposer will need to spend money up front to get reimbursed for later. The successful Proposer will submit a timely monthly invoice and can anticipate reimbursement within 30 days. Unless other arrangements are agreed to during negotiations, the successful Proposer will be reimbursed once monthly, if Nashville MTA receives a timely, properly documented invoice, using terms stated in signed Contract.

### **9. D-U-N-S NUMBER AND CCR REGISTRATION**

**9.0 DUNS** stands for "data universal numbering system." DUNS numbers are issued by Dun and Bradstreet (D&B) and consist of nine digits.

9.1 The Office of Management and Budget (OMB) has adopted the use of DUNS numbers as a way to keep track of how federal grant money is dispersed. All grant applicants must have a DUNS number when applying for Federal grants or cooperative agreements.

9.2 All DUNS numbers must be registered at CCR, Central Contractor Registration. Prospective federal grant applicants must be registered in CCR prior to award of grant funding. This registration allows the federal government to know who is allowed to do federal government contracts. Once you register your DUNS number, you will be issued a CCR/CAGE Code number.

9.3

What is a DUNS number and how are they assigned?	A DUNS number is a unique, non-indicative 9-digit identifier issued and maintained by D&B that verifies the existence of a business entity globally. D&B assigns DUNS numbers for each physical location of a business.
Who is eligible for a D&B D-U-N-S® Number?	<ul style="list-style-type: none"> <li>• Commercial, non-profit or government entities</li> <li>• Self-employed individuals (only individuals such as; physicians, lawyers, contractors, etc. who are engaged in a specific commercial business activity).</li> <li>• All secondary locations including Branches and Divisions .</li> </ul>
Is there a charge for U.S. Government contractors?	Obtaining a DUNS number is absolutely free for all entities doing business with the Federal government. This includes current and perspective Contractors, Grantees, and Loan recipients. Under normal circumstances the DUNS is issued within 1-2 business days when using the D&B web form process. If requested by phone, a DUNS can usually be provided immediately.
Are D&B D-U-N-S® Number re-used?	Once assigned, a D&B D-U-N-S® Number is not reused or reissued to another business entity.
How do I know if D&B has assigned my entity a new D-U-N-S Number?	<ul style="list-style-type: none"> <li>• You cannot renew your CCR registration and are receiving error codes 40205 or 60205 in the D&amp;B Monitoring Information screen</li> <li>• You receive an e-mail from the BPN indicating there may have been a change in the status of your D-U-N-S Number</li> <li>• A D&amp;B Representative has confirmed that your entity has a new D-U-N-S Number</li> </ul> It is always best to confirm the correct D-U-N-S Number for your entity with D&B by calling 1-866-705-5711 (US Only). International registrants can confirm by sending an e-mail to <a href="mailto:ccrhelp@dnb.com">ccrhelp@dnb.com</a> , including Company Name, D-U-N-S Number, and Physical Address, and Country.
Can I have more than one D-U-N-S Number at the same physical location?	Yes, more than one D-U-N-S Number can be issued at the same physical location if they are (1) separate legal entities (ie; LLC, Inc., Corp) or (2) companies that have the same legal business name but different DBA's and/or a different line of business that is specific to the nature of operations. An example of (2) is when a HQ and brand or division (see definitions below) are co-located, like a warehouse on the premises of the HQ. Definition: <ul style="list-style-type: none"> <li>• Headquarters is a business that has branches or divisions reporting to it and is financially responsible for them.</li> <li>• Branch is a secondary location of the HQ. It is not a separate corporation and has no legal responsibilities for its debt. It can be located at the same address as the HQ, if a unique trade style is used.</li> <li>• Division, like a branch, is a secondary location of a business. However, a division carries out specific business operations related to the headquarters under a divisional name.</li> </ul>
How do I Register at CCR?	To register with CCR, go to <a href="http://www.ccr.gov">www.ccr.gov</a> , create a User ID and Password to begin, or enter your existing User ID and Password.
My Corporate Linkage	Please send an email to <a href="mailto:govt@dnb.com">govt@dnb.com</a> including your DUNS number

information listed in CCR is incorrect?	and contact information. In the email confirm what should be listed for the HQ/Parent, Domestic Ultimate and Global Ultimate. You will then be contacted by a D&B associate.
What is DUNS+4?	The +4 extension to a DUNS number is created by registrants in CCR when there is a need for more than one bank/Electronic Funds Transfer (EFT) account for a location. D&B does not create or maintain the +4 number.
How do I check my CCR Registration Status?	Go to <a href="http://www.ccr.gov">www.ccr.gov</a> and click "CCR Search" located at the top of the page. Search by using your DUNS number or name/address information and click "search". The top of the page will show your "Current Registration Status".
What is TIN Matching?	The TIN matching process is conducted between CCR and the IRS. Be sure to enter your Taxpayer Name on the CCR IRS Consent Page as this may be different from your Legal Business Name which will be populated in the field. If your IRS Consent validation fails, please contact the IRS.
What if my DUNS Number is not recognized at grants.gov?	A DUNS number is accepted at grants.gov after you are registered at CCR. To get to the CCR site, use the link at grants.gov or go directly to <a href="http://www.ccr.gov">www.ccr.gov</a> .

#### 10. AGENCY BUILDING AND WEBSITE ACCESSIBILITY

It is mandatory as a part of your contractual agreement with Nashville MTA to provide a plan to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, any program, service, or activity conducted under the Coordinated Human Services Transportation Plan in the context of the successful proposer's program, service, or activity if your agency or the service it provides is not accessible. Please understand that your plan should not create undue administrative or financial burden to your agency. Your plan should result in a fundamental alteration to the program, service, or activity. For more website accessibility information visit <http://www.w3.org/WAI/>.

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### III. PROPOSAL RESPONSE REQUIREMENT

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#### A. PROPOSAL FORMAT

To be considered responsive, Proposers must include all of the items listed below in the order shown, in their Proposals. Each section should be clearly labeled, with pages numbered and separated by tabs. This format is necessary for evaluation purposes. A more detailed explanation of the requested services is found in Section III, the Scope. **Delivery Criteria: one (1) original, five (5) numbered copies, one (1) electronic copy**

Proposals must be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of this RFP. Emphasis should be on completeness and clarity of content with sufficient detail to allow for accurate evaluation and comparative analysis.

**Proposals must include five tabbed sections. Part 1, Part 2, Part 3, Part 4 and Part 5 must be indexed in the order outlined below. List questions and your responses and/or Attachments as numbered and listed within each section.**

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**Part: 1**

**Cover Page and Cover Letter**

- Agency Information
  1. Please include the following information: agency name, project manager, email, agency executive director, address phone, fax, DUNS, CCR, website, service area, applicable funding, project title and project brief description.
  2. Indicated applicable funding: Job Access or new Freedoms

**Part: 2**

**Project Information**

- Detailed project information
  1. Please include a statement of need and proposed activity
  2. Organization capacity to meet need
  3. Improve coordination among other agencies and providers
  4. Maximize project cost effectiveness
  5. Project Details – Budget part 1 of 2 and Budget part 2 of 2

**Part: 3**

**Application Information**

Nashville MTA requests that the Agencies interested in responding complete the following forms located in Section IV, Scope.

- Provide the form information listed below
  1. Grant Application Form – Section IV, Exhibit A, page 37
  2. Grant Spending Plan (budget) – Section IV, Exhibit A, page 40
  3. Signature Page, FY2011 JARC and New Freedom Project Applications in the Nashville Urbanized Area – Section IV, Exhibit A, page 42
  4. Certification for Civil rights Compliant Status Section IV, Exhibit A, page 43
  5. Agency Executive Director and/or Governing Board Approval, Section IV, Exhibit A, page 44
  6. Matching Requirements Form with supporting match documentation, Section IV, Exhibit B, page 45
  7. Certifications and Assurances, Section IV, Exhibit C, page 46
  8. Drug-Free Workplace Act Certification for a Public or Private Entity, Section IV, Exhibit C, page 70

**Part: 4**

**Proposal Forms, Licensing and Permits**

Cost Form	DBE Compliance Statement	References	Buy America
Acknowledgment of Addenda	Affidavits of Compliance DBE	Notice to Proposer	Insurance Certificate
Affidavit & Information Required for Proposers	Certificate of Authority	Certification Debarment, Suspension Lower-	DBE Certificate



Automobile	injury and property damage Automobile Liability insurance in amounts of not less than a combined single limit of \$1,000,000 covering contractors owned, non owned, leased, or rented vehicles
Workers' Compensation	Coverage A – Statutory Coverage B - \$100,000

Upon request, the Proposer will provide a Certificate of Coverage with the Nashville Metropolitan Transit Authority and named as Certificate Holder.

The Proposer shall indemnify and hold harmless the Nashville MTA from any and all damages, loss or injury, lawsuits, claims, demands or liens resulting from any performance of Proposers employees or subcontractors.

**4. INTEREST OF MEMBERS OF RTA**

4.0 No member of the governing body of Nashville MTA, other officer, employee or agent of Nashville MTA who exercises any functions or responsibilities in connection with the carrying out of the activities, to which this Agreement pertains, shall have any personal interest, direct or indirect, in this Agreement.

**5. INTEREST OF OTHER LOCAL PUBLIC OFFICIALS AND STATE OFFICIALS**

5.0 No member of the governing body of Metro, and no other public official of such locality, who exercises any functions or responsibilities in the review or approval of the carrying out of activities to which this Agreement pertains, shall have any personal interest, direct or indirect, in this Agreement.

5.1 No part of the proceeds shall be paid directly or indirectly to any officer or employee of the State of Tennessee as wages, compensation or gifts in exchange for acting as officer, agent, employee, subcontractor, or Proposer to Nashville MTA in connection with any work contemplated or performed relative to this Contract

**6. INTEREST OF MEMBERS, OR DELEGATES TO CONGRESS**

6.0 In accordance with 18 U.S.C. Section 431, no member of, or delegate to, the Congress of the United States shall be admitted to any share or part of this Contract, or to any benefit arising there from.

**7. INTEREST OF THE PROPOSER**

7.0 The Proposer covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. The Proposer further covenants that no person having such interest shall be employed in the performance of this Contract.

**8. WORKERS COMPENSATION ACT**

8.0 The Proposer shall comply with the State Law known as the Workers' Compensation Act and shall pay into the State insurance fund the necessary premiums required by the Act to cover all employees furnishing said services to Nashville MTA, and under the control of the Proposer, and shall relieve Nashville MTA from any costs due to accidents and other liabilities mentioned in said Act.

**9. SOCIAL SECURITIES ACT**

9.0 The Proposer shall be and remain an independent Proposer with respect to all services performed and agrees to and does accept full and exclusive liability for payment of any and all contributions or taxes for social security, unemployment insurance, and old age retirement benefits or annuities imposed under any State and Federal law which are measured by the wages, salaries, or other remunerations paid to persons by the Proposer for work performed under the terms of this contract. The Proposer agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or may be issued or promulgated under laws authorized by State or

Federal officials; and Proposer also agrees to indemnify and save harmless the Nashville MTA from any contributions or liability therefore.

#### **10. EQUAL EMPLOYMENT OPPORTUNITY**

10.0 In implementing the Project/Contract, the Proposer may not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age or national origin. The Proposer agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, sex, disability, age or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Proposer shall insert the foregoing provisions (modified only to show the particular contractual relationship) in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

#### **11. AUTHORITY TO ENTER CONTRACT**

11.0 The Proposer has all requisite power and authority to conduct its business and to execute, deliver, and perform services specified in the RFP and any Contract that may be issued. The Proposer warrants that the individuals who have signed the Proposal have the legal right and authority to bind the Proposer.

#### **12. AUTHORIZATION OF PROPOSAL**

12.0 If the Proposal is made by an individual doing business under an assumed name, the Proposal shall so state. If the Proposal is made by a partnership, the full name and addresses of each member and the address of the partnership shall be given and the Proposal shall be signed by one member thereof. If the Proposal is made by a corporation, it shall be signed in the corporate name by an authorized officer, and the corporate seal shall be affixed thereto. If the Proposal is made by a joint venture, the full name and address of each member of the joint venture shall be given and the Proposal shall be signed by each venture. Forms are included to be filled out and submitted with Proposal.

#### **13. SUBCONTRACT APPROVAL**

13.0 Any subcontract the Proposer may wish to enter into must be requested and approved in writing by Nashville MTA prior to the execution of the subcontract. Subcontracts shall contain a provision making them subject to all provisions stipulated in the Contract. The Proposer shall be fully responsible for all services performed by any subcontractor.

#### **14. CONTRACT CHANGE ORDERS**

14.0 No changes to this solicitation, Proposal, or contract shall be approved unless Nashville MTA CEO approves authorization of the change. All changes approved by the CEO shall be made by written agreement between the RTA and Proposer. All contract change orders or modifications will be subject to a cost analysis.

#### **15. COST/PRICE ANALYSIS**

15.0 RTA reserves the right to conduct a cost or price analysis for any purchase or service. RTA may be required to perform a cost/price analysis when competition is lacking for any purchase. Sole source procurements or procurements which result in a single Proposal received, will be subject to a cost/price analysis, which will include the appropriate verification of cost data, the evaluation of specific elements of costs and the projection of the data to determine the effect on Proposal prices. Nashville MTA may require a pre-award audit, and potential Proposers shall be prepared to submit data relevant to the proposed work which will allow Nashville MTA to sufficiently determine that the proposed price is fair, reasonable, and in accordance with Federal, State, and local regulations. Procurements resulting in a single Proposal will be treated as a negotiated procurement and RTA reserves the right to negotiate with the single Proposer to achieve a fair and reasonable price. If both parties cannot agree upon a negotiated price, Nashville MTA reserves the right to reject the single Proposal. All contract

change orders or modifications will be subject to a cost analysis.

## **16. PRICING**

16.0 The price quoted in any Proposal submitted shall include all necessary cost to complete the services in accordance with the specifications. Anything omitted from such specifications, which are clearly necessary, shall be considered a portion of such cost although not directly specified or called for in the specifications. Proposer should note discounts.

## **17. PROMPT PAYMENT**

17.0 The Proposer agrees to pay each subcontractor for satisfactory performance of its contract no later than 30 days from receipt of each payment the Proposer receives from the Nashville MTA. The Proposer agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor work is satisfactorily completed. Any delay or postponement of payment from the above reference may occur only for good cause following written approval of the Nashville MTA. This clause applies to both DBE and non DBE subcontractors. If the Proposer determines the work to be unsatisfactory, it must notify Nashville MTA, immediately in writing, and state the reasons. Failure to comply with this requirement would be construed to be a breach of contract and subject to contract termination.

## **18. PROTEST**

18.0 Protests concerning these instructions, the contract requirements, the specifications, or the Proposal procedures, any request for explanation or clarification shall be submitted in writing and will include the following information:

1. The names, addresses, and telephone number of protestor.
2. Identification of the solicitation or contract number.
3. A detailed statement of the legal and factual grounds of protest, including copies of relevant documents.
4. A statement as to what relief is requested.

18.1 Protests must be submitted to Nashville MTA in accordance with these procedures and time requirements. Protests must be complete and contain all issues that the protestor believes relevant.

18.2 A copy of FTA Proposal protest appeal procedures, FTA Circular 4220.1F, will be provided by the Purchasing Agent upon Proposers request.

18.3 In the event of a timely protest received by the Nashville MTA Procurement Department, the following steps will be performed.

18.4 The Nashville MTA Procurement Department will notify the Chief Executive Officer and affected Department Head that a Proposal protest has been received.

18.5 If the Proposals have not been opened, the opening will be postponed until all administrative and judicial remedies have been exhausted. An addendum will be sent to all Proposers on the Proposal mailing list advising them of the delay in the procurement.

18.6 If the contract has not been awarded, then award will not be made until all administrative and judicial remedies have been exhausted.

18.7 The Chief Executive Officer may make a determination, in writing, that the award of a contract without delay is necessary to protect substantial interests of Nashville MTA. This written determination will be made a part of the contract file by the Nashville MTA Procurement Department.

18.8 The Nashville MTA Procurement Department will conduct an investigation into the protest with the assistance of RTA staff or other personnel as required.

18.9 The Nashville MTA Procurement Department may meet with the protesting Consultant or request additional information from the Consultant during the investigation.

18.10 The Nashville MTA Procurement Department will issue the findings of the investigation in writing to all interested parties and the written report, including the original protest will be made a part of the contract file.

18.11 In the event to a timely protest received by the Chief Executive Officer, the following steps will be performed:

18.12 The Chief Executive Officer will notify the Nashville MTA Procurement Department that the Proposers protest has been received.

18.13 Upon notification of the receipt of a protest, the Nashville MTA Procurement Department shall affect a stay of procurement during the protest.

18.14 If the Proposals have not been opened, then opening will be postponed until all administrative and judicial remedies have been exhausted. An addendum will be sent to all Proposers on the Proposal mailing list advising them of the delay in the procurement.

18.15 If the contract has not been awarded, then award will not be made until all administrative and judicial remedies have been exhausted.

18.16 The Chief Executive Officer may make a determination, in writing, that the award of the contract without delay is necessary to protect substantial interests in Nashville MTA. This written determination will be made a part of the contract file by the Nashville MTA Procurement Department.

18.17 The Chief Executive Officer shall conduct or direct an investigation into the protest.

18.17 The Chief Executive Officer may request additional information from the appealing party and information or response from other Consultants. This information shall be submitted, in writing, within ten (10) calendar days from the date of the request.

18.18 The Chief Executive Officer may direct an independent investigation into the protest before rendering a decision.

18.19 The Chief Executive Officer may elect to conduct an informal hearing in which interested participating parties will be afforded an opportunity to present their respective positions, and facts, documents and technical information in support of the protest.

18.20 The Chief Executive Officer shall render a decision which shall be final and advise all interested parties whereof in writing. In the case of special counsel, annual financial audit, or procurement in excess of \$100,000.00, the Board of Directors shall render protest decisions.

18.21 The Nashville MTA Procurement Department shall make any necessary changes to the procurement process, as pertaining to the protested Proposals, resulting from the Chief Executive Officer's decisions.

18.22 The Nashville MTA Procurement Department will make the written report of the Chief Executive Officer, including the original protest, a part of the contract file.

18.23 In the event of a timely protest to the FTA, a stay of procurement will be issued until the FTA protest is resolved, thusly:

18.24 The Nashville MTA Procurement Department shall make any necessary changes to the procurement process, as pertaining to the protested Proposals, resulting from the FTA decision.

18.25 The Nashville MTA Procurement Department will make the written report of the FTA, including all related correspondence, a part of the contract file.

## **19. ADDITIONAL SERVICES REQUEST**

19.0 RTA reserves the right to request Additional Services under this RFP that may not be specifically identified above. Proposers are encouraged to identify and provide supporting statements for any other area(s) of services not listed in the Scope that may be related to additional services and the work of Nashville MTA.

## **20. RFP/PROPOSED CONTRACT ALTERATIONS**

20.0 No alterations or variables in the terms of the RFP and /or of the Proposed Contract shall be valid or binding upon Nashville MTA unless authorized in writing by Nashville MTA.

## **21. ASSIGNABILITY**

21.0 Any public agency (i.e., city, district, public agency, municipality, and other political subdivision or any FTA-funded entity) shall have the option of participating in any award made as a result of a Proposal and/or contract at the same prices, terms and conditions. Nashville MTA reserves the right to assign any or all portions of Services awarded under this Proposal and/or contract. This assignment, should it occur, shall be agreed to by Nashville MTA and Proposer. Once assigned, each agency will enter into its own contract and be solely responsible to the Proposer for obligations to the service assigned. Nashville MTA's right of assignment will remain in force over the contract period or until completion of the contract including options, whichever occurs first. Nashville MTA shall incur no financial responsibility in connection with contracts issued by another public agency. The public agency shall accept sole responsibility for placing service and payments to the Proposer.

## **C. FEDERAL TRANSIT ADMINISTRATION CONTRACT CLAUSES**

### **1. CONTRACT DOCUMENTS**

1.0 Any contract resulting from this solicitation shall include the following;

- Request for Proposal No 2011271 and all addenda
- Proposers Offer and Guarantee
- Proposal Award/Contract

1.1 The Contractor and appropriate parties of Nashville MTA will sign to execute contract.

1.2 Federal requirements may apply to this procurement and any future contract. If those requirements change then the most recent requirements shall apply. The Federal Government requires that activities financed in part, with Federal funds, and performed by a third party contractor and/or its subcontractor's on behalf of the Nashville MTA must be in accordance with Federal requirements.

1.3 All subcontracts and subcontractors employed because of this contract are subject to the same conditions and regulations as set forth herein unless specifically exempted.

1.4 The prime contractor shall ensure that its subcontractor's at all tiers are aware of and comply with these Federal regulations. The prime contractor is liable for subcontractor's compliance failures. Failure to comply will render the prime contractor responsible for damages and/or contract termination.

### **2. NO OBLIGATION BY THE FEDERAL GOVERNMENT**

2.0 The Nashville MTA and Proposer acknowledge and agree that notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Nashville MTA , Proposer, or any other party (whether or not a

party to that contract) pertaining to any matter resulting from the underlying contract.

2.1 The Proposer agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the sub-contractor who will be subject to its provisions.

### **3. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

3.0 The Proposer acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Proposer certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Proposer further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Proposer to the extent the Federal Government deems appropriate.

3.1 The Proposer also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Proposer, to the extent the Federal Government deems appropriate.

3.2 The Proposer agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the sub-contractor who will be subject to the provisions.

### **4. ACCESS TO RECORDS AND REPORTS/RECORD RETENTION**

4.0 The Proposer agrees to provide Nashville MTA, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Proposer which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Proposer also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Proposer access to Proposer's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309, or 5311.

4.1 The Proposer agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

4.2 The Proposer agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Proposer agrees to maintain same until the Nashville MTA, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i) (11).

4.3 Reports or information requested from the Proposer will be prepared using electronic or information technology capable of assuring that, when provided to FTA, the reports or information will meet the applicable accessibility standards of section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C., 794d, and U.S.ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194.

### **5. FEDERAL CHANGES**

5.0 Proposer shall at all times comply with all applicable FTA regulations, policies, procedures and directives,

including without limitation those listed directly or by reference in the Master Agreement between Nashville MTA and FTA, as they may be amended or promulgated from time to time during the term of this contract. Proposer's failure to so comply shall constitute a material breach of this contract.

## **6. CIVIL RIGHTS REQUIREMENTS**

### **6.0**

1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal Transit Law at 49 U.S.C. § 5332, the Proposer agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Proposer agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal Transit Laws at 49 U.S.C. § 5332, the Proposer agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Proposer agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Proposer agrees to comply with any implementing requirements FTA may issue.

b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal Transit Law at 49 U.S.C. § 5332, the Proposer agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Proposer agrees to comply with any implementing requirements FTA may issue.

c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Proposer agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Proposer agrees to comply with any implementing requirements FTA may issue.

3) The Proposer agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. Section 12101 et seq. and 49 USC Section 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. App. Section 1612; and implementing regulations, as may be amended.

4) The Proposer also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

## **7. TERMINATION PROVISIONS**

7.0 Termination for Convenience – Nashville MTA may terminate this contract, in whole or in part, at any time with thirty (30) days written notice to the Proposer. Upon receipt of such notice, the Proposer shall perform no further

services under the contract. Settlement payment will be based on successful delivery or service prior to termination. Nashville MTA shall pay the aggregate price of delivered service computed in accordance with the prices specified in the contract. If the Proposer has any property in its possession belonging to the Nashville MTA, the Proposer will account for the same, and dispose of it in the manner the Nashville MTA directs.

7.1 Termination for Default Breach or Cause – If the Proposer does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services and the Proposer fails to perform in the manner called for in the contract, or if the Proposer fails to comply with any other provisions of the contract, the Nashville MTA may terminate this contract for default. Termination shall be effected by serving a thirty (30) day written notice of termination on the Proposer setting forth the manner in which the Proposer is in default. The Proposer shall promptly submit its termination claim to Nashville MTA for payment. The Proposer will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

7.2 If it is later determined by the Nashville MTA that the Proposer had an excusable reason for not performing, such as a man-made disaster, fire, or flood, which are not the fault of or are beyond the control of the Proposer, the Nashville MTA, may set up a new delivery of performance schedule, and may allow the Proposer to continue work, or treat the termination as a termination for convenience.

7.3 In the event of breach or default by the Proposer, Nashville MTA shall be entitled to all of its damages and reasonable expenses, and its cost to include, but not limited to its reasonable attorneys' fees incurred because of such default.

7.4 Opportunity to Cure – The Nashville MTA in its sole discretion may, in the case of a termination for breach or default, allow the Proposer ten (10) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If Proposer fails to remedy to Nashville MTA's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Proposer of written notice from Nashville MTA setting forth the nature of said breach or default, Nashville MTA shall have the right to terminate the Contract without any further obligation to Proposer. Any such termination for default shall not in any way operate to preclude Nashville MTA from also pursuing all available remedies against Proposer and its sureties for said breach or default.

7.5 Waiver of Remedies for any Breach in the event that Nashville MTA elects to waive remedies for any breach by Proposer of any covenant, term or condition of this Contract, such waiver by Nashville MTA shall not limit Nashville MTA's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

7.6 Termination Funding – Should funding for this contract be discontinued, reduced, or delayed, in whole or in part, Nashville MTA shall have the right to terminate the contract immediately upon written notice to Proposer.

7.7 The Nashville MTA by written notice may terminate this contract, in whole or in part, when it is in the Governments interest. If Nashville MTA terminated the contract, the Nashville MTA shall be liable only for payment under the payment provision of this contract for services rendered before the effective date of termination.

## **8. DISADVANTAGED BUSINESS ENTERPRISE**

8.0 It is the policy of the Department of Transportation that Disadvantaged Business Enterprises, as defined in 49 C.F.R. Part 26, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under the Agreement. Accordingly, the DBE requirements of 49 C.F.R. Part 26 applies to this Agreement. In connection with the performance of this contract, the Proposer will cooperate with Nashville MTA in meeting its commitments and goals with regard to maximum utilization of Disadvantaged Business Enterprise and will use its best effort to insure that disadvantaged businesses will be utilized when possible by steps in accordance with DOT regulations 49 C.F.R. Part 26.

## **9. DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION**

9.0 This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 11.21%. For this procurement, no separate contract goal is established.

9.1 The Proposer shall not discriminate based on race, color, creed, national origin, sex, age or disability in the performance of this contract. The Proposer shall carry out applicable requirements of 49 C.F.R Part 26 in the award and administration of this DOT-assisted contract. Failure by the Proposer to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as RTA deems appropriate. Each subcontract the Proposer signs with a subcontractor must include the assurance in this paragraph (see 49 C.F.R. 26.13(b)).

9.2 Bidders/proposers are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so as provided for in 49 C. F. R. 26.53. Award of this contract is conditioned on submission of the following (concurrent with and accompanying sealed bid) (concurrent with and accompanying an initial Proposal) (prior to award):

- 1) The Names and addresses of DBE firms that will participate in this contract;
- 2) A description of the work each DBE will perform;
- 3) The dollar amount of the participation of each DBE firm participating;
- 4) Written documentation of the bidder/proposers commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
- 5) Written confirmation from the DBE that is participating in the contract as provided in the prime contractor's commitment; and
- 6) If the contract goal is not met, evidence of good faith efforts to do so.

Bidders/proposers must present the information required above as a matter of responsiveness with initial Proposals/bids.

9.3 If Nashville MTA did not establish a separate contract goal the successful bidder/proposer will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

9.4 The Proposer is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the Proposer's receipt of payment for that work from Nashville MTA. In addition, the prime Proposer agrees to return retainage payments to each subcontractor within thirty (30) days after subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced period may occur only for good cause following written approval of the Nashville MTA. This clause applies to both DBE and non-DBE subcontractors.

9.5 The Proposer must promptly notify Nashville MTA, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Nashville MTA.

**A certificate is attached and must be completed, signed, and submitted with the Proposal.**

## **10. DEBARMENT AND SUSPENSION GOVERNMENT-WIDE**

10.0 This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Proposer is required to verify that none of the Proposer, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

10.1 The Proposer is required to comply with 49 CFR 29, Subpart C, and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

10.2 By signing and submitting its Proposal, the Proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by Nashville MTA. If it is later determined that the Proposer knowingly rendered an erroneous certification, in addition to remedies available to Nashville MTA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Proposer agrees to comply with the requirements of 49 CFR 29, Subpart C, while this offer is valid and throughout the period of any contract that may arise from this offer. The Proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**A certificate is attached and must be completed, signed, and submitted with the Proposal.**

## **11. PROVISIONS FOR RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION**

**11.0 Disputes**-Disputes arising in the performance of this Contract, which are not resolved by agreement of the parties, shall be decided in writing by the authorized representative of Nashville MTA. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Proposer mails or otherwise furnishes a written appeal to Nashville MTA. In connection with any such appeal, the Proposer shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of Nashville MTA shall be binding upon the Proposer and the Proposer shall abide by the decision.

**11.1 Performance during Dispute**-Unless otherwise directed by Nashville MTA, Proposer shall continue performance under this Contract while matters in dispute are being resolved.

**11.2 Claims for Damages**-Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing within fifteen (15) days after the first observance of such injury of damage.

**11.3 Remedies**-Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Nashville MTA and the Proposer arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction in Davidson County within the State of Tennessee.

**11.4 Rights and Remedies**-The duties and obligations imposed by the Contract Documents and the rights and remedies available shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by the Nashville MTA, shall constitute a waiver of any right or duty afforded Nashville MTA under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing or in a court of competent jurisdiction in Davidson County, Tennessee.

## **12. LOBBYING REQUIREMENTS**

12.0 The Proposer must comply with the following lobbying requirements, "New Restrictions on Lobbying," at 49 CFR part 20.

12.1 Proposer shall file the certification required by 49 CFR part 20, as amended. "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

12.2 Proposer shall certify that it will not and has not used Federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Proposer shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contracts on its behalf with non Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures shall be forwarded to Nashville MTA.

**A certificate is attached and must be completed, signed, and submitted with the Proposal.**

### **13. CLEAN WATER AND AIR REQUIREMENTS**

13.0 The Proposer agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Proposer agrees to report each violation to the Nashville MTA and understands and agrees that the Nashville MTA will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

13.1 The Proposer also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

### **14. FLY AMERICA**

14.0 The Proposer agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10. This provides that recipients and sub-recipients of Federal funds and their Proposer's are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. If a foreign air carrier is used, the Proposer shall submit an appropriate certification of compliance, memorandum adequately explaining why service by a U.S. flag air carrier was not available, or why it was necessary to use a foreign air carrier. The Proposer agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

### **15. DAVIS BACON ACT**

15.0 General – The Contractor shall comply with the provisions of the Davis-Bacon Act, 40 U.S.C. 276a through 276a (7), and implementing Department of Labor Regulations at 29 C.F.R. Part 5. The Contractor shall comply with the clauses provided in 29 C.F.R. 5.5 (a) as if such clauses were set forth in their entirety in this Contract.

15.1 If the Proposer needs additional information regarding the Davis-Bacon Act please contact the Special Project Administrator.

15.2 Requirements – The contractor shall submit certified payroll records for its labor force and for all of its sub-contractors clearly indicating the prevailing wage rate for each trade to the Nashville MTA in a format acceptable to both.

### **16. PRIVACY ACT**

16.0 The following requirements apply to the Proposer and its employees that administer any system of records on behalf of the Federal Government under any contract:

16.1 The Proposer agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974 5 U.S.C § 552a. Among other things, the Proposer agrees to obtain the express consent of the Federal Government before the Proposer or its employees operate a system of records on behalf of the Federal Government. The Proposer understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

16.2 The Proposer also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

### **17. ENERGY CONSERVATION REQUIREMENTS**

17.0 The Proposer agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act.

## **18. ADA ACCESS REQUIREMENTS**

18.0 The Proposer agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA) 42 U.S.C. §§ 12101 et seq; section 504 of the Rehabilitation Act of 1973 as amended 29 U.S.C. § 794, section 16 of the Federal Transit Act, as amended, 49 U.S.C. §§ 1612.

## **19. BUY AMERICA REQUIREMENTS**

19.0 The Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j) (2) (C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

19.1 A Proposer must submit to the FTA recipient the appropriate Buy America certification with all bids or proposals on FTA-funded contracts, except those subject to a general waiver. Bids or proposals that are not accompanied by a completed Buy America certification must be rejected as non-responsive. This requirement does not apply to lower tier sub-contractors.

19.2 his applies to procurements of \$100,000 and over.

**A certificate is attached and must be completed, signed, and submitted with the Proposal.**

## **20. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

20.0 The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Proposer shall not perform any act, fail to perform any act, or refuse to comply with any Nashville MTA requests which would cause Nashville MTA to be in violation of the FTA terms and conditions.

## **21. DRUG AND ALCOHOL TESTING**

21.0 The Drug and Alcohol testing provisions apply to Operational Service Contracts. Drug and Alcohol Testing; The Contractor agrees to: Participate in the Nashville Metropolitan Transit Authority drug and alcohol program established in compliance with 49 CFR 653 and 654. Please see the Nashville MTA policy located in Section III, Scope.

**A certificate is attached and must be completed, signed, and submitted with the Proposal.**

## **22. TRANSIT EMPLOYEE PROTECTIVE CONTRACTS**

22.1 The Transit Employee Protective Provisions apply to each contract for transit operations performed by employees of a Contractor recognized by FTA to be a transit operator. (Because transit operations involve many activities apart from directly driving or operating transit vehicles, FTA determines which activities constitute transit "operations" for purposes of this clause.)

(1) The Contractor agrees to the comply with applicable transit employee protective requirements as follows:

(a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 CFR Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letters. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for non-urbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body sub-recipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 CFR Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Contract or Cooperative Contract with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

(c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Non-urbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Non-urbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

(2) The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

**A certificate is attached and must be completed, signed, and submitted with the Proposal.**

## **23. CHARTER BUS AND SCHOOL BUS REQUIREMENTS**

23.0 Charter Service Operations – The contractor agrees to comply with 49 USC 5323 9d) and 49 CFR Part , which provides that recipients and sub-recipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be “incidental,” i.e., it must not interfere with or detract from the provision of mass transportation.

23.1 The School Bus requirements apply to the following type of contract: Operational Service Contracts.

23.2 Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and sub-recipients may not use federally funded equipment, vehicles, or facilities.

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## **IV. SCOPE**

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### **1. APPLICATION - Applicant Prerequisites**

## **1.0 Eligible JARC and New Freedom Sub-recipients**

- Private non-profit organizations
- State or local government agency
- Operators of public transportation services
- Private operators of public transportation service

## **1.1 FTA JARC Program Goals**

The purpose of the JARC program is to address the unique transportation challenges faced by welfare recipients and low-income persons seeking to get and keep jobs. The JARC program goal is to improve access and transportation services to employment and employment related activities for welfare recipients and eligible low-income individuals. The program requires coordination of Federally assisted programs and services in order to make the most efficient use of Federal resources.

## **1.2 FTA New Freedom Program Goals**

The New Freedom program aims to provide additional tools to overcome existing barriers facing Americans with disabilities seeking integration into the work force and full participation into society. Lack of adequate transportation is a primary barrier to work for individuals with disabilities. The New Freedom formula grant program seeks to expand the transportation mobility options available to persons with disabilities beyond the requirements of the Americans with Disabilities Act (ADA). The definition of "new service" is any service or activity that was not implemented or operational before August 10, 2005.

## **1.3 The Coordinated Plan**

Projects submitted for funding must be derived from the goals and implementation priorities for transit as identified below, which serves as the Coordinated Human Services Transportation Plan for the Nashville Urbanized Area. The plan may be reviewed on RTA's website at [www.RTArelaxandride.com](http://www.RTArelaxandride.com) . *Please review The Plan prior to completing application.*

## **1.4 Coordinated Plan Goals**

From a review of the existing services, demographic information, and transportation survey results, the CHSTP steering committee developed the goals listed below:

- Increase quantity and quality of transportation options for elderly, disabled and low income citizens in the nine-county area
- Provide more on-demand services for seniors and disabled
- Provide escort services and door-through-door or door-to-door services for seniors and disabled
- Provide innovative, cost effective solutions to lower the cost of transportation for lower income, mobility impaired
- Provide innovative solutions for more frequent fixed route services during evenings and weekends
- Provide innovative solutions for more creative transportation options such as frequent fixed route deviated (depart from normal route) services during evenings and weekends
- Provide innovative solutions for trip sharing, trip reductions and coordination between service agencies to reduce costs and provide more service
- Provide solutions to communicate and inform citizens about transportation options available to them and the relationship of these options to other services needed (i.e. transportation to jobs, where is health care, child care and other services available in that area)
- Provide training, communications. and marketing regarding existing transportation options

## **1.5 Eligible Geographic Area**

This request for proposal is for JARC and New Freedom projects that are entirely or partially contained in the Nashville Urbanized Area. Please see page 4 for the map.

## **1.6 Grant Application, Grant spending Plan, Grant Signature Page, Civil Rights Certification Form (see Appendix A, Section VI, page 120), Agency Approval Form – Exhibit A**

## **1.7 Matching Requirements – Exhibit B**

### **1.8 FY2011 Certifications and Assurances – Exhibit C**

Applicant must be able to ensure that they will be able to meet all federal requirements, including FY2011 Certifications and Assurances, required by FTA. Applicants are encouraged to review these requirements prior to applying for funds.

### **1.9 Drug-Free Workplace Policy – Exhibit D**

#### **1.10 Quarterly Reporting Requirements – Appendix B (see Section VI, Appendix)**

Successful proposer acknowledges and agrees to the reporting requirements for this Contract, Quarterly Information for New Freedom-Funded Services (hereinafter "Report"). The Contractor shall submit Report to Nashville MTA no later than the 10<sup>th</sup> day of month following quarter end, for Contract term. Reports will be sent to Sharon Simmons, email: sharon.simmons@nashville.gov.

#### **1.11 Monitoring, Auditing and Record Keeping of Projects – Appendix C (see Section VI, Appendix)**

1.11.1 Site Visits are a requirement for the Coordinated Human Service Transportation Plan, JARC & New Freedom Programs – FY2011. The Contractor's activities conducted and records maintained for this project shall be subject to monitoring, auditing and evaluation by RTA and Nashville MTA, the Department of Finance, the Division of Internal Audit, or their duly appointed representatives.

1.11.2 Successful Proposer shall maintain documentation for all charges against RTA and Nashville MTA. The books, records, and documents of Contractor, insofar as they relate to Services performed or money received under the Contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by Nashville MTA or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles.

**1.12 ADA Requirements – Appendix D (see Section VI, Appendix)** Us Department of Justice, Civil rights Division, Disability Rights Section, ADA Update, A primer for Small Business

**Exhibit A**  
**Grant Application Form**

<b>Applicant Information</b>	
Legal Name:	
Project Manager:	Email:
Executive Director or CEO:	Email:
Physical Address (w/ City, State, Zip):	
Business Address (w/ City, State, Zip):	
Telephone:	Fax:
DUNS Number:	CCR Number:
Website:	
<p>Applicant Type:</p> <p><input type="checkbox"/> Public Transportation Provider</p> <p><input type="checkbox"/> Private Operator of Public Transportation</p> <p><input type="checkbox"/> Private Non-Profit Organization</p> <p><input type="checkbox"/> State or Local Government</p>	
<p>Project Name:</p> <p>Brief Description: This should be <b><u>no more than two or three sentences.</u></b> You will be able to give more detailed information in the following sections of the application.</p>	
<p>Estimated Number of People Served (Monthly):</p> <p><input type="checkbox"/> Low Income _____      <input type="checkbox"/> Disabled _____</p>	

**Exhibit A (continued)**

**Project Information**

**1. Statement of Need & Proposed Activity (0 – 30 possible score)**

--

**2. Organization Capacity to Meet Need (0 – 20 possible score)**

--

**Exhibit A (continued)**

**3. Improve coordination among other agencies and providers (0 – 15 possible score)**

--

**4. Maximize project cost effectiveness (0 – 15 possible score)**

--

**Exhibit A (continued)**

**5. Budget part 1 of 2 (0 – 10 possible score)**

**PLEASE NOTE:** This is an example of the type of information that is needed for this budget. The line items can be changed to be conducive to your spending plan.

<b>GRANT SPENDING PLAN</b>					
	<b>EXPENSE OBJECT LINE-ITEM CATEGORY</b>	<b>FEDERAL TRANSIT ADMINISTRATION (FTA)</b>	<b>TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT)</b>	<b>RECIPIENT MATCH</b>	<b>TOTAL PROJECT</b>
<b>OPERATING</b>	Salaries				
	Benefits & Taxes [(PERCENT)]				
	Professional Fees				
	Supplies				
	Communications				
	Postage & Shipping				
	Occupancy / Indirect Costs				
	Printing & Publications				
	Travel/ Conferences & Meetings				
	Insurance				
	Specific Assistance To Individuals				
<b>CAPITAL</b>	Vehicle				
	Computer				
	Software				
	<b>GRAND TOTAL</b>				

Operating: 50% Federal Share, 25% State Match, 25% Agency Match

Capital: 80% Federal Share, 10% State Match, 10% Agency Match

**Exhibit A (continued)**

**5. Budget part 2 of 2 (w/ part 1, 0 – 10 possible score) Please prepare a budget narrative with reasonableness of budget with a timeline for project milestones.**

**PLEASE NOTE: This is an example of the type of information that is needed for the project timeline. The line items can be changed to reflect your milestones.**

Milestone 1 – Begin Project	15 Days from signed contractual agreement
Milestone 2 – Implementation of bus pass program	30 Days from signed contractual agreement
Milestone 3 – Purchase a vehicle	60 Days from signed contractual agreement
Milestone 4 –	
Milestone 5 –	

**Exhibit A (continued)**

**Signature Page**  
**FY2011 JARC and New Freedom Project Applications**  
**In the Nashville Urbanized Area**

In submitting this project for consideration for FTA JARC and/or New Freedom Operating and Capital funding,

I, \_\_\_\_\_, of \_\_\_\_\_, certify that  
Print Name Agency

- I am authorized by my agency to submit this application.
- Matching funds will be available as shown in the application.
- The project will comply with all applicable federal requirements.
- All the information contained within the application is truthful and accurate.

\_\_\_\_\_  
Official Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

**Exhibit A (continued)**

**CERTIFICATION FOR CIVIL RIGHTS COMPLAINT STATUS**

Title VI of the 1964 Civil Rights Act says, "No person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity receiving federal financial assistance." 42 U.S.C. §2000d

All Federal Transit Administration Recipients and Sub-recipients must ensure that their programs, policies, and activities comply with the Department of Transportation (DOT) Title VI regulations.

Each Proposer must submit their agency's Title VI Plan.

\_\_\_\_\_ I hereby certify that our organization does NOT have any pending Title VI (Civil Rights) complaints of discrimination filed against its transit program.

\_\_\_\_\_ I hereby certify that our organization DOES have \_\_\_\_\_(number) pending Title VI (Civil Rights) complaints of discrimination filed against its transit program. This complaint(s), and its status, is briefly described below. The agency agrees it will keep the Tennessee Department of Transportation's Title VI Office informed of any changes in the status of that complaint(s).

To comply with the Civil Rights Act of 1964, Title VI, the American with Disabilities Act of 1990, Title II, and the Vocational Rehabilitation Act of 1973, Section 504, we do not discriminate on the basis of disability, race, color, national origin, or gender and our Title VI Plan is attached.

\_\_\_\_\_  
Official Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Agency Name

\_\_\_\_\_  
Date

**Exhibit A (continued)**

**AGENCY EXECUTIVE DIRECTOR AND/OR GOVERNING BOARD APPROVAL**

---

**Agency Name**

It is imperative that the governing body of the above named agency is aware that person(s) representing your agency is submitting a proposal in response to RFP 2011271.

I / We are aware of all the requirements of submitting this proposal and determine we have the experience, expertise and ability to successfully perform under the terms outlined in the RFP.

Please accept the signature(s) below as agreement with the Project Manager's decision to submit a proposal for review.

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Signature	Print Name	Title	Date
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Signature	Print Name	Title	Date
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Signature	Print Name	Title	Date
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Signature	Print Name	Title	Date
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Signature	Print Name	Title	Date
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Signature	Print Name	Title	Date
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**Exhibit B**

**MATCHING REQUIREMENTS**

Both the JARC and New Freedom grants are matching grants. The Proposer will only receive 75% of cost for Operating Projects and 90% of cost for Capital Projects. The Proposer will need 25% matching for Operating projects and 10% matching for Capital projects.

All of the local share match must be provided from sources other than Federal Department of Transportation funds and must be a sufficient cash match.

Please attach proof documentation of your local share. If your local share matching is contingent upon award, provide that proof documentation instead.

Proof of your agency's matching is a mandatory component of the application process. Not attaching this documentation will result in automatic non-compliance and your application will not be considered.

I have completed all proceedings necessary to provide the local share of the project costs. If awarded funding I agree to notify Nashville MTA of any changes in circumstances or commitments that adversely affect our commitment to finance the project costs necessary to complete the project. I also agree to advise Nashville MTA of what actions I have taken or plans have made to ensure adequate local share resources and shall reaffirm our agency's commitment to the project.

I hereby certify that our organization is aware of the matching requirements and matching is in place per attached documentation.

\_\_\_\_\_  
Official Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Agency Name

\_\_\_\_\_  
Date

## Exhibit C

### FEDERAL FISCAL YEAR 2011 CERTIFICATIONS AND ASSURANCES FOR FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS PREFACE

*In accordance with 49 U.S.C. 5323(n), the following certifications and assurances have been compiled for Federal Transit Administration (FTA) assistance programs. FTA requests each Applicant to provide as many certifications and assurances as needed for all programs for which the Applicant intends to seek FTA assistance during Federal Fiscal Year 2011. Category 01 applies to all Applicants. Category 02 applies to all applications for Federal assistance in excess of \$100,000. Categories 03 through 24 will apply to and be required for some, but not all, Applicants and projects. An Applicant may select a single certification that will cover all the programs for which it anticipates submitting an application. FTA requests each Applicant to read each certification and assurance carefully and select all certifications and assurances that may apply to the programs for which it expects to seek Federal assistance.*

*FTA and the Applicant understand and agree that not every provision of these certifications and assurances will apply to every Applicant or every project for which FTA provides Federal financial assistance through a Grant Agreement or Cooperative Agreement. The type of project and the section of the statute authorizing Federal financial assistance for the project will determine which provisions apply. The terms of these certifications and assurances reflect applicable requirements of FTA's enabling legislation currently in effect.*

*The Applicant also understands and agrees that these certifications and assurances are special pre-award requirements specifically prescribed by Federal law or regulation and do not encompass all Federal laws, regulations, and directives that may apply to the Applicant or its project. A comprehensive list of those Federal laws, regulations, and directives is contained in the FTA Master Agreement MA(17) for Federal Fiscal Year 2011 at the FTA Web site <http://www.fta.dot.gov/documents/17-Master.pdf>. The certifications and assurances in this document have been streamlined to remove most provisions not covered by statutory or regulatory certification or assurance requirements.*

*Because many requirements of these certifications and assurances will require the compliance of the sub-recipient of an Applicant, we strongly recommend that each Applicant, including a State, that will be implementing projects through one or more sub-recipients, secure sufficient documentation from each sub-recipient to assure compliance, not only with these certifications and assurances, but also with the terms of the Grant Agreement or Cooperative Agreement for the project, and the applicable Master Agreement for its project, if applicable, incorporated therein by reference. Each Applicant is ultimately responsible for compliance with the provisions of the certifications and assurances applicable to itself or its project irrespective of participation in the project by any sub-recipient. The Applicant understands and agrees that when it applies for FTA assistance on behalf of a consortium, joint venture, partnership, or team, each member of that consortium, joint venture, partnership, or team is responsible for compliance with the certifications and assurances the Applicant selects. FTA strongly encourages each Applicant to submit its certifications and assurances through TEAM-Web, FTA's electronic award and management system, at <http://ftateamweb.fta.dot.gov>. Twenty-four (24) Categories of certifications and assurances are listed by numbers 01 through 24 in the TEAM-Web "Recipients" option at the "Cert's & Assurances" tab of "View/Modify Recipients."*

#### **01. ASSURANCES REQUIRED FOR EACH APPLICANT**

*Each Applicant for FTA assistance must provide all assurances in this Category "01." Except to the extent that FTA expressly determines otherwise in writing, FTA may not award any Federal assistance until the Applicant provides the following assurances by selecting Category "01."*

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

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

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

#### B. Standard Assurances

The Applicant assures that it will comply with all applicable Federal statutes and regulations in carrying out any project supported by an FTA grant or cooperative agreement. The Applicant agrees that it is under a continuing obligation to comply with the terms and conditions of the FTA grant agreement or cooperative agreement, including the FTA Master Agreement that is incorporated by reference and made part of the latest amendment to its grant agreement or cooperative agreement with FTA issued for its project. The Applicant recognizes that Federal laws and regulations may be modified from time to time and those modifications may affect project implementation. The Applicant understands that Presidential executive orders and Federal directives, including Federal policies and program guidance may be issued concerning matters affecting the Applicant or its project. The Applicant agrees that the most recent Federal laws, regulations, and directives will apply to the project, unless FTA issues a written determination otherwise.

#### C. Intergovernmental Review Assurance

Except if the Applicant is an Indian tribal government seeking assistance authorized by 49 U.S.C. 5311(c)(1), the Applicant assures that each application for Federal assistance it submits to FTA has been submitted or will be submitted for intergovernmental review to the appropriate State and local agencies as determined by the State. Specifically, the Applicant assures that it has fulfilled or will fulfill the obligations imposed on FTA by U.S. Department of Transportation (U.S. DOT) regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17. This assurance does not apply to Applicants for Federal assistance under FTA's Tribal Transit Program, 49 U.S.C. 5311(c)(1).

#### D. Nondiscrimination Assurance

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

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

- (1) Each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements of 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project;
- (2) It will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Applicant assures that it will submit the required information pertaining to its compliance with these provisions;

## Exhibit C (continued)

(3) It will include in each sub-agreement, property transfer agreement, third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d and 49 CFR part 21 to other parties involved therein including any sub-recipient, transferee, third party contractor, third party subcontractor at any level, successor in interest, or any other participant in the project;

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

(5) The United States has a right to seek judicial enforcement with regard to any matter arising under Title VI of the Civil Rights Act, U.S. DOT implementing regulations, and this assurance; and

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

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

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

### F. Suspension and Debarment

In accordance with the terms of U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 CFR Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government wide Debarment and Suspension (Non-procurement)," 2 CFR Part 180:

- (1) The Applicant (Primary Participant) certifies to the best of its knowledge and belief, that it and its principals, including its first tier sub-recipients:
- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded or disqualified from covered transactions by any Federal department or agency;
  - (b) Have not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction; violation of any Federal or State antitrust statute; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property;
  - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in subparagraph (1)(b) of this certification;
  - (d) Have not within a three-year period preceding this certification had one or more public transactions (Federal, State, or local) terminated for cause or default.

- (2) The Applicant (Primary Participant) certifies that it and its principals, including its first tier sub-recipients, will treat each lower tier contract or lower tier subcontract under the Project that (a) equals or exceeds \$25,000,

### Exhibit C (continued)

- (b) is for audit services, or (3) requires the consent of a Federal official, as a covered contract for purposes of 2 CFR Part 1200 and 2 CFR Part 180, and will otherwise comply with the Federal requirements of 2 CFR Part 1200 and 2 CFR Part 180, and will assure that the each lower tier participant involved in the Project is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded or disqualified from participation in this transaction by any Federal department or agency;
- (3) The Applicant (Primary Participant) certifies that if, later, it or its principals, including any of its first tier sub-recipients, become aware of any information contradicting the statements of subparagraphs (1)(a) through (d) above, it will promptly provide any necessary information to FTA;
- (4) If the Applicant (Primary Participant) or any of its principals, including any of its first tier sub-recipients or lower tier participants, is unable to certify to the statements within paragraphs (1), (2), and (3) above, the Applicant shall indicate so on its Signature Page or a Page attached in FTA's TEAM system providing a written explanation to FTA.

#### G. U.S. OMB Assurances

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

- (1) Has the legal authority to apply for Federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the non-Federal share of project cost) to assure proper planning, management, and completion of the project described in its application;
- (2) Will give FTA, the Comptroller General of the United States, and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives;
- (3) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain;
- (4) Will initiate and complete the work within the applicable project time periods following receipt of FTA approval;
- (5) Will comply with all applicable Federal statutes relating to nondiscrimination including, but not limited to:
  - (a) Title VI of the Civil Rights Act, 42 U.S.C. 2000d, which prohibits discrimination on the basis of race, color, or national origin;
  - (b) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 through 1683, and 1685 through 1687, and U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25, which prohibit discrimination on the basis of sex;
  - (c) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of disability;
  - (d) The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 through 6107, which prohibits discrimination on the basis of age;
  - (e) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. 1101 *et seq.*, relating to nondiscrimination on the basis of drug abuse;
  - (f) The Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. 4541 *et seq.* relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
  - (g) The Public Health Service Act of 1912, as amended, 42 U.S.C. 290dd through 290dd-2., relating to confidentiality of alcohol and drug abuse patient records;
  - (h) Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*, relating to nondiscrimination in the sale, rental, or financing of housing; and
  - (i) Any other nondiscrimination statute(s) that may apply to the project;
- (6) To the extent applicable, will comply with, or has complied with, the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (Uniform Relocation Act) 42 U.S.C. 4601 *et seq.*, which, among other things, provide for fair and equitable treatment of persons displaced or persons whose property is acquired as a result of federally assisted programs. These requirements apply to all interests in real property acquired for project purposes and displacement caused by the project regardless of Federal participation in any purchase. As required by sections 210 and 305 of the Uniform Relocation Act, 42 U.S.C. 4630 and 4655, and by U.S. DOT regulations, "Uniform

Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,” 49 CFR 24.4, the Applicant assures that it has the requisite authority under applicable State and local law to comply with the requirements of the Uniform Relocation Act, 42 U.S.C. 4601 *et seq.*, and U.S. DOT regulations, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs,” 49 CFR part 24, and will comply with that Act or has complied with that Act and those implementing regulations, including but not limited to the following:

- (a) The Applicant will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24;
  - (b) The Applicant will provide fair and reasonable relocation payments and assistance as required by 42 U.S.C. 4622, 4623, and 4624; 49 CFR part 24; and any applicable FTA procedures, to or for families, individuals, partnerships, corporations, or associations displaced as a result of any project financed with FTA assistance;
  - (c) The Applicant will provide relocation assistance programs offering the services described in 42 U.S.C. 4625 to such displaced families, individuals, partnerships, corporations, or associations in the manner provided in 49 CFR part 24;
  - (d) Within a reasonable time before displacement, the Applicant will make available comparable replacement dwellings to displaced families and individuals as required by 42 U.S.C. 4625(c)(3);
  - (e) The Applicant will carry out the relocation process in such manner as to provide displaced persons with uniform and consistent services, and will make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin;
  - (f) In acquiring real property, the Applicant will be guided to the greatest extent practicable under State law, by the real property acquisition policies of 42 U.S.C. 4651 and 4652;
  - (g) The Applicant will pay or reimburse property owners for their necessary expenses as specified in 42 U.S.C. 4653 and 4654, with the understanding that FTA will provide Federal financial assistance for the Applicant’s eligible costs of providing payments for those expenses, as required by 42 U.S.C. 4631;
  - (h) The Applicant will execute such amendments to third party contracts and sub-agreements financed with FTA assistance and execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement the assurances provided herein; and
  - (i) The Applicant agrees to make these assurances part of or incorporate them by reference into any third party contract or sub-agreement, or any amendments thereto, relating to any project financed by FTA involving relocation or land acquisition and provide in any affected document that these relocation and land acquisition provisions shall supersede any conflicting provisions;
- (7) To the extent applicable, will comply with the Davis-Bacon Act, as amended, 40 U.S.C. 3141 *et seq.*, the Copeland “Anti-Kickback” Act, as amended, at 18 U.S.C. 874, and at 40 U.S.C. 3145, and the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3701 *et seq.*, regarding labor standards for federally assisted projects;
  - (8) To the extent applicable, will comply with the flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), requiring the Applicant and its sub-recipients in a special flood hazard area to participate in the program and purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more;
  - (9) To the extent applicable, will comply with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures;
  - (10) To the extent applicable, will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities on which a construction project supported with FTA assistance takes place without permission and instructions from FTA;
  - (11) To the extent required by FTA, will record the Federal interest in the title of real property, and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project;
  - (12) To the extent applicable, will comply with FTA provisions concerning the drafting, review, and approval of construction plans and specifications of any construction project supported with FTA assistance. As required by U.S. DOT regulations, “Seismic Safety,” 49 CFR 41.117(d), before accepting delivery of any building financed with FTA assistance, it will obtain a certificate of compliance with the seismic design and construction requirements of 49 CFR part 41;
  - (13) To the extent applicable, will provide and maintain competent and adequate engineering supervision at the construction site of any project supported with FTA assistance to assure that the complete work conforms

## Exhibit C (continued)

- with the approved plans and specifications, and will furnish progress reports and such other information as may be required by FTA or the State;
- (14) To the extent applicable, will comply with any applicable environmental standards that may be prescribed to implement the following Federal laws and executive orders:
- (a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 through 4335 and Executive Order No. 11514, as amended, 42 U.S.C. 4321 note;
  - (b) Notification of violating facilities pursuant to Executive Order No. 11738, 42 U.S.C. 7606 note;
  - (c) Protection of wetlands pursuant to Executive Order No. 11990, 42 U.S.C. 4321 note;
  - (d) Evaluation of flood hazards in floodplains in accordance with Executive Order No. 11988, 42 U.S.C. 4321 note;
  - (e) Assurance of project consistency with the approved State management program developed pursuant to the requirements of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 through 1465;
  - (f) Conformity of Federal actions to State (Clean Air) Implementation Plans under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 through 7671q;
  - (g) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f through 300j-6;
  - (h) Protection of endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 through 1544; and
  - (i) Environmental protections for Federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, State, or local significance or any land from a historic site of national, State, or local significance to be used in a transportation project as required by 49 U.S.C. 303(b) and 303(c);
  - (j) Protection of the components of the national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 through 1287; and
  - (k) Provision of assistance to FTA in complying with section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f; with the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469 through 469c ; and with Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note;
- (15) To the extent applicable, will comply with the requirements of the Hatch Act, 5 U.S.C. 1501 through 1508 and 7324 through 7326, which limit the political activities of State and local agencies and their officers and employees whose primary employment activities are financed in whole or part with Federal funds including a Federal loan, grant agreement, or cooperative agreement except, in accordance with 49 U.S.C. 5307(k)(2) and 23 U.S.C. 142(g), the Hatch Act does not apply to a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA assistance to whom that Act does not otherwise apply;
- (16) To the extent applicable, will comply with the National Research Act, Pub. L. 93-348, July 12, 1974, as amended, 42 U.S.C. 289 *et seq.*, and U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11, regarding the protection of human subjects involved in research, development, and related activities supported by Federal assistance;
- (17) To the extent applicable, will comply with the Animal Welfare Act, as amended, 7 U.S.C. 2131 *et seq.*, and U.S. Department of Agriculture regulations, "Animal Welfare," 9 CFR subchapter A, parts 1, 2, 3, and 4, regarding the care, handling, and treatment of warm blooded animals held or used for research, teaching, or other activities supported by Federal assistance;
- (18) Will have performed the financial and compliance audits as required by the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.*, U.S. OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," Revised, and the most recent applicable U.S. OMB A-133 Compliance Supplement provisions for the U.S. DOT; and
- (19) To the extent applicable, will comply with all applicable provisions of all other Federal laws or regulations, and follow Federal directives governing the project, except to the extent that FTA has expressly approved otherwise in writing.

## 02. LOBBYING CERTIFICATION

### Exhibit C (continued)

*An Applicant that submits or intends to submit an application to FTA for any Federal grant, loan (including a line of credit), cooperative agreement, loan guarantee, or loan insurance exceeding \$100,000 is required to provide the following certification. FTA may not award Federal grant, loan (including a line of credit), cooperative agreement, loan guarantee, or loan insurance exceeding \$100,000 until the Applicant provides this certification by selecting Category "02."*

- A. As required by 31 U.S.C. 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, the Applicant's authorized representative certifies to the best of his or her knowledge and belief that for each application to U.S. DOT or FTA for a Federal grant, loan (including a line of credit), cooperative agreement, or a commitment that the Federal Government to guarantee or insure a loan exceeding \$100,000:
- (1) No Federal appropriated funds have been or will be paid by or on behalf of the Applicant to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress regarding the award of a Federal grant, loan (including a line of credit), cooperative agreement, loan guarantee, or loan insurance, or the extension, continuation, renewal, amendment, or modification of any Federal grant, loan (including a line of credit), cooperative agreement, loan guarantee, or loan insurance;
  - (2) If any funds other than Federal appropriated funds have been or will be paid to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application for a Federal grant, loan (including a line of credit), cooperative agreement, loan guarantee, or loan insurance, the Applicant assures that it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
  - (3) The language of this certification shall be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, sub-agreements, and contracts under grants, loans (including a line of credit), cooperative agreements, loan guarantees, and loan insurance).
- B. The Applicant understands that this certification is a material representation of fact upon which reliance is placed by the Federal government and that submission of this certification is a prerequisite for providing a Federal grant, loan (including a line of credit), cooperative agreement, loan guarantee, or loan insurance for a transaction covered by 31 U.S.C. 1352.

The Applicant also understands that any person who fails to file a required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### 03. PROCUREMENT COMPLIANCE

*In accordance with 49 CFR 18.36(g)(3)(ii), each Applicant that is a State, local, or Indian tribal government that is seeking Federal assistance to acquire property or services in support of its project is requested to provide the following certification by selecting Category "03." FTA also requests other Applicants to provide the following certification. An Applicant for FTA assistance to acquire property or services in support of its project that fails to provide this certification may be determined ineligible for award of Federal assistance for the project, if FTA determines that its procurement practices and procurement system fail to comply with Federal laws or regulations in accordance with applicable Federal directives.*

The Applicant certifies that its procurements and procurement system will comply with all applicable Federal laws and regulations in accordance with applicable Federal directives, except to the extent FTA has expressly approved otherwise in writing.

### 04. PROTECTIONS FOR PRIVATE TRANSPORTATION PROVIDERS

*Each Applicant that is a State, local, or Indian tribal government that is seeking Federal assistance authorized under 49 U.S.C. chapter 53 to acquire any property or an interest in the property of a private provider of public transportation or to operate public transportation equipment or facilities in competition with, or operate public transportation equipment or facilities in addition to, transportation service provided by an existing private provider of public transportation is required to provide the following certification. FTA may not award Federal assistance for such a project until the Applicant provides this certification by selecting Category "04."*

## Exhibit C (continued)

As required by 49 U.S.C. 5323(a)(1), the Applicant certifies that before it acquires the property or an interest in the property of a private provider of public transportation or operates public transportation equipment or facilities in competition with, or in addition to, transportation service provided by an existing public transportation company, it has or will have:

- A. Determined that the assistance is essential to carrying out a program of projects as required by 49 U.S.C. 5303, 5304, and 5306;
- B. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible; and
- C. Paid just compensation under State or local law to the company for any franchise or property acquired.

### 05. PUBLIC HEARING

*An Applicant seeking Federal assistance authorized under 49 U.S.C. chapter 53 for a capital project that will substantially affect a community or a community's public transportation service is required to provide the following certification. FTA may not award Federal assistance for a capital project of that type until the Applicant provides this certification by selecting Category "05."*

As required by 49 U.S.C. 5323(b), for a proposed capital project that will substantially affect a community, or the public transportation service of a community, the Applicant certifies that it has, or before submitting its application, it will have:

- A. Provided an adequate opportunity for public review and comment on the proposed project;
- B. After providing notice, including a concise description of the proposed project, published in a newspaper of general circulation in the geographic area to be served, held a public hearing on the project if the project affects significant economic, social, or environmental interests;
- C. Considered the economic, social, and environmental effects of the proposed project; and
- D. Determined that the proposed project is consistent with official plans for developing the community.

### 06. ACQUISITION OF ROLLING STOCK FOR USE IN REVENUE SERVICE

*An Applicant seeking Federal assistance authorized under 49 U.S.C. chapter 53 to acquire any rolling stock for use in revenue service is required to provide the following certification. FTA may not award any Federal assistance to acquire such rolling stock until the Applicant provides this certification by selecting Category "06."*

As required by 49 U.S.C. 5323(m) and implementing FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR part 663, at 49 CFR 663.7, the Applicant certifies that it will comply with the requirements of 49 CFR part 663 as modified by amendments authorized by section 3023(k) of SAFETEA-LU when procuring revenue service rolling stock. Among other things, the Applicant agrees to conduct or cause to be conducted the requisite pre-award and post delivery reviews, and maintain on file the certifications required by 49 CFR part 663, subparts B, C, and D.

### 07. ACQUISITION OF CAPITAL ASSETS BY LEASE

*An Applicant that intends to request the use of Federal assistance authorized under 49 U.S.C. chapter 53 to acquire capital assets by lease is required to provide the following certifications. FTA may not provide Federal assistance to support those costs until the Applicant provides this certification by selecting Category "07."*

As required by FTA regulations, "Capital Leases," 49 CFR part 639, at 49 CFR 639.15(b)(1) and 49 CFR 639.21, if the Applicant acquires any capital asset by lease financed with Federal assistance authorized under 49 U.S.C. chapter 53, the Applicant certifies as follows:

- (1) It will not use Federal assistance authorized under 49 U.S.C. chapter 53 to finance the cost of leasing any capital asset until it performs calculations demonstrating that leasing the capital asset would be more cost-effective than purchasing or constructing a similar asset; and it will complete these calculations before entering into the lease or before receiving a capital grant for the asset, whichever is later; and
- (2) It will not enter into a capital lease for which FTA can provide only incremental Federal assistance unless it has adequate financial resources to meet its future obligations under the lease if Federal assistance is not available for capital projects in the subsequent years.

## Exhibit C (continued)

### 08. BUS TESTING

*An Applicant for Federal assistance appropriated or made available for 49 U.S.C. chapter 53 to acquire any new bus model or any bus model with a new major change in configuration or components is required to provide the following certification. FTA may not provide Federal assistance for the acquisition of any new bus model or bus model with a major change until the Applicant provides this certification by selecting Category "08."*

As required by 49 U.S.C. 5318 and FTA regulations, "Bus Testing," at 49 CFR 665.7, the Applicant certifies that, before expending any Federal assistance to acquire the first bus of any new bus model or any bus model with a new major change in configuration or components, or before authorizing final acceptance of that bus (as described in 49 CFR part 665):

- A. The bus model will have been tested at FTA's bus testing facility; and
- B. The Applicant will have received a copy of the test report prepared on the bus model.

### 09. CHARTER SERVICE AGREEMENT

*An Applicant seeking Federal assistance authorized under 49 U.S.C. chapter 53 (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, to acquire or operate any public transportation equipment or facilities is required to enter into the following Charter Service Agreement. FTA may not provide Federal assistance authorized under 49 U.S.C. chapter 53 (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, for such projects until the Applicant enters into this Charter Service Agreement by selecting Category "09."*

A. As required by 49 U.S.C. 5323(d) and (g) and FTA regulations at 49 CFR 604.4, the Applicant understands and agrees that it and each sub-recipient, lessee, third party contractor, or other participant in the project at any tier may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "Charter Service," 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.

B. The Applicant understands and agrees that:

- (1) The requirements of FTA regulations, "Charter Service," 49 CFR part 604, will apply to any charter service it or its sub-recipients, lessees, third party contractors, or other participants in the project provide;
- (2) The definitions of FTA regulations, "Charter Service," 49 CFR part 604, will apply to this Charter Service Agreement; and
- (3) A pattern of violations of this Charter Service Agreement may require corrective measures and imposition of remedies, including barring the Applicant, sub-recipient, lessee, third party contractor, or other participant in the project that has engaged in that pattern of violations from receiving FTA financial assistance, or withholding an amount of Federal assistance as set forth in FTA regulations, "Charter Service," 49 CFR part 604, Appendix D.

### 10. SCHOOL TRANSPORTATION AGREEMENT

*An Applicant that is seeking Federal assistance authorized under 49 U.S.C. chapter 53 or under 23 U.S.C. 133 or 142 to acquire or operate public transportation facilities and equipment is required to enter into the following School Transportation Agreement. FTA may not provide Federal assistance authorized under 49 U.S.C. chapter 53 or under 23 U.S.C. 133 or 142 for such projects until the Applicant enters into this School Transportation Agreement by selecting Category "10."*

A. As required by 49 U.S.C. 5323(f) and (g) and FTA regulations at 49 CFR 605.14, the Applicant understands and agrees that it and each sub-recipient, lessee, third party contractor, or other participant in the project at any tier may engage in school transportation operations in competition with private school transportation operators that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. 5323(f) or (g), the terms and conditions of which are incorporated herein by reference.

B. The Applicant understands and agrees that:

## Exhibit C (continued)

- (1) The requirements of FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. 5323(f) or (g), will apply to any school transportation service it or its sub-recipients, lessees, third party contractors, or other participants in the project provide;
- (2) The definitions of FTA regulations, "School Bus Operations," 49 CFR part 605 will apply to this School Transportation Agreement; and
- (3) If there is a violation of this School Transportation Agreement, FTA will bar the Applicant, sub-recipient, lessee, third party contractor, or other participant in the project that has violated this School Transportation Agreement from receiving Federal transit assistance in an amount FTA considers appropriate.

### 11. DEMAND RESPONSIVE SERVICE

*An Applicant that operates demand responsive service and applies for direct Federal assistance authorized under 49 U.S.C. chapter 53 to acquire non-rail public transportation vehicles is required to provide the following certification. FTA may not award direct Federal assistance authorized under 49 U.S.C. chapter 53 to an Applicant that operates demand responsive service to acquire non-rail public transportation vehicles until the Applicant provides this certification by selecting Category "11."*

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," at 49 CFR 37.77(d), the Applicant certifies that its demand responsive service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. Viewed in its entirety, the Applicant's service for individuals with disabilities is provided in the most integrated setting feasible and is equivalent with respect to: (1) response time, (2) fares, (3) geographic service area, (4) hours and days of service, (5) restrictions on trip purpose, (6) availability of information and reservation capability, and (7) constraints on capacity or service availability.

### 12. ALCOHOL MISUSE AND PROHIBITED DRUG USE

*If the Applicant is required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," at 49 CFR part 655, to provide the following certification concerning its activities to prevent alcohol misuse and prohibited drug use in its public transportation operations, FTA may not provide Federal assistance to that Applicant until it provides this certification by selecting Category "12."*

As required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," at 49 CFR part 655, subpart I, the Applicant certifies that it has established and implemented an alcohol misuse and anti-drug program, and has complied with or will comply with all applicable requirements of FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655.

### 13. INTEREST AND OTHER FINANCING COSTS

*An Applicant that intends to request the use of Federal assistance for reimbursement of interest or other financing costs incurred for its capital projects financed with Federal assistance under the Urbanized Area Formula Program, the Capital Investment Program, or the Paul S. Sarbanes Transit in Parks Program is required to provide the following certification. FTA may not provide Federal assistance to support interest or other financing costs until the Applicant provides this certification by selecting Category "13."*

As required by 49 U.S.C. 5307(g)(3), 5309(g)(2)(B)(iii), 5309(g)(3)(B)(iii), 5309(i)(2)(C), and 5320(h)(2)(C), the Applicant certifies that it will not seek reimbursement for interest or other financing costs unless it is eligible to receive Federal assistance for those costs and its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.

### 14. INTELLIGENT TRANSPORTATION SYSTEMS

*An Applicant for FTA assistance for an Intelligent Transportation Systems (ITS) project, defined as any project that in whole or in part finances the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the "National ITS Architecture," is requested to provide the following assurance. FTA strongly encourages any Applicant for FTA*

## Exhibit C (continued)

*financial assistance to support an ITS project to provide this assurance by selecting Category “14.” An Applicant for FTA assistance for an ITS project that fails to provide this assurance, without providing other documentation assuring its commitment to comply with applicable Federal ITS standards and protocols, may be determined ineligible for award of Federal assistance for the ITS project.*

As used in this assurance, the term Intelligent Transportation Systems (ITS) project is defined to include any project that in whole or in part finances the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the “National ITS Architecture.”

A. As provided in subsection 5307(c) of SAFETEA-LU, 23 U.S.C. 512 note, apart from certain exceptions, “intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, [shall] conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a) [of section 5307 of SAFETEA-LU].” To facilitate compliance with subsection 5307(c) of SAFETEA-LU, 23 U.S.C. 512 note, the Applicant assures it will comply with all applicable provisions of Section V (Regional ITS Architecture) and Section VI (Project Implementation) of FTA Notice, “FTA National ITS Architecture Policy on Transit Projects,” at 66 FR 1455 *et seq.*, January 8, 2001, and other FTA policies that may be issued in connection with any ITS project it undertakes financed with funds authorized under Title 49 or Title 23, United States Code, except to the extent that FTA expressly determines otherwise in writing; and

B. With respect to any ITS project financed with Federal assistance derived from a source other than Title 49 or Title 23, United States Code, the Applicant assures that it will use its best efforts to assure that any ITS project it undertakes will not preclude interface with other intelligent transportation systems in the Region.

### 15. URBANIZED AREA FORMULA PROGRAM

*Each Applicant for Urbanized Area Formula Program assistance authorized under 49 U.S.C. 5307 is required to provide the following certifications on behalf of itself and any sub-recipients participating in its projects. Unless FTA determines otherwise in writing, the Applicant is ultimately responsible for compliance with its certifications and assurances even though a sub-recipient, lessee, third party contractor, or other participant may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective sub-recipients, the Applicant is strongly encouraged to take appropriate measures, including but not limited to obtaining sufficient documentation from each sub-recipient, to assure the validity of all certifications and assurances the Applicant has made to FTA. If, however a “Designated Recipient” as defined at 49 U.S.C. 5307(a)(2)(A) enters into a Supplemental Agreement with FTA and a Prospective Grantee, that Grantee is recognized as the Applicant for Urbanized Area Formula Program assistance and must provide the following certifications and assurances.*

*Each Applicant is required by 49 U.S.C. 5307(d)(1)(J) to expend at least one (1) percent of its Urbanized Area Formula Program assistance for public transportation security projects, unless the Applicant has certified that such expenditures are not necessary. Information about the Applicant’s intentions will be recorded in the “Security” tab page of the TEAM-Web “Project Information” window when the Applicant enters its Urbanized Area Formula Program application in TEAM-Web.*

*FTA may not award Urbanized Area Formula Program assistance to any Applicant that is required by 49 U.S.C. 5307(d)(1)(K) to expend one (1) percent of its Urbanized Area Formula Program assistance for eligible transit enhancements unless that Applicant’s quarterly report for the fourth quarter of the preceding Federal fiscal year has been submitted to FTA and includes the requisite list or the Applicant attaches in TEAM-Web or includes in its quarterly report information sufficient to demonstrate that the Designated Recipients in its area together have expended one (1) percent of the amount of Urbanized Area Program assistance made available to them for transit enhancement projects.*

*FTA may not award Federal assistance for the Urbanized Area Formula Program to the Applicant until the Applicant provides these certifications and assurances by selecting Category “15.”*

## Exhibit C (continued)

As required by 49 U.S.C. 5307(d)(1), the Applicant certifies as follows:

- A. In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including the safety and security aspects of that program;
- B. In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of Project equipment and facilities;
- C. In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the Project equipment and facilities;
- D. In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant will assure that any elderly individual, any individual with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized for 49 U.S.C. 5307, not more than fifty (50) percent of the peak hour fare;
- E. In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5307: (1) will use competitive procurement (as defined or approved by FTA), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
- F. In compliance with 49 U.S.C. 5307(d)(1)(F), the Applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, the Applicant: (1) has made available, or will make available, to the public information on the amounts available for the Urbanized Area Formula Program, 49 U.S.C. 5307, and the program of projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, a proposed program of projects for activities to be financed; (3) has published or will publish a proposed program of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the Applicant; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed program of projects; (5) has assured or will assure that the proposed program of projects provides for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final program of projects; and (7) has made or will make the final program of projects available to the public;
- G. In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5307(e) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;
- H. In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: (1) 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); (2) 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and (3) 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);
- I. In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation;
- J. In compliance with 49 U.S.C. 5307(d)(1)(J), each Federal fiscal year, the Applicant will spend at least one (1) percent of its funds authorized by 49 U.S.C. 5307 for public transportation security projects, unless the Applicant has certified to FTA that such expenditures are not necessary. Public transportation security projects include increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of existing or planned public transportation; and
- K. In compliance with 49 U.S.C. 5307(d)(1)(K), if the Applicant is a Designated Recipient serving an urbanized area with a population of at least 200,000, (1) the Applicant certifies either that it has expended or will expend for transit enhancements as defined at 49 U.S.C. 5302(a)(15) not less than one (1) percent of the amount of the

## Exhibit C (continued)

Urbanized Area Formula Assistance it receives this Federal fiscal year, or that at least one Designated Recipient in its urbanized area has certified or will certify that the Designated Recipients within that urbanized area together have expended or will expend for transit enhancements as defined at 49 U.S.C. 5302(a)(15) not less than one (1) percent of the total amounts the Designated Recipients receive each Federal fiscal year under 49 U.S.C. 5307, and (2) either the Applicant has listed or will list the transit enhancement projects it has carried out with those funds, or at least one Designated Recipient in the Applicant's urbanized area has listed or will list the transit enhancement projects carried out with funds authorized under 49 U.S.C. 5307. If the Designated Recipient's quarterly report for the fourth quarter of the preceding Federal fiscal year includes a list of transit enhancement projects the Designated Recipients in its urbanized area have implemented during that preceding Federal fiscal year using those funds, the information in that quarterly report will fulfill the requirements of 49 U.S.C. 5307(d)(1)(K)(ii), and thus that quarterly report will be incorporated by reference and made part of the Designated Recipient's and Applicant's certifications and assurances.

### 16. CLEAN FUELS GRANT PROGRAM

*Each Applicant for Clean Fuels Grant Program assistance authorized under 49 U.S.C. 5308 is required to provide the following certifications on behalf of itself and its sub-recipients. Unless FTA determines otherwise in writing, the Applicant is ultimately responsible for compliance with its certifications and assurances even though a sub-recipient, lessee, third party contractor, or other participant may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective sub-recipients, the Applicant is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each sub-recipient, to assure the validity of all certifications and assurances the Applicant has made to FTA. FTA may not award Federal assistance for the Clean Fuels Grant Program until the Applicant provides these certifications by selecting Category "16."*

As required by 49 U.S.C. 5308(d)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Clean Fuels Grant Program assistance, and 49 U.S.C. 5307(d)(1), the designated recipient or the recipient serving as the Applicant on behalf of the designated recipient, or the State or State organization serving as the Applicant on behalf of the State, certifies as follows:

- A. In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including the safety and security aspects of that program;
- B. In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
- C. In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;
- D. In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant will assure that any elderly individual, any individual with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized under 49 U.S.C. 5308, not more than fifty (50) percent of the peak hour fare;
- E. In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5308: (1) will use competitive procurement (as defined or approved by FTA), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
- F. In compliance with 49 U.S.C. 5307(d)(1)(F), the Applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, the Applicant: (1) has made available, or will make available, to the public information on the amounts available for the Clean Fuels Grant Program, 49 U.S.C. 5308, and the projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, the proposed projects to be financed; (3) has published or will publish a list of the proposed projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed projects and submit comments on the proposed projects

## Exhibit C (continued)

and the performance of the Applicant; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects; (5) has assured or will assure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (7) has made or will make the final list of projects available to the public;

G. In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5308(d)(2) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;

H. In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: (1) 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); (2) 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and (3) 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);

I. In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation; and

J. The Applicant certifies it will operate vehicles purchased with Federal assistance provided under the Clean Fuels Grant Program, 49 U.S.C. 5308 only with clean fuels.

### **17. ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES FORMULA GRANT PROGRAM AND PILOT PROGRAM**

*Before FTA may award Elderly Individuals and Individuals with Disabilities Formula Grant Program assistance and, if applicable, Elderly Individuals and Individuals with Disabilities Pilot Program assistance to a State, the U.S. Secretary of Transportation or his or her designee is required to make the pre-award determinations required by 49 U.S.C. 5310. Because certain information is needed before FTA can make those determinations, each State is requested to provide the following certifications assurances on behalf of itself and its sub-recipients. Unless FTA determines otherwise in writing, the State itself is ultimately responsible for compliance with its certifications and assurances even though a sub-recipient, lessee, third party contractor, or other participant may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective sub-recipients, the State is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each sub-recipient, to assure the validity of all certifications and assurances the State has made to FTA. A State that fails to provide these certifications and assurances on behalf of itself and its sub-recipients may be determined ineligible for a grant of Federal assistance under 49 U.S.C. 5310 if FTA lacks sufficient information from which to make those determinations required by Federal laws and regulations governing the Elderly Individuals and Individuals with Disabilities Formula Grant Program and, if applicable, the Elderly Individuals and Individuals with Disabilities Pilot Program authorized by 49 U.S.C. 5310 and section 3012 of SAFETEA-LU, respectively. The State is thus requested to select Category "17."*

A. As required by 49 U.S.C. 5310(d), which makes the requirements of 49 U.S.C. 5307 applicable to the Elderly Individuals and Individuals with Disabilities Formula Grant Program to the extent that the Federal Transit Administrator or his or her designee determines appropriate, and 49 U.S.C. 5307(d)(1), the State or State organization serving as the Applicant (State) and that administers, on behalf of the State, the Elderly Individuals and Individuals with Disabilities Program authorized by 49 U.S.C. 5310, and, if applicable, the Elderly Individuals and Individuals with Disabilities Pilot Program authorized by subsection 3012(b) of SAFETEA-LU, 49 U.S.C. 5310 note, certifies and assures on behalf of itself and its sub-recipients as follows:

(1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including the safety and security aspects of that program;

(2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;

(3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;

## Exhibit C (continued)

- (4) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5310 or subsection 3012(b) of SAFETEA-LU: (1) will use competitive procurement (as defined or approved by FTA), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
- (5) The State has or will have available and will provide the amount of funds required by 49 U.S.C. 5310(c), and if applicable by subsections 3012(b)(3) and (4) of SAFETEA-LU, for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law; and
- (6) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: (1) 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); (2) 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and (3) 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);
- B. The State assures that each sub-recipient either is recognized under State law as a private nonprofit organization with the legal capability to contract with the State to carry out the proposed project, or is a public body that has met the statutory requirements to receive Federal assistance authorized for 49 U.S.C. 5310;
- C. The private nonprofit sub-recipient's application for 49 U.S.C. 5310 assistance contains information from which the State concludes that the transit service provided or offered to be provided by existing public or private transit operators is unavailable, insufficient, or inappropriate to meet the special needs of the elderly and persons with disabilities;
- D. In compliance with 49 U.S.C. 5310(d)(2)(A) and subsection 3012(b)(2) of SAFETEA-LU, the State certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, that project has been or will have been coordinated with private nonprofit providers of services under 49 U.S.C. 5310;
- E. In compliance with 49 U.S.C. 5310(d)(2)(C), the State certifies that allocations to sub-recipients of financial assistance authorized under 49 U.S.C. 5310 or subsection 3012(b) of SAFETEA-LU will be distributed on a fair and equitable basis; and
- F. In compliance with 49 U.S.C. 5310(d)(2)(B) and subsection 3012(b)(2) of SAFETEA-LU, the State certifies that: (1) projects it has selected or will select for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

### 18. NONURBANIZED AREA FORMULA PROGRAM FOR STATES

*The provisions of 49 U.S.C. 5311 establishing the Non-urbanized Area Formula Program for States do not impose, as a pre-condition of award, any explicit certification or assurance requirements established specifically for that program. Only a State or a State organization acting as the Recipient on behalf of a State (State) may be a direct recipient of this Non-urbanized Area Formula Program assistance. Separate certifications and assurances have been established in Category 22 for an Indian tribe that is an Applicant for Tribal Transit Program assistance authorized by 49 U.S.C. 5311(c)(1).*

*Before FTA may award Non-urbanized Area Formula Program assistance to a State, the U.S. Secretary of Transportation or his or her designee is required to make the pre-award determinations required by 49 U.S.C. 5311. Because certain information is needed before FTA can make those determinations, each State is requested to provide the following certifications and assurances on behalf of itself and its sub-recipients. Unless FTA determines otherwise in writing, the State itself is ultimately responsible for compliance with its certifications and assurances even though a sub-recipient, lessee, third party contractor, or other participant may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective sub-recipients, the State is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each sub-recipient, to assure the validity of all certifications and assurances the State has made to FTA. A State that fails to provide these certifications and assurances on behalf*

## Exhibit C (continued)

*of itself and its sub-recipients may be determined ineligible for a grant of Federal assistance under 49 U.S.C. 5311 if FTA lacks sufficient information from which to make those determinations required by Federal laws and regulations governing the Non-urbanized Area Formula Program authorized by 49 U.S.C. 5311. The State is thus requested to select Category "18."*

The State or State organization serving as the Applicant and that administers, on behalf of the State (State) the Non-urbanized Area Formula Program for States authorized by 49 U.S.C. 5311, assures on behalf of itself and its sub-recipients as follows:

- A. The State has or will have the necessary legal, financial, and managerial capability to apply for, receive, and disburse Federal assistance authorized for 49 U.S.C. 5311; and to carry out each project, including the safety and security aspects of that project;
- B. The State has or will have satisfactory continuing control over the use of project equipment and facilities;
- C. The State assures that the project equipment and facilities will be adequately maintained;
- D. In compliance with 49 U.S.C. 5311(b)(2)(C)(i), the State's program has provided for a fair distribution of Federal assistance authorized for 49 U.S.C. 5311 within the State, including Indian reservations within the State;
- E. In compliance with 49 U.S.C. 5311(b)(2)(C)(ii), the State's program provides or will provide the maximum feasible coordination of public transportation service to receive assistance under 49 U.S.C. 5311 with transportation service assisted by other Federal sources;
- F. The projects in the State's Non-urbanized Area Formula Program are included in the Statewide Transportation Improvement Program and, to the extent applicable, the projects are included in a metropolitan Transportation Improvement Program;
- G. The State has or will have available and will provide the amount of funds required by 49 U.S.C. 5311(g) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law; and
- H. In compliance with 49 U.S.C. 5311(f), the State will expend not less than fifteen (15) percent of its Federal assistance authorized under 49 U.S.C. 5311 to develop and support intercity bus transportation within the State, unless the chief executive officer of the State, or his or her designee, after consultation with affected intercity bus service providers, certifies to the Federal Transit Administrator, apart from these certifications and assurances herein, that the intercity bus service needs of the State are being adequately met.

### 19. JOB ACCESS AND REVERSE COMMUTE FORMULA GRANT PROGRAM

*Each Applicant for Job Access and Reverse Commute (JARC) Formula Grant Program assistance authorized under 49 U.S.C. 5316 is required to provide the following certifications on behalf of itself and any sub-recipient that may be implementing its project. Unless FTA determines otherwise in writing, the Applicant itself is ultimately responsible for compliance with its certifications and assurances even though a sub-recipient, lessee, third party contractor, or other participant may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective sub-recipients, the Applicant is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from each sub-recipient, to assure the validity of all certifications and assurances the Applicant has made to FTA. FTA may not award Federal assistance for the JARC Formula Grant Program until the Applicant provides these certifications by selecting Category "19."*

- A. As required by 49 U.S.C. 5316(f)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Job Access and Reverse Commute (JARC) formula grants, and 49 U.S.C. 5307(d)(1), the Applicant for JARC Formula Program assistance authorized under 49 U.S.C. 5316, certifies on behalf of itself and its sub-recipients, if any, as follows:
  - (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including the safety and security aspects of that program;
  - (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
  - (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;

## Exhibit C (continued)

- (4) In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant will assure that any elderly individual, any individual with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized under 49 U.S.C. 5316 not more than fifty (50) percent of the peak hour fare;
- (5) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5316: (1) will use competitive procurement (as defined or approved by FTA), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
- (6) In compliance with 49 U.S.C. 5316(f)(1) and 49 U.S.C. 5307(d)(1)(F), the Applicant certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5316, it will conduct in cooperation with the appropriate MPO an area-wide solicitation for applications, and make awards on a competitive basis and (2) with respect to financial assistance authorized under 49 U.S.C. 5316, it will conduct a statewide solicitation for applications, and make awards on a competitive basis; and that these activities will be carried out in a manner that complies with or will comply with 49 U.S.C. 5307(c);
- (7) The Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5316(h) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law; and
- (8) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: (1) 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); and (2) 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and (3) 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);
- B. In compliance with 49 U.S.C. 5316(d), the Applicant certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5316(c)(1)(A), it will conduct in cooperation with the appropriate MPO an area-wide solicitation for applications, and make awards on a competitive basis and (2) with respect to financial assistance authorized under 49 U.S.C. 5316(c)(1)(B) or 49 U.S.C. 5316(c)(1)(C), it will conduct a statewide solicitation for applications, and make awards on a competitive basis;
- C. In compliance with 49 U.S.C. 5316(f)(2), the Applicant certifies that any allocations to sub-recipients of financial assistance authorized under 49 U.S.C. 5316 will be distributed on a fair and equitable basis;
- D. In compliance with 49 U.S.C. 5316(g)(2), the Applicant certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, that project has been or will have been coordinated with private nonprofit providers of services;
- E. In compliance with 49 U.S.C. 5316(g)(3), the Applicant certifies that: (1) the projects it has selected or will select for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public; and
- F. In compliance with 49 U.S.C. 5316(c)(3), before the Applicant uses funding apportioned under 49 U.S.C. 5316(c)(1)(B) or (C) for projects serving an area other than that specified in 49 U.S.C. 5316(2)(B) or (C), the Applicant certifies that the chief executive officer of the State, or his or her designee will have certified to the Federal Transit Administrator, apart from these certifications herein, that all of the objectives of 49 U.S.C. 5316 are being met in the area from which such funding would be derived.

## 20. NEW FREEDOM PROGRAM

*Each Applicant for New Freedom Program assistance authorized under 49 U.S.C. 5317 must provide the following certifications on behalf of itself and any sub-recipient that may be implementing its project. Unless FTA determines otherwise in writing, the Applicant itself is ultimately responsible for compliance with its certifications and assurances even though a sub-recipient, lessee, third party contractor, or other participant may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its prospective sub-recipients, the Applicant is strongly encouraged to take the appropriate measures, including but*

## Exhibit C (continued)

*not limited to obtaining sufficient documentation from each sub-recipient, to assure the validity of all certifications and assurances the Applicant has made to FTA. FTA may not award Federal assistance for the New Freedom Program until the Applicant provides these certifications by selecting Category "20."*

- A. As required by 49 U.S.C. 5317(e)(1), which makes the requirements of 49 U.S.C. 5310 applicable to New Freedom grants to the extent the Federal Transit Administrator or his or her designee determines appropriate, by 49 U.S.C. 5310(d)(1), which makes the requirements of 49 U.S.C. 5307 applicable to Elderly Individuals and Individuals with Disabilities Formula grants to the extent the Federal Transit Administrator or his or her designee determines appropriate, and by 49 U.S.C. 5307(d)(1), the Applicant for New Freedom Program assistance authorized under 49 U.S.C. 5317 certifies and assures on behalf of itself and its sub-recipients, if any, as follows:
- (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including the safety and security aspects of that program;
  - (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
  - (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;
  - (4) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5317: (1) will use competitive procurement (as defined or approved by FTA), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
  - (5) The Applicant has or will have available and will provide the amount of funds required by 49 U.S.C. 5317(g) for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law; and
  - (6) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: (1) 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); (2) 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and (3) 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);
- B. In compliance with 49 U.S.C. 5317(d), the Applicant certifies that (1) with respect to financial assistance authorized under 49 U.S.C. 5317(c)(1)(A), it will conduct in cooperation with the appropriate MPO an area-wide solicitation for applications, and make awards on a competitive basis and (2) with respect to financial assistance authorized under 49 U.S.C. 5317(c)(1)(B) or financial assistance authorized under 49 U.S.C. 5317(c)(1)(C), it will conduct a statewide solicitation for applications, and make awards on a competitive basis;
- C. In compliance with 49 U.S.C. 5317(f)(2), the Applicant certifies that, before it transfers funds to a project funded under 49 U.S.C. 5336, that project has been or will have been coordinated with private nonprofit providers of services;
- D. In compliance with 49 U.S.C. 5317(e)(2), the Applicant certifies that any allocations to sub-recipients of financial assistance authorized under 49 U.S.C. 5317 will be distributed on a fair and equitable basis; and
- E. In compliance with 49 U.S.C. 5317(f)(3), the Applicant certifies that: (1) the projects it has selected or will select for assistance under that program were derived from a locally developed, coordinated public transit-human services transportation plan; and (2) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and through participation by the public.

## 21. PAUL S. SARBANES TRANSIT IN PARKS PROGRAM

*Each State, tribal area, or local government authority that is an Applicant for Paul S. Sarbanes Transit in Parks Program assistance (Applicant) authorized by 49 U.S.C. 5320, is required to provide the following certifications. FTA may not award assistance for the Paul S. Sarbanes Transit in Parks Program to the Applicant until the Applicant provides these certifications by selecting Category "21."*

## Exhibit C (continued)

A. As required by 49 U.S.C. 5320(i), which makes the requirements of 49 U.S.C. 5307 applicable to the Paul S. Sarbanes Transit in Parks Program to the extent the Federal Transit Administrator or his or her designee determines appropriate, and 49 U.S.C. 5307(d)(1), the Applicant certifies as follows:

- (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed project, including the safety and security aspects of that project;
- (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
- (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;
- (4) In compliance with 49 U.S.C. 5307(d)(1)(E), in carrying out a procurement financed with Federal assistance authorized under 49 U.S.C. 5320, the Applicant: (1) will use competitive procurement (as defined or approved by FTA), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
- (5) In compliance with 49 U.S.C. 5307(d)(1)(F) and with 49 U.S.C. 5320(e)(2)(C), the Applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, it: (1) has made available, or will make available, to the public information on the amounts available for the Paul S. Sarbanes Transit in Parks Program, 49 U.S.C. 5320, and the projects it proposes to undertake; (2) has developed or will develop, in consultation with interested parties including private transportation providers, projects to be financed; (3) has published or will publish a list of proposed projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed projects and submit comments on the proposed projects and the performance of the Applicant; (4) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects; (5) has assured or will assure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal government source; (6) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (7) has made or will make the final list of projects available to the public;
- (6) In compliance with 49 U.S.C. 5307(d)(1)(H), the Applicant will comply with: (1) 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); (2) 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and (3) 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements); and (7) In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation; and

B. In compliance with 49 U.S.C. 5320(e)(2)(A), (B), and (D), the Applicant assures that it will:

- (1) Comply with the metropolitan planning provisions of 49 U.S.C. 5303;
- (2) Comply with the statewide planning provisions of 49 U.S.C. 5304; and
- (3) Consult with the appropriate Federal land management agency during the planning process.

## 22. TRIBAL TRANSIT PROGRAM

*Each Applicant for Tribal Transit Program assistance must provide all certifications and assurances set forth below. Except to the extent that FTA determines otherwise in writing, FTA may not award any Federal assistance under the Tribal Transit Program until the Applicant provides these certifications and assurances by selecting Category "22."*

In accordance with 49 U.S.C. 5311(c)(1) that authorizes the Secretary of Transportation to establish terms and conditions for direct grants to Indian tribal governments, the Applicant certifies and assures as follows:

A. The Applicant assures that:

- (1) It has or will have the necessary legal, financial, and managerial capability to apply for, receive, and disburse Federal assistance authorized for 49 U.S.C. 5311; and to carry out each project, including the safety and security aspects of that project;
- (2) It has or will have satisfactory continuing control over the use of project equipment and facilities;

## Exhibit C (continued)

- (3) The project equipment and facilities will be adequately maintained; and
- (4) Its project will achieve maximum feasible coordination with transportation service assisted by other Federal sources;
- B. In accordance with 49 CFR 18.36(g)(3)(ii), the Applicant certifies that its procurement system will comply with the requirements of 49 CFR 18.36, or will inform FTA promptly that its procurement system does not comply with 49 CFR 18.36;
- C. To the extent applicable to the Applicant or its Project, the Applicant certifies that it will comply with the certifications, assurances, and agreements in Category 08 (Bus Testing), Category 09 (Charter Bus Agreement), Category 10 (School Transportation Agreement), Category 11 (Demand Responsive Service), Category 12 (Alcohol Misuse and Prohibited Drug Use), and Category 14 (National Intelligent Transportation Systems Architecture and Standards) of this document; and
- D. If its application exceeds \$100,000, the Applicant agrees to comply with the certification in Category 02 (Lobbying) of this document.

### 23. TIFIA PROJECTS

*Each Applicant for Transportation Infrastructure Finance and Innovation Act (TIFIA) credit assistance authorized under 23 U.S.C. chapter 6, is required to provide the following certifications. FTA may not award TIFIA credit assistance to the Applicant until the Applicant provides these certifications by selecting Category "23."*

- A. As required by 49 U.S.C. 5323(o), which makes the requirements of 49 U.S.C. 5307 applicable to Applicants seeking TIFIA credit assistance authorized under 23 U.S.C. chapter 6, and by 49 U.S.C. 5307(d)(1), the Applicant certifies as follows:
- (1) In compliance with 49 U.S.C. 5307(d)(1)(A), the Applicant has or will have the legal, financial, and technical capacity to carry out its proposed program of projects, including the safety and security aspects of that program;
- (2) In compliance with 49 U.S.C. 5307(d)(1)(B), the Applicant has or will have satisfactory continuing control over the use of project equipment and facilities;
- (3) In compliance with 49 U.S.C. 5307(d)(1)(C), the Applicant will adequately maintain the project equipment and facilities;
- (4) In compliance with 49 U.S.C. 5307(d)(1)(D), the Applicant will assure that any elderly individual, any individual with disabilities, or any person presenting a Medicare card issued to himself or herself pursuant to title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged for transportation during non-peak hours using or involving a facility or equipment of a project financed with Federal assistance authorized under 23 U.S.C. chapter 6, not more than fifty (50) percent of the peak hour fare;
- (5) In compliance with 49 U.S.C. 5307(d)(1)(E), the Applicant, in carrying out a procurement financed with Federal assistance authorized under 23 U.S.C. chapter 6: (1) will use competitive procurement (as defined or approved by FTA), (2) will not use exclusionary or discriminatory specifications in its procurements, (3) will comply with applicable Buy America laws, and (4) will comply with the general provisions for FTA assistance of 49 U.S.C. 5323 and the third party procurement requirements of 49 U.S.C. 5325;
- (6) In compliance with 49 U.S.C. 5307(d)(1)(F), the Applicant has complied with or will comply with the requirements of 49 U.S.C. 5307(c). Specifically, it: (a) has made available, or will make available, to the public information on the amounts available for TIFIA credit assistance, 23 U.S.C. chapter 6, and the projects it proposes to undertake; (b) has developed or will develop, in consultation with interested parties including private transportation providers, the proposed projects to be financed; (c) has published or will publish a list of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed projects and submit comments on the proposed projects and the performance of the Applicant; (d) has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed projects; (e) has assured or will assure that the proposed projects provide for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal government source; (f) has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of projects; and (g) has made or will make the final list of projects available to the public;

## Exhibit C (continued)

(7) In compliance with 49 U.S.C. 5307(d)(1)(G), the Applicant has or will have available and will provide the amount of funds required for the local share, and that those funds will be provided from approved non-Federal sources except as permitted by Federal law;

(8) In compliance with 49 U.S.C. 5307(d)(1)(H), (1) the Applicant will comply with: 49 U.S.C. 5301(a) (requirements for public transportation systems that maximize the safe, secure, and efficient mobility of individuals, minimize environmental impacts, and minimize transportation-related fuel consumption and reliance on foreign oil); (2) 49 U.S.C. 5301(d) (special efforts to design and provide public transportation for elderly individuals and individuals with disabilities); and (3) 49 U.S.C. 5303 through 5306 (planning and private enterprise requirements);

(9) In compliance with 49 U.S.C. 5307(d)(1)(I), the Applicant has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation;

(10) To the extent that the Applicant will be using funds authorized under 49 U.S.C. 5307 for the project, in compliance with 49 U.S.C. 5307(d)(1)(J), each Federal fiscal year, the Applicant will spend at least one (1) percent of those funds authorized under 49 U.S.C. 5307 for public transportation security projects (this includes only capital projects in the case of a Applicant serving an urbanized area with a population of 200,000 or more), unless the Applicant has certified to FTA that such expenditures are not necessary. Public transportation security projects include increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, emergency telephone line or lines to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation; and

(11) To the extent that the Applicant will be using funds authorized under 49 U.S.C. 5307 for the project, in compliance with 49 U.S.C. 5309(d)(1)(K): (1) an Applicant that serves an urbanized area with a population of at least 200,000 will expend not less than one (1) percent of the amount it receives each Federal fiscal year under 49 U.S.C. 5307 for transit enhancements, as defined at 49 U.S.C. 5302(a), and (2) if it has received transit enhancement funds authorized by 49 U.S.C. 5307(k)(1), its quarterly report for the fourth quarter of the preceding Federal fiscal year includes a list of the projects it has implemented during that Federal fiscal year using those funds, and that report is incorporated by reference and made part of its certifications and assurances; and B. As required by 49 U.S.C. 5323(o), which makes the requirements of 49 U.S.C. 5309 applicable to Applicants seeking TIFIA credit assistance authorized under 23 U.S.C. chapter 6, and by 49 U.S.C. 5309(g)(2)(B)(iii), 5309(g)(3)(B)(iii), and 5309(i)(2)(C), the Applicant certifies that it will not seek reimbursement for interest and other financing costs incurred in connection with the Project unless the Applicant is eligible to receive Federal assistance for those expenses and the Applicant's records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.

### **24. DEPOSITS OF FEDERAL FINANCIAL ASSISTANCE TO STATE INFRASTRUCTURE BANKS**

*The State organization that administers the State Infrastructure Bank (SIB) Program on behalf of a State (State) and that is also an Applicant for Federal assistance authorized under 49 U.S.C. chapter 53 that it intends to deposit in its SIB is requested to provide the following assurances on behalf of itself, its SIB, and each sub-recipient. Unless FTA determines otherwise in writing, the State itself is ultimately responsible for compliance with its certifications and assurances even though the SIB and a sub-recipient may participate in that project. Consequently, in providing certifications and assurances that involve the compliance of its SIB and prospective sub-recipients, the State is strongly encouraged to take the appropriate measures, including but not limited to obtaining sufficient documentation from the SIB and each sub-recipient, to assure the validity of all certifications and assurances the State has made to FTA. FTA may not award Federal assistance for the SIB Program to the State until the State provides these assurances by selecting Category "24."*

The State organization, serving as the Applicant (State) for Federal assistance for its State Infrastructure Bank (SIB) Program authorized by section 1602 of SAFETEA-LU, now codified at 23 U.S.C. 610, or by section 1511 of TEA-21, 23 U.S.C. 181 note, or by section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181 note, agrees and assures the agreement of its SIB and the agreement of each recipient

**Exhibit C (continued)**

of Federal assistance derived from the SIB within the State (sub-recipient) that each public transportation project financed with Federal assistance derived from SIB will be administered in accordance with:

- A. Applicable provisions of section 1602 of SAFETEA-LU, now codified at 23 U.S.C. 610, or by section 1511 of TEA-21, 23 U.S.C. 181 note, or by section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181;
- B. The provisions of the FHWA, FRA, and FTA or the FHWA and FTA cooperative agreement with the State to establish the State's SIB Program;
- C. The provisions of the FTA grant agreement with the State that provides Federal assistance for the SIB, except that any provision of the Federal Transit Administration Master Agreement incorporated by reference into that grant agreement will not apply if it conflicts with any provision of section 1602 of SAFETEA-LU, now codified at 23 U.S.C. 610, or section 1511 of TEA-21, 23 U.S.C. 181 note, or section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181 note, or Federal guidance pertaining to the SIB Program, the provisions of the cooperative agreement establishing the SIB Program within the State, or the provisions of the FTA grant agreement;
- D. The requirements applicable to projects of 49 U.S.C. 5307 and 5309, as required by 49 U.S.C. 5323(o); and
- E. The provisions of applicable Federal guidance that may be issued and amendments thereto, unless FTA has provided written approval of an alternative procedure or course of action.

*Selection and Signature Page(s) follow.*

**Exhibit C (continued)**

**FEDERAL FISCAL YEAR 2011 CERTIFICATIONS AND ASSURANCES FOR FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS**

*(Signature page alternative to providing Certifications and Assurances in TEAM-Web)*

**Name of Applicant:** \_\_\_\_\_

**The Applicant agrees to comply with applicable provisions of Categories 01 – 24. \_\_\_\_\_ OR The Applicant agrees to comply with applicable provisions of the Categories it has selected:**

<b><u>Category</u></b>	<b><u>Description</u></b>	
01.	Assurances Required For Each Applicant.	_____
02.	Lobbying.	_____
03.	Procurement Compliance.	_____
04.	Protections for Private Providers of Public Transportation.	_____
05.	Public Hearing.	_____
06.	Acquisition of Rolling Stock for Use in Revenue Service.	_____
07.	Acquisition of Capital Assets by Lease.	_____
08.	Bus Testing.	_____
09.	Charter Service Agreement.	_____
10.	School Transportation Agreement.	_____
11.	Demand Responsive Service.	_____
12.	Alcohol Misuse and Prohibited Drug Use.	_____
13.	Interest and Other Financing Costs.	_____
14.	Intelligent Transportation Systems.	_____
15.	Urbanized Area Formula Program.	_____
16.	Clean Fuels Grant Program.	_____
17.	Elderly Individuals and Individuals with Disabilities Formula Program and Pilot Program.	_____
18.	Non-urbanized Area Formula Program for States.	_____
19.	Job Access and Reverse Commute Program.	_____
20.	New Freedom Program.	_____
21.	Paul S. Sarbanes Transit in Parks Program.	_____
22.	Tribal Transit Program.	_____
23.	TIFIA Projects	_____
24.	Deposits of Federal Financial Assistance to a State Infrastructure Banks.	_____

**Exhibit C (continued)**

**FEDERAL FISCAL YEAR 2011 FTA CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE**  
(Required of all Applicants for FTA assistance and all FTA Grantees with an active capital or formula project)

**AFFIRMATION OF APPLICANT**

Name of Applicant: \_\_\_\_\_

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

BY SIGNING BELOW, on behalf of the Applicant, I declare that the Applicant has duly authorized me to make these certifications and assurances and bind the Applicant's compliance. Thus, the Applicant agrees to comply with all Federal statutes and regulations, and follow applicable Federal directives, and comply with the certifications and assurances as indicated on the foregoing page applicable to each application it makes to the Federal Transit Administration (FTA) in Federal Fiscal Year 2011.

FTA intends that the certifications and assurances the Applicant selects on the other side of this document, as representative of the certifications and assurances in this document, should apply, as provided, to each project for which the Applicant seeks now, or may later, seek FTA assistance during Federal Fiscal Year 2011.

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

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

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

Name \_\_\_\_\_  
Authorized Representative of Applicant

**AFFIRMATION OF APPLICANT'S ATTORNEY**

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

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

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

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

Name \_\_\_\_\_  
Attorney for Applicant

Each Applicant for FTA financial assistance and each FTA Grantee with an active capital or formula project must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its signature in lieu of the Attorney's signature, provided the Applicant has on file this Affirmation, signed by the attorney and dated this Federal fiscal year.

Exhibit D

**Coordinated Human Service Transportation Plan  
JARC & NF Funded Projects – FY 2010**

**Drug Free Workplace & Substance Abuse Policy  
Acknowledgement Agreement**

I have received a copy of \_\_\_\_\_'s (agency) Drug Free Workplace Program and Substance Abuse Policy Addendum to the Coordinated Human Services Transportation Plan contract with Nashville MTA. This policy contains guidelines and terms to assure \_\_\_\_\_ (agency) worker fitness for duty and to protect our employees/volunteers, passengers, and the public from the risks posed by the use or misuse of alcohol and prohibited drugs. I agree to consult with my direct supervisor or the Human Resources Department whenever I have specific questions concerning this policy.

I have received the Substance Abuse Policy and I understand that it is my responsibility to read and comply with the policies, rules and guidelines contained in this substance abuse policy, as well as any revisions made to it.

\_\_\_\_\_  
EMPLOYEE/VOLUNTEER SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
EMPLOYEE/VOLUNTEER'S NAME (PRINTED)

**Exhibit D (continued)**  
**DRUG-FREE WORKPLACE PROGRAM**  
**AND**  
**SUBSTANCE ABUSE POLICY**

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**1.0 POLICY**

\_\_\_\_\_ is dedicated to providing a safe, dependable, and economical services to our clients. \_\_\_\_\_ employees/volunteers are our most valuable resource and it is our goal to provide a healthy, satisfying working environment that promotes personal opportunities for growth. In meeting these goals, it is our policy to: (1) assure that employees/volunteers are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner; (2) create a workplace environment free from the adverse effects of drug and alcohol substance abuse or misuse; (3) prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and (4) to encourage employees/volunteers to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

**2.0 PURPOSE**

The purpose of this policy is to assure worker fitness for duty and to protect our employees/volunteers, passengers, and the public from the risks posed by the use of alcohol and prohibited drugs. This policy is also intended to comply with all applicable Federal regulations governing workplace anti-drug programs. The Federal Transit Administration (FTA) of the U.S. Department of Transportation has enacted 49 CFR Part 655 that mandates urine drug testing and breathalyzer alcohol testing for safety-sensitive positions and prevents performance of safety-sensitive functions when there is a positive test result. The U.S. Department of Transportation (DOT) has also enacted 49 CFR Part 40, as amended that sets standards for the collection and testing of urine and breath specimens. In addition, the DOT has enacted 49 CFR Part 29, "The Drug-Free Workplace Act of 1988", which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA.

**3.0 APPLICABILITY**

This policy applies to all safety-sensitive and non-safety-sensitive employees/volunteers, paid part-time employees/volunteers, and contractors performing any transit-related business and/or FTA funded services. This policy applies to off-site lunch periods or breaks when an employee/volunteer is scheduled to return to work.

**4.0 PROHIBITED SUBSTANCES**

"Prohibited substances" addressed by this policy include the following:

**4.1 Illegally Used Controlled Substances or Drugs**

Consumption of the following drugs and drug metabolites are strictly prohibited: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Employees/volunteers may be randomly tested for prohibited drug use anytime while on duty.

**4.2 Legal Drugs**

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, any individual using a substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be impaired must report the use to supervisory personnel and should also discuss the use with their appropriate health care provider before performing work related duties.

### 4.3 Alcohol

## Exhibit D (continued)

The use of beverages containing alcohol or substances including any medications such that alcohol is present in the body at a concentration level of 0.02 or above while performing transit business is prohibited. Over the counter medication such as cold medicines or cough syrups, or some mouthwashes also could cause a positive alcohol test.

### 5.0 PROHIBITED CONDUCT

#### 5.1 Manufacture, Trafficking, Possession, and Use

Any employee/volunteer engaging in the manufacture, distribution, dispensing, possession, or use of prohibited substances will be subject to disciplinary action up to and including termination. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

#### 5.2 Intoxication/Under the Influence

Any safety-sensitive or non-safety sensitive employee/volunteer who is reasonably suspected of being intoxicated, impaired, under the influence of a prohibited substance, or not fit for duty shall be suspended from job duties pending an investigation and verification of condition. Employees/volunteers who fail to pass a drug or alcohol test shall be removed from duty immediately and will be subject to disciplinary action, up to and including termination.

#### 5.3 Alcohol Use

No employee/volunteer shall use alcohol:

- while on duty or while performing safety-sensitive functions,
- within four hours of reporting for duty,
- during the hours that they are on call, or
- eight hours following an accident requiring a post-accident alcohol test, unless the test was completed within eight hours

An employee/volunteer who is called into work unexpectedly has a responsibility to inform his/her supervisor immediately if he/she is unfit for duty. Otherwise, he/she will be treated the same as any other regularly scheduled employee/volunteer.

Violation of these provisions is prohibited and punishable by disciplinary action up to and including termination.

#### 5.4 Compliance with Testing Requirements

All safety-sensitive and non-safety-sensitive employees/volunteers will be subject to urine drug testing and breath alcohol testing. Any employee/volunteer who refuses to comply with a request for testing, or who provides false information in connection with a test (as outlined in 49 CFR Part 40) shall not be permitted to perform or continue to perform safety-sensitive functions, their employment will be terminated, and they will be referred to a Substance Abuse Professional.

#### 5.5 Treatment Requirements

All employees/volunteers are encouraged to make use of the available resources for treatment for alcohol and substance abuse problems. Under certain circumstances, employees/volunteers may be required to undergo treatment for substance abuse. Any employee/volunteer who refuses or fails to comply with Agency requirements for treatment, after care, or return to duty shall be subject to disciplinary action, up to and including termination.

#### 5.6 Notifying the Agency of Criminal Drug Conviction

Employees/volunteers are required to notify the Agency within 5 days of any criminal drug statute conviction. Any employee/volunteer who fails to immediately notify the Agency of any criminal drug statute conviction shall be subject to disciplinary action, up to and including termination.

#### 5.7 Proper Application of the Policy

The Agency is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to

## Exhibit D (continued)

deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

### 6.0 TESTING FOR PROHIBITED SUBSTANCES

#### 6.1 Pre-Employment Testing

All safety-sensitive and non-safety-sensitive position applicants shall undergo urine drug testing, and a negative test result is required prior to performing a safety-sensitive function. All safety-sensitive and non-safety-sensitive position applicants shall also undergo a breath alcohol test using the alcohol testing procedures set forth in 49 CFR Part 40. The employee will not perform any safety-sensitive functions unless the result of the test indicates an alcohol concentration of less than 0.02. This test will be conducted after making a contingent offer of employment subject to the employee passing a pre-employment alcohol test. Failure of a drug or alcohol test will disqualify an applicant for employment for a period of 120 days. Evidence of the absence of drug or alcohol dependency from a Substance Abuse Professional and negative drug and alcohol tests will be required prior to further consideration for employment.

**6.1.1 The Agency will also check the drug and alcohol testing background of applicants of safety-sensitive work after obtaining the individual's written consent. If the individual refuses to provide the written consent, he or she will not be hired into the safety-sensitive position. Any individual who has previously failed or refused a DOT pre-employment drug or alcohol test will be required to provide proof of having successfully completed an SAP referral, evaluation and treatment plan as described in Section 655.62.**

6.1.2 If more than 90 days have elapsed between the time of successfully completing a pre-employment test and the assignment of safety-sensitive duties, another pre-employment test will be required prior to the individual being assigned safety-sensitive duties. Any employee who has not performed a safety-sensitive function for more than 90 consecutive calendar days, regardless of the reason, and who was removed from the random selection pool during that time must also receive a verified negative result before returning to duty.

**6.1.3 Any employee transferring from a non-safety-sensitive function to a safety-sensitive function must complete a pre-employment drug and alcohol test and a verified negative test result is required prior to performance of a safety-sensitive function.**

#### 6.2 Reasonable Suspicion Testing

All safety-sensitive and non-safety-sensitive employees/volunteers may be subject to a fitness for duty evaluation, to include appropriate urine and /or breath testing in accordance with Section 655.43. A test will be conducted when a supervisor or other Agency official who is trained in detecting the signs and symptoms of drug use and alcohol misuse observes and determines that reasonable suspicion exists based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the covered employee/volunteer.

Examples of actions which may lead to a reasonable suspicion test include, but are not limited to the following:

1. Adequate documentation of unsatisfactory work performance or on-the-job behavior.
2. Physical signs and symptoms consistent with prohibited substance use.
3. Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances, drugs, alcohol, or other prohibited substances.
4. Occurrence of a serious or potentially serious accident that may have been caused by human error.
5. Fights (to mean physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operating procedures.
6. Arrest for drug-related offense.

6.2.0 A reasonable suspicion alcohol test will only be conducted just before an employee/volunteer performs safety-sensitive duties, during performance of safety-sensitive duties or just after the employee/volunteer has ceased performance of such functions.

## Exhibit D (continued)

### 6.3 Post-Accident Testing

Employees/volunteers will be required to undergo urine and breath testing in accordance with Section 655.44 if they are involved in an accident with a vehicle that results in a fatality. This includes all employees/volunteers that are on-duty in the vehicles and any other whose performance could have contributed to the accident. In addition, a post-accident test will be conducted if an accident results in injuries requiring transportation to a medical treatment facility (including incidents such as passenger or pedestrian injuries) or if one or more vehicles incurs disabling damage that requires towing from the site. Except for the case of a fatality when the employee/volunteer must be tested, a supervisor may decide, based on the best information available at the time, that testing is unnecessary only when an employee/volunteer's conduct can be completely discounted as a contributing factor to the accident.

Other employees/volunteers may also be tested if a supervisor concludes, based on the best information available at the time, that the employee/volunteer's performance could have contributed to the accident.

### 6.4 Random Testing

Employees/volunteers in safety-sensitive positions will be subjected to random, unannounced urine and breath testing in accordance with Section 655.45. The number of employees/volunteers randomly selected for drug and/or alcohol testing during the calendar year shall be in accordance with FTA regulations.

### 6.5 Return to Duty Testing

All safety-sensitive and non-safety-sensitive employees/volunteers who previously tested positive on a drug or alcohol test must test negative and be evaluated and released to duty by the Substance Abuse Professional before returning to work in accordance with Section 655.46.

### 6.6 Follow-up Testing

In accordance with Section 655.47, all safety-sensitive (and non-safety sensitive) employees/volunteers who return to duty after a substance-related leave or after an evaluation made by a Substance Abuse Professional is subject to unannounced follow-up drug and/or alcohol testing. The frequency and duration of such testing will be solely determined by the Substance Abuse Professional, but the Agency will determine the actual days for follow-up testing. The duration could extend up to 60 months with a minimum requirement of at least 6 tests in the first 12 months.

## 7.0 EMPLOYMENT ASSESSMENT AND REHABILITATION

Any employee/volunteer who refuses to submit to a drug or alcohol test, or who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in 49 CFR Part 40, as amended will be immediately removed from their safety sensitive or non-safety sensitive function and will be referred to a Substance Abuse Professional (SAP). Assessment by a SAP does not shield an employee/volunteer from disciplinary up to and including termination.

## 8.0 CONFIDENTIALITY AND COMPENSATION

The Agency affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. The test result of an individual may only be released in the following circumstances:

- a. in cases required by law or expressly authorized by DOT/FTA regulations;
- b. if directed by the specific, written consent of a safety-sensitive employee/volunteer authorizing release of the information to an identified person;
- c. upon written request, a safety-sensitive employee/volunteer may obtain copies of their own alcohol or controlled substances tests;
- d. when requested by authorized personnel of the DOT, or any State or local officials with regulatory authority;
- e. to a subsequent employer upon receipt of a written request from the safety-sensitive employee/volunteer;
- f. to a decision-maker in the case of a grievance, hearing, lawsuit or other action involving the employee/volunteer.

Anyone with questions regarding this policy or any other aspect of the drug-free and alcohol-free should contact

## Exhibit D (continued)

the following Agency representative:

Name:

Title:

Address:

Telephone Number:

Fax Number:

Signed this \_\_\_\_\_ day of December 2011

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**Executive Director**

### DEFINITIONS

Accident: An occurrence associated with the operation of a vehicle, if –

- a. there is a fatality; or,
- b. an individual suffers a bodily injury and immediately receives medical treatment away from the scene of an accident and the safety sensitive employee/volunteer's performance cannot be completely discounted as a contributing factor; or
- c. a vehicle receives disabling damage as a result of the occurrence and the safety sensitive employee/volunteer's performance cannot be completely discounted as a contributing factor.

Controlled Substances: Any drug classified by the U.S. Drug Enforcement Agency (DEA) into the five schedules or classes on the basis of their potential for abuse, accepted medical use, and accepted safety for use under medical supervision.

Department of Transportation (DOT): An agency of the United States Department of Transportation administering regulations related to drug or alcohol testing.

Positive Alcohol Test: The presence of alcohol in the body at a concentration of 0.04 or greater as measured by an EBT device.

Positive Drug Test: Any urine that is chemically tested (screened and confirmed), shows the presence of controlled substances, and is verified by the MRO.

Substance Abuse Professional: A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of drug/alcohol related disorders.

Safety-Sensitive Employees/volunteers: As defined by the FTA, it includes any employee/volunteer who performs or may be called upon to perform the following safety-sensitive functions:

- a. operation of a revenue service vehicle, whether or not such vehicle is in revenue service;
- b. operation of a non-revenue service vehicle when required to be operated by a Commercial Driver's License (CDL) holder;
- c. controlling dispatch or movement of a revenue service vehicle
- d. maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service, and
- e. carrying a firearm for security purposes.

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**V. REQUIRED FORMS**

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**FORM 1**

**ACKNOWLEDGMENT OF ADDENDA**

The undersigned acknowledges receipt of the following addenda to the Proposal documents:  
(If none received, write none)

ADDENDUM NUMBER: \_\_\_\_\_ DATED: \_\_\_\_\_

ADDENDUM NUMBER: \_\_\_\_\_ DATED: \_\_\_\_\_

ADDENDUM NUMBER: \_\_\_\_\_ DATED: \_\_\_\_\_

ADDENDUM NUMBER: \_\_\_\_\_ DATED: \_\_\_\_\_

**NOTE:** Failure to acknowledge receipt of all addenda may cause the Proposal considered non-responsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the Proposal.

\_\_\_\_\_  
Name of Individual, Partner, Joint Venture, Corporation

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number and Contact Person Regarding Proposals

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

**FORM 2**

**AFFIDAVIT AND INFORMATION REQUIRED FOR PROPOSER**

Affidavit of Non-Collusion:

I hereby swear, or affirm, under the penalty for perjury:

(1) That I am the Proposer (if the Proposer is an individual), a partner in the Proposal (if the Proposer is a partnership), or an officer or employee of the proposing corporation with the authority to sign on its behalf (if Proposer is a corporation).

(2) That the attached Proposal or Proposals or any subsequently submitted best and final offer have been arrived at by the Proposer independently and have been submitted without collusion with, and without any agreement, understanding, or planned course of action with, and other vendor of materials, supplies, equipment, or services described in the Invitation for Proposals, designed to limit independent proposing or competition.

(3) That the contents of the Proposal or Proposals have not been communicated by the Proposer, or its employees, or agents, to any person not an employee, or agent of the Proposer or its surety on any bond furnished with the Proposal or Proposals; and

(4) That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Firm Name

Subscribed and sworn to before me the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

EI Number: \_\_\_\_\_  
(Number used of Employer's Quarterly Federal Tax Return)

**FORM 3**

**PROPOSER'S CERTIFICATION OF ELIGIBILITY**

The \_\_\_\_\_ (Name of third-party Contractor) hereby certifies that (Check appropriate box)  is  is not included on the United States Comptroller General's "Consolidated List of Persons or Firms Currently Debarred for Violation of Various Public Contracts Incorporation Labor Standards Provision"

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Firm Name

Subscribed and sworn to before me the \_\_\_\_\_ day of \_\_\_\_\_, 20

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

Proposer  
E.I. Number: \_\_\_\_\_  
Number used on Employer's Quarterly Federal tax return

**FORM 4**

**COMPLIANCE WITH SPECIFICATIONS**

In submitting a Proposal the Proposer is sufficiently informed in all matters affecting the RFP, and that the Proposer has checked the Proposal for errors and omissions and hereby states that they will comply with the specifications in all areas including approved equals and addenda that were granted by the Nashville MTA.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Firm Name

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

Proposer  
E.I. Number: \_\_\_\_\_  
Number used on Employer's Quarterly Federal tax return

**FORM 5**

**DBE COMPLIANCE STATEMENT**

For the purpose of Disadvantaged Business Enterprise evaluation, each Proposer shall comply with the Nashville MTA disadvantaged business enterprise policy. As such, the Proposer must:

- 1. Be a Disadvantaged Business Enterprise. \_\_\_\_\_
- 2. Achieve the DBE subcontract goal of 11.21% \_\_\_\_\_
- 3. Demonstrate good faith efforts toward achieving the 11.21% DBE goal set by Nashville MTA and approved by the Board of Directors for FY 2012-2014 \_\_\_\_\_
- 4. Authenticate the reasons that sub-contracting will not be practical for this project. \_\_\_\_\_

Each Proposer will be required to mark the above statement that applies to them and submit proper documentation.

\_\_\_\_\_  
Name of Individual, Partner, or Corporation

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number and Contact Person Regarding Proposal

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

**FORM 6**

**CERTIFICATE OF AUTHORITY, IF PROPOSER IS A CORPORATION**

I, the undersigned, as Secretary of the corporation submitting the foregoing Proposal, hereby certify that under and pursuant to the By-Laws and Resolutions of said corporation, each officers who has signed Proposals on behalf of the corporation, including the foregoing assurance of irrevocability, is fully and completely authorized so to do.

\_\_\_\_\_  
Name/Signature of Corporate Secretary

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

**ACKNOWLEDGMENT OF PROPOSER, IF A CORPORATION**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came and appeared \_\_\_\_\_ known to me who, being by me duly sworn, did depose and say that he/she resides at \_\_\_\_\_, that he/she is the \_\_\_\_\_ or \_\_\_\_\_, of the corporation described in and which executed the foregoing instrument, that he/she knows the seal of said corporation; and it was so affixed by order of the Directors of said corporation, and that he/she signed his/her name thereto by like order.

Notary Public \_\_\_\_\_

My Commission expires \_\_\_\_\_

Proposer  
E.I. Number: \_\_\_\_\_  
(Number used on Employer's Quarterly Federal tax return)

**FORM 6 CONTINUING**

**ACKNOWLEDGMENT OF PROPOSER, IF A PARTNERSHIP**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, before me personally came and appeared \_\_\_\_\_, to me known who, being by me duly sworn, to be the members of the firm of \_\_\_\_\_ described in and who executed the foregoing instrument that he/she acknowledged to me that he/she executed the same as and for the act that deed of said firm.

Notary Public \_\_\_\_\_

My Commission expires \_\_\_\_\_

Proposer  
E.I. Number : \_\_\_\_\_  
(Number used on Employer's Quarterly Federal tax return)

**ACKNOWLEDGMENT OF PROPOSER, IF AN INDIVIDUAL**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, before me personally came and appeared \_\_\_\_\_, to me known who, being by me duly sworn, to be the person described in and who executed the foregoing instrument that he/she acknowledged to me that he/she executed the same as and for the act that deed of said firm.

Notary Public \_\_\_\_\_

My Commission expires \_\_\_\_\_

Proposer  
E.I .Number: \_\_\_\_\_  
(Number used on Employer's Quarterly Federal tax return)

**FORM 7**

**CERTIFICATION OF RESTRICTIONS ON LOBBYING**

I \_\_\_\_\_ hereby certify on behalf of \_\_\_\_\_.  
(Name of Official) (Name of Firm)

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Proposer, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 2011

By: \_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Title of Authorized Official

\_\_\_\_\_ Date

**FORM 8**

**CERTIFICATION REGARDING DEBARMENT AND SUSPENSION PRIMARY PARTICIPANT**

The prospective contractor certifies, by submission of this bid or Proposal, that neither it nor its “principals” as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any governmental department or agency as defined at 49 CFR 29.940 and 29.945.

The contractor must comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or Proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by Nashville MTA. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Nashville MTA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

\_\_\_\_\_  
Signature of Contractor’s Authorized Official

\_\_\_\_\_  
Title of Contractor’s Authorized Official

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

**FORM 9**

**CERTIFICATION OF LOWER-TIER PARTICIPANTS  
CERTIFICATION REGARDING DEBARMENT AND SUSPENSION**

The prospective lower tier participant contractor certifies, by submission of this bid or Proposal, that neither it nor its "principals" as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any governmental department or agency as defined at 49 CFR 29.940 and 29.945.

By signing and submitting its bid or Proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by Nashville MTA. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Nashville MTA, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Title of Contractor's Authorized Official

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

**FORM 10**

**CONTACT INFORMATION OF SIMILAR CONTRACTS/REFERENCES**

1.

2.

3.

4.

---

Company Name

---

Authorized Signature

---

Name Printed

---

Telephone Number

---

Fax Number

**FORM 11**

**AFFIDAVITS**

**State of** \_\_\_\_\_ **County of** \_\_\_\_\_

*As used herein, "Proposer" will include proposers and.*

**Compliance with Laws:** After first being duly sworn according to law, the undersigned (Affiant) states that he/she is the \_\_\_\_\_ (Title) of \_\_\_\_\_ (Proposer), and that Proposer is presently in compliance with, and will continue to maintain compliance with, all applicable laws. Thus, Affiant states that Proposer has all applicable licenses, including business licenses, copies of which are attached hereto. Finally, Affiant states that Proposer is current on its payment of all applicable gross receipt taxes and personal property taxes.

**Contingent Fees:** In accordance with the Metropolitan Government's 1992 Procurement Code, and Nashville MTA Purchasing Policy and FTA rules it is a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a Nashville MTA contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. After first being duly sworn according to law, the undersigned (Affiant) states that the Proposer has not retained anyone in violation of the foregoing.

**Non-Discrimination:** After first being duly sworn according to law, the undersigned (Affiant) states that by its employment policy, standards, and practices the Proposer does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal, or laying off of any individual due to his/her race, creed, color, national origin, age, or sex, and that the Proposer is not in violation of and will not violate any applicable laws concerning the employment of individuals with disabilities.

It is the policy of the Nashville MTA, FTA and the Metropolitan Government not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of its contract with the Nashville MTA, Proposer certifies and warrants it will comply with this policy.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Sworn to and subscribed before me on this \_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

E.I. Number: \_\_\_\_\_

(Number used on Employer's Quarterly Federal tax return)

**FORM 12**

**AFFIDAVIT OF COMPLIANCE**

TO BE COMPLETED BY DISADVANTAGED BUSINESS ENTERPRISE/WB DISADVANTAGED BUSINESS

State of \_\_\_\_\_

County of \_\_\_\_\_

I hereby certify that I am the \_\_\_\_\_ (title) and;

duly authorized representative of \_\_\_\_\_ (name of firm)

Whose address is \_\_\_\_\_

I do hereby declare and affirm that I am a Disadvantaged Business Enterprise (DBE) as defined by the RFP and I will provide information requested by the Nashville MTA to document this fact.

I do solemnly declare and affirm, under the penalties of perjury, that the contents of the aforementioned document are true and correct and the above firm has authorized me to execute this affidavit.

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED OFFICIAL      DATE

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me the above named officer appeared, known to me to be \_\_\_\_\_ and the person described in the foregoing Affidavit and that he/she did execute the same in the capacity therein stated and for the purpose stated.

IN WITNESS THEREOF, I hereunto set my hand and official seal,

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
COMMISSION EXPIRES



**FORM 14**

**NOTICE TO PROPOSER**

The Proposer hereby agrees that the Chief Executives Officer and or the Board of Directors have the right to reject any or all Proposals and to waive informality in any Proposal and the Proposer shall not dispute the correctness of the quantities used in computing the best, responsive Proposal.

\_\_\_\_\_  
Signature of Officer, Partner or Owner

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Business Address and Telephone Number of  
Proposer

**FORM 15**

**BUY AMERICA CERTIFICATE  
(For Procurement of Steel, Iron, or Manufactured Products)  
(EXCLUDES ROLLING STOCK)**

*Certificate of Compliance with TITLE 49 USC § 5323(j)(1)*

The Proposer hereby certifies that it will comply with the requirements of Title 49 USC § 5323(j)(1) and the applicable regulations in 49 CFR Part 661.5.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

**APPENDIX A**

**TITLE VI**

**PURPOSE.** The purpose of this circular is to provide recipients and sub-recipients of Federal Transit Administration (FTA) financial assistance with guidance and instructions necessary to carry out the U.S. Department of Transportation's ("DOT" or the "Department") Title VI regulations (49 CFR part 21) and to integrate into their programs and activities considerations expressed in the Department's Order on Environmental Justice (Order 5610.2), and Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient ("LEP") Persons (70 FR 74087, December 14, 2005).

**CANCELLATION.** This circular supersedes FTA Circular 4702.1 "Title VI Program Guidelines for Federal Transit Administration Recipients," dated May 26, 1988.

**SCOPE.** This circular applies to all recipients of financial assistance from the Federal Transit Administration.

**REFERENCES.**

- a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d).
- b. Federal Transit Laws, as amended (49 U.S.C. Chapter 53 et seq.).
- c. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601, et seq.).
- d. Department of Justice regulation, 28 CFR part 42, Subpart F, "Coordination of Enforcement of Nondiscrimination in Federally-Assisted Programs" (December 1, 1976, unless otherwise noted).
- e. DOT regulation, 49 CFR part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964" (June 18, 1970, unless otherwise noted).
- f. Joint FTA/Federal Highway Administration (FHWA) regulation, 23 CFR part 771, "Environmental Impact and Related Procedures" (August 28, 1987).
- g. Joint FTA/FHWA regulation, 23 CFR part 450 and 49 CFR part 613, "Planning Assistance and Standards," (October 28, 1993, unless otherwise noted).
- h. DOT Order 5610.2, "U.S. DOT Order on Environmental Justice to Address Environmental Justice in Minority Populations and Low-Income Populations," (April 15, 1997).
- i. DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient Persons, (December 14, 2005).
- j. Section 12 of FTA's Master Agreement, FTA MA 13 (October 1, 2006).

**WAIVER.** FTA reserves the right to waive any requirements of this circular to the extent permitted by law.

**AMENDMENTS TO THE CIRCULAR.** FTA reserves the right to amend this circular in the future and to update references to requirements contained in other revised or new guidance and regulations that undergo notice and comment procedures, without further notice and comment on this circular.

**ACCESSIBLE FORMATS.** This document is available in accessible format upon request. Paper copies of this circular as well as information regarding these accessible formats may be obtained by calling FTA's Administrative Services Help Desk, at 202-366-4865.

**BACKGROUND.** Since 1972, FTA has required applicants for and recipients and sub-recipients of Federal assistance to certify compliance with the requirements of Title VI as part of the grant approval process.

- a. With regard to external civil rights programs, (Title VI), the FTA Administrator exercises authority pursuant to statutes, regulations, and executive orders. 49 CFR 1.45. Implementing Title VI by FTA will be achieved through continued data collection, reporting, compliance reviews, and, if necessary, through remedial action and procedures for effecting compliance under Chapter X of this circular and the Department's Title VI Regulations at 49 CFR Sections 21.13, 21.15, and 21.17.
- b. This circular will also assist FTA recipients in integrating, into their existing programs, policies and activities principles of environmental justice (as embodied in Executive Order 12898), and access to services for persons with limited English proficiency, (as embodied in Executive Order 13166).

---

James S. Simpson  
Administrator

## **CHAPTER IV**

### **GENERAL REQUIREMENTS AND GUIDELINES**

This chapter describes requirements that all Federal Transit Administration (FTA) recipients and sub-recipients shall follow to ensure that their programs, policies, and activities comply with the Department of Transportation (DOT) Title VI regulations. This chapter also offers guidance on integrating, into programs, policies, and activities, considerations expressed in the DOT Order on Environmental Justice.

**REQUIREMENT TO PROVIDE AN ANNUAL TITLE VI CERTIFICATION AND ASSURANCE.** Applicants shall submit their annual Title VI assurance as part of their annual Certification and Assurance submission to FTA. Recipients shall collect Title VI assurances from sub-recipients prior to passing through FTA funds. (These Title VI assurances must be submitted as part of a standard list of assurances provided by sub-recipients to their direct recipient(s)).

**REQUIREMENT TO DEVELOP TITLE VI COMPLAINT PROCEDURES.** In order to comply with 49 CFR Section 21.9(b), recipients and sub-recipients shall develop procedures for investigating and tracking Title VI complaints filed against them and make their procedures for filing a complaint available to members of the public upon request. In order to reduce the administrative burden associated with this requirement, sub-recipients may adopt the Title VI complaint investigation and tracking procedures developed by the recipient.

**REQUIREMENT TO RECORD TITLE VI INVESTIGATIONS, COMPLAINTS, AND LAWSUITS.** In order to comply with 49 CFR Section 21.9(b), recipients and sub-recipients shall prepare and maintain a list of any active investigations conducted by entities other than FTA, lawsuits, or complaints naming the recipient and/or sub-recipient that allege discrimination on the basis of race, color, or national origin. This list shall include the date of the investigation, lawsuit, or complaint was filed; a summary of the allegation(s); the status of the investigation, lawsuit, or complaint; and actions taken by the recipient or sub-recipient in response to the investigation, lawsuit, or complaint.

**REQUIREMENT TO PROVIDE MEANINGFUL ACCESS TO LEP PERSONS.** Title VI and its implementing regulations require that FTA recipients take responsible steps to ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are Limited

English Proficient (LEP).

a. Developing a Language Implementation Plan. Recipients and sub-recipients can ensure that LEP persons have meaningful access to their programs and activities by developing and carrying out a language implementation plan pursuant to the recommendations in Section VII of the DOT LEP Guidance. Certain FTA recipients or sub-recipients, such as those serving very few LEP persons or those with very limited resources may choose not to develop a written LEP plan. However, the absence of a written LEP plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to a recipient's program or activities. Recipients or sub-recipients electing not to prepare a written language implementation plan should consider other ways to reasonably provide meaningful access. The elements of an effective implementation plan on language assistance for LEP persons can be found at section VII of the Department's Policy Guidance, located at 70 FR 74087 (2005).

**REQUIREMENT TO NOTIFY BENEFICIARIES OF PROTECTION UNDER TITLE VI.** In order to comply with 49 CFR Section 21.9(d), recipients and sub-recipients shall provide information to the public regarding their Title VI obligations and apprise members of the public of the protections against discrimination afforded to them by Title VI. Recipients and sub-recipients that provide transit service shall disseminate this information to the public through measures that can include but shall not be limited to a posting on the agency's Web site.

a. Contents. The notice shall include:

- (1) A statement that the agency operates programs without regard to race, color, and national origin.
- (2) A description of the procedures that members of the public should follow in order to request additional information on the recipient's or sub-recipient's nondiscrimination obligations.
- (3) A description of the procedures that members of the public should follow in order to file a discrimination complaint against the recipient or sub-recipient.

b. Effective Practices for Fulfilling the Notification Requirement. In complying with the above requirements, recipients and sub-recipients should keep the following guidance in mind:

- (1) Dissemination. Agencies may inform the public of their rights under Title VI through such measures as posters, comment cards, or flyers placed at stations and in transit vehicles. The type, timing, and frequency of these measures are at the recipient's or sub-recipient's discretion.
- (2) General notification. Agencies may include a statement of nondiscrimination on the basis of race, color, and national origin as part of a broader statement of its commitment to nondiscriminatory service. This broader statement can also include a commitment to nondiscrimination on the basis of characteristics not covered by Title VI, such as age, gender, and disability.
- (3) Document translation. Notices detailing a recipient's or sub-recipient's Title VI obligations and complaint procedures should be translated into languages other than English, as needed and consistent with the DOT LEP Guidance.
- (4) Sub-recipients. In order to reduce the administrative burden associated with this requirement, sub-recipients may adopt the Title VI Notice developed by the recipient; however, sub-recipients should notify their beneficiaries that they may file discrimination complaints directly with the sub-recipient.

**REQUIREMENT TO PROVIDE ADDITIONAL INFORMATION UPON REQUEST.** At the discretion of FTA, information other than that required by this circular may be requested, in writing, from a recipient or sub-recipient to investigate complaints of discrimination or to resolve concerns about possible noncompliance with Title VI.

**REQUIREMENT TO PREPARE AND SUBMIT A TITLE VI PROGRAM.** FTA requires recipients to report certain general information to determine compliance with Title VI. The collection and reporting of this program constitute

the recipients' Title VI Program. To ensure compliance with 49 CFR Section 21.9(b), FTA requires that all recipients document their compliance with this chapter by submitting a Title VI Program to FTA's regional civil rights officer once every three years.

- a. Contents. The submission shall include the following information:
  - (1) A summary of public outreach and involvement activities undertaken since the last submission and a description of steps taken to ensure that minority and low-income people had meaningful access to these activities.
  - (2) A copy of the agency's plan for providing language assistance for persons with limited English proficiency that was based on the DOT LEP Guidance or a copy of the agency's alternative framework for providing language assistance.
  - (3) A copy of the agency procedures for tracking and investigating Title VI complaints.
  - (4) A list of any Title VI investigations, complaints, or lawsuits filed with the agency since the time of the last submission. This list should include only those investigations, complaints, or lawsuits that pertain to the agency submitting the report, not necessarily the larger agency or department of which the entity is a part.
  - (5) A copy of the agency's notice to the public that it complies with Title VI and instructions to the public on how to file a discrimination complaint.
- b. Eliminating Redundancy. If, prior to the deadline for subsequent reports, the recipient has not altered its language assistance policies, procedures for tracking and investigating a Title VI complaint, or its notice to the public that it complies with Title VI and instructions to the public on how to file a Title VI complaint, the recipient should submit a statement to this effect in lieu of copies of the original documents.
- c. Reporting Requirement Exemptions. Recipients whose only FTA funding is through the FTA's University Transportation Center Program, National Research and Technology Program, Transportation Cooperative Research Program, Over the Road Bus Accessibility program, or Public Transportation on Indian Reservations program are exempt from submitting a Title VI compliance report to FTA. The absence of this requirement to submit a Title VI report does not obviate the underlying obligations to comply with the requirements of this chapter.

**GUIDANCE ON CONDUCTING AN ANALYSIS OF CONSTRUCTION PROJECTS.** In order to integrate, into environmental analyses, considerations expressed in the DOT Order on Environmental Justice, recipients and sub-recipients should integrate an environmental justice analysis into their National Environmental Policy Act (NEPA) documentation of construction projects. (Recipients are not required to conduct environmental justice analyses of projects where NEPA documentation is not required.). Recipients preparing documentation for a categorical exclusion (CE) can meet this requirement by completing and submitting FTA's standard CE checklist, which includes a section on community disruption and environmental justice. FTA recommends that recipients preparing an environmental assessment (EA) or environmental impact statement (EIS) integrate into their documents the following components:

- a. A description of the low-income and minority population within the study area affected by the project, and a discussion of the method used to identify this population (e.g., analysis of Census data, minority business directories, direct observation, or a public involvement process).
- b. A discussion of all adverse effects of the project both during and after construction that would affect the identified minority and low-income population.
- c. A discussion of all positive effects that would affect the identified minority and low-income population, such as an improvement in transit service, mobility, or accessibility.

d. A description of all mitigation and environmental enhancement actions incorporated into the project to address the adverse effects, including, but not limited to, any special features of the relocation program that go beyond the requirements of the Uniform Relocation Act and address adverse community effects such as separation or cohesion issues; and the replacement of the community resources destroyed by the project.

e. A discussion of the remaining effects, if any, and why further mitigation is not proposed.

f. For projects that traverse predominantly minority and low-income and predominantly non-minority and non-low-income areas, a comparison of mitigation and environmental enhancement actions that affect predominantly low-income and minority areas with mitigation implemented in predominantly non-minority or non-low-income areas. Recipients and sub-recipients that determine there is no basis for such a comparison should describe why that is so.

**GUIDANCE ON PROMOTING INCLUSIVE PUBLIC PARTICIPATION.** In order to integrate, into community outreach activities, considerations expressed in the DOT Order on Environmental Justice, and the DOT LEP Guidance, recipients and sub-recipients should seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities. An agency's public participation strategy shall offer early and continuous opportunities for the public to be involved in the identification of social, economic, and environmental impacts of proposed transportation decisions.

a. Effective Practices for Fulfilling the Inclusive Public Participation Requirement. Recipients and sub-recipients have wide latitude to determine how, when, and how often specific public involvement measures should take place, and what specific measures are most appropriate. Recipients should make these determinations based on the composition of the population affected by the recipient's action, the type of public involvement process planned by the recipient, and the resources available to the agency. Efforts to involve minority and low-income people in public involvement activities can include both comprehensive measures, such as placing public notices at all stations and in all vehicles, and measures targeted to overcome linguistic, institutional, cultural, economic, historical, or other barriers that may prevent minority and low-income people and populations from effectively participating in a recipient's decision-making process. Effective practices include:

(1) Coordinating with individuals, institutions, or organizations and implementing community-based public involvement strategies to reach out to members in the affected minority and/or low-income communities.

(2) Providing opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments.

(3) Using locations, facilities, and meeting times that are convenient and accessible to low-income and minority communities.

(4) Using different meeting sizes or formats, or varying the type and number of news media used to announce public participation opportunities, so that communications are tailored to the particular community or population. Implementing DOT's policy guidance concerning recipients' responsibilities to LEP persons to overcome barriers to public participation. For a copy of the complete circular please visit: [http://www.fta.dot.gov/legislation\\_law/12349\\_5956.html](http://www.fta.dot.gov/legislation_law/12349_5956.html)

## Appendix B

### QUARTERLY REPORTING

#### JARC & New Freedom Funded Projects – FY 2011

##### Quarterly Reports

<u>Quarter</u>	<u>Due Date</u>
Oct. - Dec.	Jan. 10 <sup>th</sup>
Jan. - March	April 10 <sup>th</sup>
April - June	July 10 <sup>th</sup>
July - Sept.	Oct. 10 <sup>th</sup>

Quarterly reports are your opportunity to report progress towards meeting your project's goals. Please **use the following documents when completing your report:**

- **JARC- NF Required Reporting Elements** – This form lists the information/data to include in your report. Find your “Service Type” in the first column, then look across to the JARC or NF column for the information needed. Please provide information for all the service types that are applicable to your project. Also, everyone is required to report on “Information materials/marketing.” FTA wants to know the population you serve and how you publicize your project. In your reporting, remember numbers are important (e.g., # of people served, trips, etc.) **NOTE: You do NOT need to send this document back with your reports. Simply include the required information in your report.** This form is in the Data Tracking section of Toolkit.
- **Quarterly Information for JARC – NF Funded Services** – This form (emailed to you & in the Reports section of the Toolkit) is where you will enter most of your information. **Each numerical section needs to be completed with text and/or an “X” and/or numbers.** Item 6 has been filled in for you. Further instructions are on the form.
- **Quarterly Reporting Service Matrix** – This form (emailed to you & in the Reports section of the Toolkit) is designed to categorize JARC and NF funded projects. Make sure you use the appropriate service matrix (i.e., JARC or NF), and determine which category your project falls under: **1) Trip-Based, 2) Information-Based or 3) Capital Investment** . Next, choose which eligible service(s) (listed under the categories) and one or two primary goals best fit your project. **Please indicate your answers with an “X” in the appropriate box(es).**

Reports should be emailed to [Sharon.simmons@nashville.gov](mailto:Sharon.simmons@nashville.gov)

Appendix B (continued)

Quarterly Information for JARC / New Freedom - Funded Services

1. Enter Service Name:

---

2. Sub Recipient Name:

---

Contact Name:

---

Contact Phone:

---

Contact Email:

---

3. Is the Sub Recipient also the service provider for this service? | YES  NO

If not, please fill in the following:

Agency Name:

---

Contact Name:

---

Contact Phone:

---

Contact Email:

---

4. How many months has the service been in operation? Indicated # of months.

---

5. Select the category that best describes the geographic area where the service is provided. (place an X in the appropriate box)

Neighborhood

City or town

County

Region

State

Tribal land

Multiple jurisdictions (describe below)

Other (describe below)

6. In what type of area is the service provided?

---

**Appendix B (continued)**

7. Number of customer contacts (place a number or an X in the appropriate box)

Total

Not Available

8. Number of one-way trips (place a number or an X in the appropriate box)

Total

Not Applicable

Not Available

9. Service Description – Provide a detailed description (1-2 paragraphs) of the JARC-funded service provided. **(Please type in the text box below. It will expand as you type)**

10. Evaluation – Describe how you have evaluated your project within your agency or organization. Identify relevant performance measure and benchmarks. **(Please type in the text box below. It will expand as you type)**

11. Accomplishments – Highlight your greatest accomplishments. Describe any especially successful or innovative elements. **(Please type in the text box below. It will expand as you type)**

12. Lessons learned – What advice would you give to someone else starting a service like yours? What do you wish you had known when you started the service? **(Please type in the text box below. It will expand as you type)**

**Appendix B (continued)**

13. Quarterly Expenditure – Following the line items from your budget narrative that was presented in your RFP, please indicate your quarterly expenditures per service type using the chart below.

**QUARTERLY EXPENDITURE NARRATIVE**

<b>Description</b>	<b>Amount</b>
Operating -	
Operating -	
Operating -	
Operating -	
Operating -	
Operating -	
Operating -	
Capital -	
Capital -	
Capital -	
<b>TOTAL</b>	

## Appendix C

### MONITORING AND AUDITING OF PROJECTS

Coordinated Human Service Transportation Plan  
Nashville Metropolitan Transit Authority  
JARC & New Freedom Programs  
Site Visits  
FY2010

The Nashville Metropolitan Transit Authority (Nashville MTA) will conduct quarterly monitoring and site visits with sub-recipients that have received federal assistance funds through the Job Access and Reverse Commute (JARC) and New Freedom programs. The purpose of the monitoring and site visits is to ensure that sub-recipients conduct their programs in compliance with federal rules and regulations; the terms and conditions of subcontracts or agreements; and that costs incurred by sub-recipients are reasonable and allowable.

Site visits will consist of the following:

- Conduct interviews with project staff and others (e.g., administrative staff and project participants)
- Observe project activities
- Review management procedures and records (staffing, documentation/tracking of program activities, fiscal accounting system, time and attendance records).
- Share preliminary findings and recommendations,
- Provide sub-recipients management with an opportunity to react to those findings and provide clarifying information as warranted; and
- Discuss corrective actions and timetable for completing them.

All site visits will be scheduled by Keith Winters, Projects Administrator at least one (1) week prior to the site visit. This will also be an opportunity for sub-recipients to report and discuss any challenges or concerns that may be affecting your project outcomes.

## Appendix C (continued)

Coordinated Human Service Transportation Plan  
Nashville Metropolitan Transit Authority  
JARC & New Freedom Programs  
Monitoring Plan  
FY2010

### JARC & New Freedom Programs Monitoring Plan

#### Introduction

The Nashville Metropolitan Transit Authority (Nashville MTA) Program Monitoring Plan is utilized in order for JARC & New Freedom Program sub-recipients to ensure compliance with the program requirements and other federal requirements. Governing regulations are at 2 CFR Part 25 (OMB Circular A-87) and OMB Circular A-102. The statutory changes found at Federal Transit Administration (FTA) FTA C 9045.1 (New Freedom) and FTA C 9050.1 (JARC) govern the program as well.

#### Monitoring Plan Objectives

The objectives are to ensure that Sub-recipients:

- Comply with the JARC & New Freedom requirements
- Gain capacity to manage the JARC & New Freedom funds they receive
- Utilize JARC & New Freedom funds effectively in assisting welfare recipients, low-income families, elderly individuals and individual with a disability

#### Monitoring Techniques and Strategy

Risk analysis is conducted by Nashville MTA staff to systematically analyze each JARC and New Freedom grant, its features, status, and progress. Each grant is ranked according to an assessment of how much risk of noncompliance it involves. This assessment is used to identify how frequently to review the various sub-recipients.

Various techniques are used to meet the goals of monitoring:

*Desk monitoring* using existing documentation will primarily be done. Communication by telephone and letters/reports are used to supplement or clarify documentation when necessary. Separate files for each sub-recipient are maintained in the Nashville MTA office. The Nashville MTA representative maintains a spreadsheet on expended funds and a matrix of accounting requirements for the JARC & New Freedom Program.

*On Site Monitoring:* New sub-recipients receive an on-site monitoring visit by both the Nashville MTA project coordinator and the Nashville MTA representative for the purpose of providing technical assistance. This initial visit is conducted prior to the sub-recipient's first request for reimbursement of JARC & New Freedom funds.

The purpose of this initial visit is to increase the sub-recipient's understanding of Program requirements and to discuss the following:

- Eligible activities/allowable costs
- Compliance with OMB circulars
- Maintenance of appropriate program documentation / reporting requirements
- Sub-recipient's financial standards and systems
- Procurement procedures
- Building standards requirements, if applicable
- Deadline for expenditure of funds
- The sub-recipients are notified in advance of the time of the visit.

## **Appendix C (continued)**

### **Grant Year Close Out**

All sub-recipients are required to submit a final report when the grant year funds have been fully expended. The report contains information on activities for which JARC & New Freedom funds are used, the number of people served, and the race and ethnicity of the people served.

Risk analysis is conducted by the JARC & New Freedom project coordinator and representative to determine whether the sub-recipients require a final on-site visit when funds have been fully expended.

If an on-site visit is deemed appropriate, the sub-recipient is informed in advance of the time of the monitoring visit, the purpose, and the general subject areas to be covered. An exit review of tentative conclusions is made and a formal written communication follows.

### **Areas of Monitoring**

Financial monitoring is conducted by the Nashville MTA representative. The areas of compliance monitoring include financial regulations and OMB circulars; program disbursements; equipment and records; financial management standards; procurement; conflict of interest; and audits. Records of financial monitoring are maintained in the Nashville MTA Office, 130 Nestor Street (1417 Murfreesboro Road – temporary location), Nashville, Tennessee.

Administrative and programmatic monitoring is conducted by the Nashville MTA project coordinator and representative. The areas of compliance monitoring include eligible activity requirements, environmental compliance, and additional requirements stated in the 2 CFR Part 225 and OMB Circular No. A-102, and elsewhere in the JARC & New Freedom Final Rule. Records of said monitoring are maintained in the Nashville MTA Office, 130 Nestor Street (1417 Murfreesboro Road – temporary location), Nashville, Tennessee.

## Appendix C (continued)

NASHVILLE METROPOLITAN TRANSIT AUTHORITY  
Federal Cost Principles and Administrative Requirements  
for  
JARC & New Freedom Grant Recipients and Sub-recipients

For each kind of recipient, there is a set of Federal principles for determining allowable costs and administrative requirements. Allow ability of costs and administrative requirements shall be determined in accordance with the circulars applicable to the entity as the outline below illustrates.

### **Sub-recipient Type:**

#### ***State, Local, or Indian tribal government:***

- OMB Circular A-102, Uniform Administrative Requirement for Grants and Cooperative Agreements to State and Local Governments
- 2 CFR 225 (OMB Circular A-87), Cost Principles for State, Local, and Indian Tribal Governments
- OMB Circular A-133, Audits of States, Local Governments, and Nonprofit Organizations

#### ***Nonprofit organization:***

- 2 CFR 215, Uniform Administrative Requirement for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
- 2 CFR 230 (OMB Circular A-122), Cost Principles for Nonprofit Organizations
- OMB Circular A-133, Audits of States, Local Governments, and Nonprofit Organizations

#### ***Educational institution:***

- 2 CFR 215, Uniform Administrative Requirement for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
- 2 CFR 220 (OMB Circular A-21), Cost Principles for Educational Institutions
- OMB Circular A-133, Audits of States, Local Governments, and Nonprofit Organizations

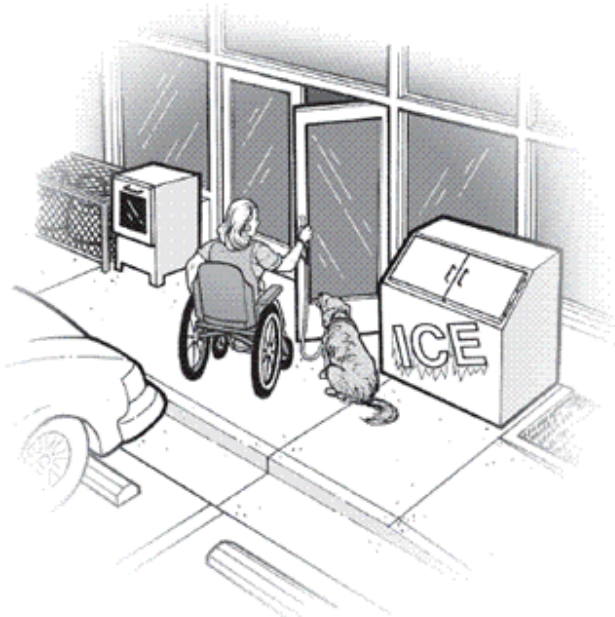
#### ***Hospital:***

- 2 CFR 215, Uniform Administrative Requirement for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
- 45 CFR 74, Appendix E, Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals, or other cost principles designated by the awarding agency
- OMB Circular A-133, Audits of States, Local Governments, and Nonprofit Organizations

U.S. Department of Justice  
Civil Rights Division  
Disability Rights Section



**ADA UPDATE:  
A PRIMER FOR SMALL BUSINESS**



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### ADA INFORMATION RESOURCES

The Department of Justice has revised its regulations implementing the Americans with Disabilities Act (ADA). This rule takes effect on March 15, 2011, clarifies issues that have arisen over the past 20 years, and contains new requirements, including the 2010 Standards for Accessible Design (2010 Standards). This document provides guidance to assist small business owners in understanding how this new regulation applies to them.

### **New Customers**

More than 50 million Americans – 18% of our population – have disabilities, and each is a potential customer. People with disabilities are living more independently and participating more actively in their communities. They and their families want to patronize businesses that welcome customers with disabilities. In addition, approximately 71.5 million baby boomers will be over age 65 by the year 2030 and will be demanding products, services, and environments that meet their age-related physical needs. Studies show that once people with disabilities find a business where they can shop or get services in an accessible manner, they become repeat customers.

People with disabilities have too often been excluded from everyday activities: shopping at a corner store, going to a neighborhood restaurant or movie with family and friends, or using the swimming pool at a hotel on the family vacation. The ADA is a Federal civil rights law that prohibits discrimination against people with disabilities and opens doors for full participation in all aspects of everyday life. This publication provides general guidance to help business owners understand how to comply with the Department's revised ADA regulations and the 2010 Standards, its design standards for accessible buildings. The ADA applies to both the built environment and to policies and procedures that affect how a business provides goods and services to its customers. Using this guidance, a small business owner or manager can ensure that it will not unintentionally exclude people with disabilities and will know when it needs to remove barriers in its existing facilities. If you are planning to build a new facility or alter an existing one, please see [New Construction and Alterations](#) for specific guidance on these types of projects. Businesses should consult the revised ADA regulations ([www.ada.gov/regs2010/ADAREgs2010.htm](http://www.ada.gov/regs2010/ADAREgs2010.htm)) and the 2010 Standards ([www.ada.gov/2010ADASTandards\\_index.htm](http://www.ada.gov/2010ADASTandards_index.htm)) for more comprehensive information about specific requirements.

### **Who is Covered by the ADA?**

Businesses that provide goods or services to the public are called "public accommodations" in the ADA. The ADA establishes requirements for 12 categories of public accommodations, which include stores, restaurants, bars, service establishments, theaters, hotels, recreational facilities, private museums and schools, doctors' and dentists' offices, shopping malls, and other businesses. Nearly all types of businesses that serve the public are included in the 12 categories, regardless of the size of the business or the age of their buildings. Businesses covered by the ADA are required to modify their business policies and procedures when necessary to serve customers with disabilities and take steps to communicate effectively with customers with disabilities. The ADA also requires businesses to remove architectural barriers in existing buildings and make sure that newly built or altered facilities are constructed to be accessible to individuals with disabilities. "Grandfather provisions" often found in local building codes do not exempt businesses from their obligations under the ADA.

Commercial facilities, such as office buildings, factories, warehouses, or other facilities that do not provide goods or services directly to the public are only subject to the ADA's requirements for new construction and alterations.

### **Compliance Dates**

Businesses need to know two important deadlines for compliance. Starting March 15, 2011, businesses must comply with the ADA's general nondiscrimination requirements, including provisions related to policies and procedures and effective communication. The deadline for complying with the 2010 Standards, which detail the technical rules for building accessibility, is March 15, 2012. This delay in implementation was provided to allow businesses sufficient time to plan for implementing the new requirements for facilities. In addition, hotels, motels, and inns have until March 15, 2012, to update their reservation policies and systems to make them fully accessible to people with disabilities.

Compliance Dates	
March 15, 2011	General Non-Discrimination Requirements
March 15, 2012	Hotel Reservation Policies
March 15, 2012	2010 Standards

For additional details, see, *ADA 2010 Revised Requirements: Effective Date/ Compliance Date* at [www.ada.gov/revised\\_effective\\_dates-2010.htm](http://www.ada.gov/revised_effective_dates-2010.htm).

## GENERAL NONDISCRIMINATION REQUIREMENTS

### Policies and Procedures

Your business, like all others, has formal and informal policies, practices, and procedures that keep it running smoothly. However, sometimes your policies or procedures can inadvertently make it difficult or impossible for a customer with a disability to access your goods and services. That is why the ADA requires businesses to make "reasonable modifications" to their usual ways of doing things when serving people with disabilities. Most modifications involve only minor adjustments in policies. For example, a day care center that has two scheduled snack times must modify this policy to allow a child with diabetes to bring food for an extra snack if necessary. A clothing store must modify a policy of permitting only one person at a time in a dressing room for a person with a disability who is shopping with a companion and needs the companion's assistance to try on clothes. Anything that would result in a fundamental alteration – a change in the essential nature of your business – is not required. For example, a clothing store is not required to provide dressing assistance for a customer with a disability if this is not a service provided to other customers.



**Allowing a second person in a dressing room is one way to modify policies.**

Customers with disabilities may need different types of assistance to access your goods and services. For example, a grocery store clerk is expected to assist a customer using a mobility device by retrieving merchandise from high shelves. A person who is blind may need assistance maneuvering through a store's aisles. A customer with an intellectual disability may need assistance in reading product labels and instructions. Usually the customer will tell you up front if he or she needs assistance, although some customers may wait to be asked "may I help you?" When only one staff person is on duty, it may or may not be possible for him or her to assist a customer with a disability. The business owner or manager should advise the staff person to assess whether he or she can provide the assistance that is needed without jeopardizing the safe operation of the business.



**Retrieving out of reach items and describing items for sale are ways to provide assistance to customers with disabilities.**

### **Service Animals**

Often businesses such as stores, restaurants, hotels, or theaters have policies that can exclude people with disabilities. For example, a "no pets" policy may result in staff excluding people with disabilities who use dogs as service animals. A clear policy permitting service animals can help ensure that staff are aware of their obligation to allow access to customers using service animals. Under the ADA's revised regulations, the definition of "service animal" is limited to a dog that is individually trained to do work or perform tasks for an individual with a disability. The task(s) performed by the dog must be directly related to the person's disability. For example, many people who are blind or have low vision use dogs to guide and assist them with orientation. Many individuals who are deaf use dogs to alert them to sounds. People with mobility disabilities often use dogs to pull their wheelchairs or retrieve items. People with epilepsy may use a dog to warn them of an imminent seizure, and individuals with psychiatric disabilities may use a dog to remind them to take medication. Service members returning from war with new disabilities are increasingly using service animals to assist them with activities of daily living as they reenter civilian life. Under the ADA, "comfort," "therapy," or "emotional support animals" do not meet the definition of a service animal.



**Service animals provide many types of assistance for people with disabilities.**

Under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents him from using these devices. Individuals who cannot use such devices must maintain control of the animal through voice, signal, or other effective controls. Businesses may exclude service animals only if 1) the dog is out of control and the handler cannot or does not regain control; or 2) the dog is not housebroken. If a service animal is excluded, the individual must be allowed to enter the business without the service animal.

In situations where it is not apparent that the dog is a service animal, a business may ask only two questions: 1) is the animal required because of a disability; and 2) what work or task has the animal been trained to perform? No other inquiries about an individual's disability or the dog are permitted. Businesses cannot require proof of certification or medical documentation as a condition for entry.

**Wheelchairs and Other Power-Driven Mobility Devices**

People with mobility, circulatory, or respiratory disabilities use a variety of devices for mobility. Some use walkers, canes, crutches, or braces while others use manually-operated or power wheelchairs, all of which are primarily designed for use by people with disabilities. Businesses must allow people with disabilities to use these devices in all areas where customers are allowed to go.



**Devices categorized as wheelchairs must be permitted.**

Advances in technology have given rise to new power-driven devices that are not necessarily designed for people with disabilities, but are being used by some people with disabilities for mobility. The term "other power-driven mobility devices" is used in the revised ADA regulations to refer to any mobility device powered by batteries, fuel, or other engines, whether or not they are designed primarily for use by individuals with mobility disabilities for the purpose of locomotion. Such devices include Segways®, golf cars, and other devices designed to operate in non-pedestrian areas. Public accommodations must allow individuals who use these devices to enter their premises unless the business can demonstrate that the particular type of device cannot be accommodated because of legitimate safety requirements. Such safety requirements must be based on actual risks, not on speculation or stereotypes about a particular class of devices or how they will be operated by individuals using them.

Businesses must consider these factors in determining whether reasonable modifications can be made to admit other power-driven mobility devices to their premises:

- The type, size, weight, dimensions, and speed of the device;
- The business's volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);
- The business's design and operational characteristics, such as its square footage, whether it is indoors or outdoors, its placement of stationary equipment or devices or furniture, and whether it has storage space for the device if requested by the customer;
- Whether legitimate safety standards can be established to permit the safe operation of the device; and
- Whether the use of the device creates a substantial risk of serious harm to the environment or natural or cultural resources or poses a conflict with Federal land management laws and regulations.

Using these assessment factors, a business may decide that it can allow devices like Segways® in its facilities, but cannot allow the use of golf cars in the same facility. It is likely that many businesses will allow the use of Segways® generally, although some may decide to exclude them during their busiest hours or on particular shopping days when pedestrian traffic is particularly dense. Businesses are encouraged to develop written policies specifying when other power-driven mobility devices will be permitted on their premises and to communicate those policies to the public.

Businesses may ask individuals using another power-driven mobility device for a credible assurance that the device is required because of a disability. An assurance may include, but does not require, a valid State disability parking placard or other Federal or State-issued proof of disability. A verbal assurance from the individual with a disability that is not contradicted by your observation is also considered a credible assurance. It is not permissible to ask individuals about their disabilities.

### **Communicating with Customers**

Communicating successfully with customers is an essential part of doing business. When dealing with customers who are blind or have low vision, those who are deaf or hard of hearing, or those who have speech disabilities, many business owners and employees are not sure what to do. The ADA requires businesses to take steps necessary to communicate effectively with customers with vision, hearing, and speech disabilities.

Because the nature of communications differs from business to business, the rules allow for flexibility in determining effective communication solutions. What is required to communicate effectively when discussing a mortgage application at a bank or buying an automobile at a car dealership will likely be very different from what is required to communicate effectively in a convenience store. The goal is to find practical solutions for communicating effectively with your customers. For example, if a person who is deaf is looking for a particular book at a bookstore, exchanging written notes with a sales clerk may be effective. Similarly, if that person is going to his or her doctor's office for a flu shot, exchanging written notes would most likely be effective. However, if the

visit's purpose is to discuss cancer treatment options, effective communication would likely require a sign language or oral interpreter because of the nature, length, and complexity of the conversation. Providing an interpreter guarantees that both parties will understand what is being said. The revised regulations permit the use of new technologies including video remote interpreting (VRI), a service that allows businesses that have video conference equipment to access an interpreter at another location.



**Exchange of written notes may be appropriate for casual interactions.**

It is a business's responsibility to provide a sign language, oral interpreter, or VRI service unless doing so in a particular situation would result in an undue burden, which means significant difficulty or expense. A business's overall resources determine (rather than a comparison to the fees paid by the customer needing the interpreter) what constitutes an undue burden. If a specific communications method would be an undue burden, a business must provide an effective alternative if there is one.



**Complex transactions will likely require more**

**formal means of communication, such as a sign language interpreter.**

Many individuals who are deaf or have other hearing or speech disabilities use either a text telephone (TTY) or text messaging instead of a standard telephone. The ADA established a free telephone relay network to enable these individuals to communicate with businesses and vice versa. When a person who uses such a device calls the relay service by dialing 7-1-1, a communications assistant calls the business and voices the caller's typed message and then types the business's response to the caller. Staff who answer the telephone must accept and treat relay calls just like other calls. The communications assistant will explain how the system works if necessary.



**Businesses must answer calls placed through the telephone relay service.**

The rules are also flexible for communicating effectively with customers who are blind or have low vision. For example, a restaurant can put its menu on an audio cassette or a waiter can read it to a patron. A sales clerk can find items and read their labels. In more complex transactions where a significant amount of printed information is involved, providing alternate formats will be necessary, unless doing so is an undue burden. For example, when a client who is blind visits his real estate agent to negotiate the sale of a house, all relevant documents should be provided in a format he can use, such as on a computer disk or audio cassette. It may be effective to e-mail an electronic version of the documents so the client can use his or her screen-reading technology to read them before making a decision or signing a contract. In this situation, since complex financial information is involved, simply reading the documents to the client will most likely not be effective. Usually a customer will tell you which format he or she needs. If not, it is appropriate to ask.



**Reading a menu to a customer who is blind is one way to provide effective communication.**

### **MAKING THE BUILT ENVIRONMENT ACCESSIBLE**

People with disabilities continue to face architectural barriers that limit or make it impossible to access the goods or services offered by businesses. Examples include a parking space with no access aisle to allow deployment of a van's wheelchair lift, steps at a facility's entrance or within its serving or selling space, aisles too narrow to accommodate mobility devices, counters that are too high, or restrooms that are simply too small to use with a mobility device.

The ADA strikes a careful balance between increasing access for people with disabilities and recognizing the financial constraints many small businesses face. Its flexible requirements allow businesses confronted with limited financial resources to improve accessibility without excessive expense.

The ADA's regulations and the ADA Standards for Accessible Design, originally published in 1991, set the standard for what makes a facility accessible. While the updated 2010 Standards retain many of the original provisions in the 1991 Standards, they do contain some significant differences. These standards are the key for determining if a small business's facilities are accessible under the ADA. However, they are used differently depending on whether a small business is altering an existing building, building a brand new facility, or removing architectural barriers that have existed for years.

### **Existing Facilities**

#### **Element-by-Element Safe Harbor**

If your business facility was built or altered in the past 20 years in compliance with the 1991 Standards, or you removed barriers to specific elements in compliance with those Standards, you do not have to make further modifications to those elements – even if the new standards have different requirements for them – to comply with the 2010 Standards. This provision is applied on an element-by-element basis and is referred to as the "safe harbor." The following examples illustrate how the safe harbor applies:

The 2010 Standards lower the mounting height for light switches and thermostats from 54 inches to 48 inches. If your light switches are already installed at 54 inches in compliance with the 1991 Standards, you are not required to lower them to 48 inches.

The 1991 Standards require one van accessible space for every eight accessible spaces. The 2010 Standards require one van accessible space for every six accessible spaces. If you have complied with the 1991 Standards, you are not required to add additional van accessible spaces to meet the 2010 Standards.

The 2010 Standards contain new requirements for the input, numeric, and function keys (e.g. "enter," "clear," and "correct") on automatic teller machine (ATM) keypads. If an existing ATM complies with the 1991 Standards, no further modifications are required to the keypad.

If a business chooses to alter elements that were in compliance with the 1991 Standards, the safe harbor no longer applies to those elements. For example, if you restripe your parking lot, which is considered an alteration, you will now have to meet the ratio of van accessible spaces in the 2010 Standards. Similarly, if you relocate a fixed ATM, which is considered an alteration, you will now have to meet the keypad requirements in the 2010 Standards. The ADA's definition of an alteration is discussed later in this publication.

The revised ADA rules and the 2010 Standards contain new requirements for elements in existing facilities that were not addressed in the original 1991 Standards. These include recreation facilities such as swimming pools, play areas, exercise machines, miniature golf facilities, and bowling alleys. Because these elements were not included in the 1991 Standards, they are not subject to the safe harbor. Therefore, on or after March 15, 2012, public accommodations must remove architectural barriers to elements subject to the new requirements in the 2010 Standards when it is readily achievable to do so. For example, a hotel must determine whether it is readily achievable to make its swimming pool accessible to people with mobility disabilities by installing a lift or a ramp as specified in the 2010 Standards.

#### **New Requirements in the 2010 Standards Not Subject to the Safe Harbor**

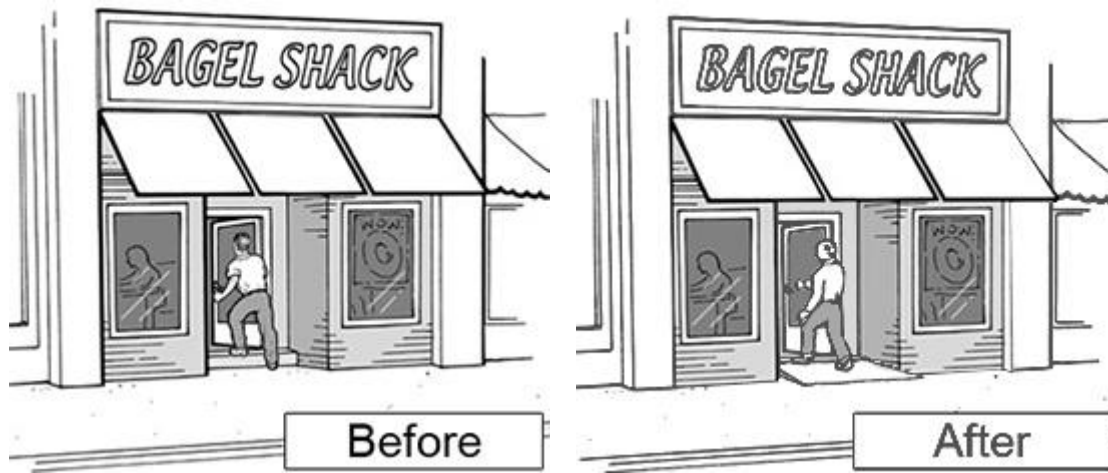
- Amusement rides
- Recreational boating facilities
- Exercise machines and equipment
- Fishing piers and platforms
- Golf facilities
- Miniature golf facilities
- Play areas
- Saunas and steam rooms
- Swimming pools, wading pools, and spas
- Shooting facilities with firing positions
- Residential facilities and dwelling units
- Miscellaneous
- Team or player seating
- Accessible route to bowling lanes
- Accessible route in court sports facilities

#### **Readily Achievable Barrier Removal**

The ADA requires that small businesses remove architectural barriers in existing facilities when it is "readily achievable" to do so. Readily achievable means "easily accomplishable without much difficulty or expense." This requirement is based on the size and resources of a business. So, businesses with more resources are expected to remove more barriers than businesses with fewer resources.

Readily achievable barrier removal may include providing an accessible route from a parking lot to the business's entrance, installing an entrance ramp, widening a doorway, installing accessible door hardware, repositioning shelves, or moving tables, chairs, display racks, vending machines, or other furniture. When removing barriers, businesses are required to comply with the Standards to the extent possible. For example, where there is not

enough space to install a ramp with a slope that complies with the Standards, a business may install a ramp with a slightly steeper slope. However, any deviation from the Standards must not pose a significant safety risk.



**Removing barriers, such as a step to an entrance, is required when readily achievable.**

Determining what is readily achievable will vary from business to business and sometimes from one year to the next. Changing economic conditions can be taken into consideration in determining what is readily achievable. Economic downturns may force many public accommodations to postpone removing some barriers. The barrier removal obligation is a continuing one and it is expected that a business will move forward with its barrier removal efforts when it rebounds from such downturns. For example, if a restaurant identified barriers under the 1991 Standards but did not remove them because it could not afford the cost, the restaurant has a continuing obligation to remove these barriers when it has the financial resources to do so.

**Barrier Removal Before March 15, 2012**

Businesses removing barriers before March 15, 2012, have the choice of using either the 1991 Standards or the 2010 Standards. You must use only one standard for removing barriers in an entire facility. For example, you cannot choose the 1991 Standards for accessible routes and the 2010 Standards for restrooms. (See, *ADA 2010 Revised Requirements: Effective Date / Compliance Date* at [www.ada.gov/revisedeffectivedates-2010.htm](http://www.ada.gov/revisedeffectivedates-2010.htm)). Remember that if an element complies with the 1991 Standards, a business is not required to make any changes to that element until such time as the business decides to alter that element.

Compliance Dates and Applicable Standards for Readily Achievable Barrier Removal, New Construction, and Alterations	
Compliance Date	Applicable Standard
Until March 15, 2012	1991 Standards or 2010 Standards
On or after March 15, 2012	2010 Standards

**Priorities for Barrier Removal**

Understanding how customers arrive at and move through your business will go a long way in identifying existing barriers and setting priorities for their removal. Do people arrive on foot, by car, or by public transportation? Do you provide parking? How do customers enter and move about your business? The ADA regulations recommend the following priorities for barrier removal:

- Providing access to your business from public sidewalks, parking areas, and public transportation;

- Providing access to the goods and services your business offers;
- Providing access to public restrooms; and
- Removing barriers to other amenities offered to the public, such as drinking fountains.

Businesses should not wait until March 15, 2012 to identify existing barriers, but should begin now to evaluate their facilities and develop priorities for removing barriers. Businesses are also encouraged to consult with people with disabilities in their communities to identify barriers and establish priorities for removing them. A thorough evaluation and barrier removal plan, developed in consultation with the disability community, can save time and resources.

In some instances, especially in older buildings, it may not be readily achievable to remove some architectural barriers. For example, a restaurant with several steps leading to its entrance may determine that it cannot afford to install a ramp or a lift. In this situation, the restaurant must provide its services in another way if that is readily achievable, such as providing takeout service. Businesses should train staff on these alternatives and publicize them so customers with disabilities will know of their availability and how to access them.



**When barrier removal is not possible, alternatives such as curbside service should be provided.**

### **Parking**

If your business provides parking for the public, but there are no accessible spaces, you will lose potential customers. You must provide accessible parking spaces for cars and vans if it is readily achievable to do so. The chart below indicates the number of accessible spaces required by the 2010 Standards. One of every six spaces must be van accessible.

<b>Total Number of Parking Spaces Provided in Parking Facility</b>	<b>Minimum Number of Required Accessible Parking Spaces</b>
1 to 25	1
26 to 50	2
51 to 75	3

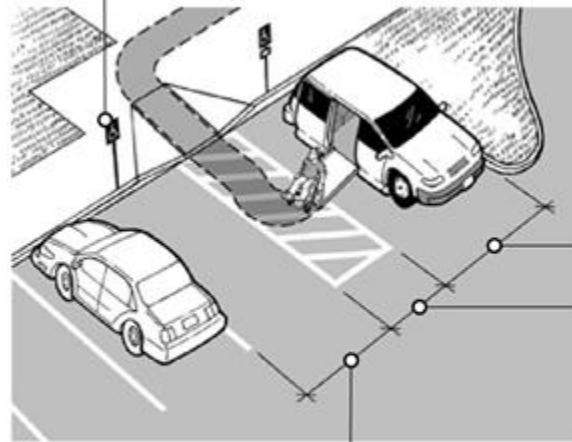
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20, plus 1 for each 100, or fraction thereof, over 1000

Small businesses with very limited parking (four or fewer spaces) must have one accessible parking space. However, no signage is required.

An accessible parking space must have an access aisle, which allows a person using a wheelchair or other mobility device to get in and out of the car or van.

Signage: international symbol of accessibility placed in front of the parking space mounted at least five feet above the ground, measured to the bottom of the sign. Van accessible spaces include the designation "van accessible".

Van Accessible Spaces: 2010 Standards—one for every six accessible spaces (1991 Standards required one for every eight)



Space width for van: 11 feet (although it may be eight feet wide if its access aisle is eight feet wide)

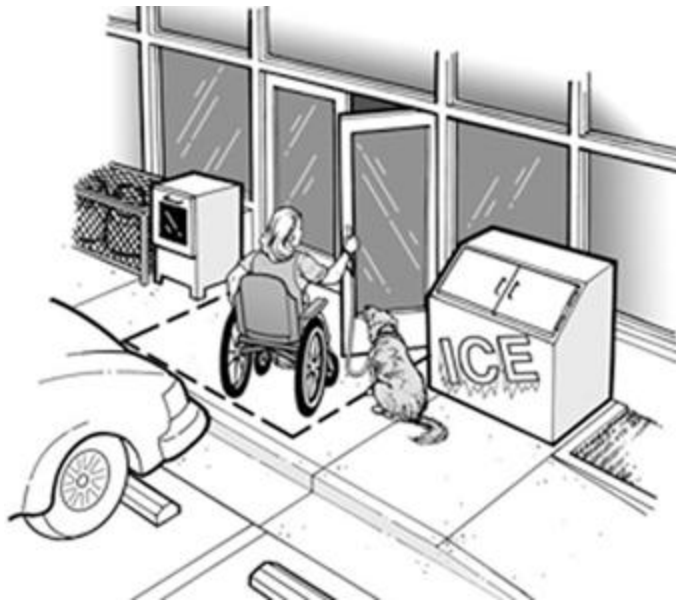
Access aisle:  
Width: five feet (if aisle serves car and van spaces)  
Length: full length of parking space

Space width for car: eight feet

### An overview of accessible parking requirements

#### Accessible Entrances

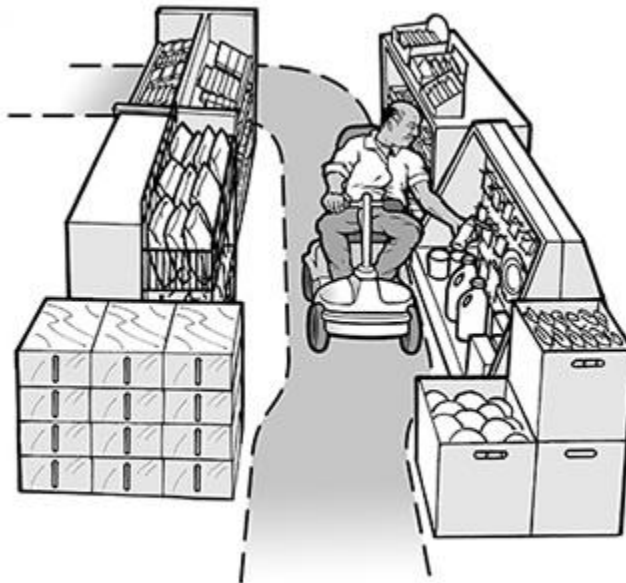
One small step at an entrance can make it impossible for individuals using wheelchairs, walkers, canes, or other mobility devices to do business with you. Removing this barrier may be accomplished in a number of ways, such as installing a ramp or a lift or re-grading the walkway to provide an accessible route. If the main entrance cannot be made accessible, an alternate accessible entrance can be used. If you have several entrances and only one is accessible, a sign should be posted at the inaccessible entrances directing individuals to the accessible entrance. This entrance must be open whenever other public entrances are open.



**Ensuring that items do not block the accessible route allows independent access.**

### **Accessible Route to Goods and Services**

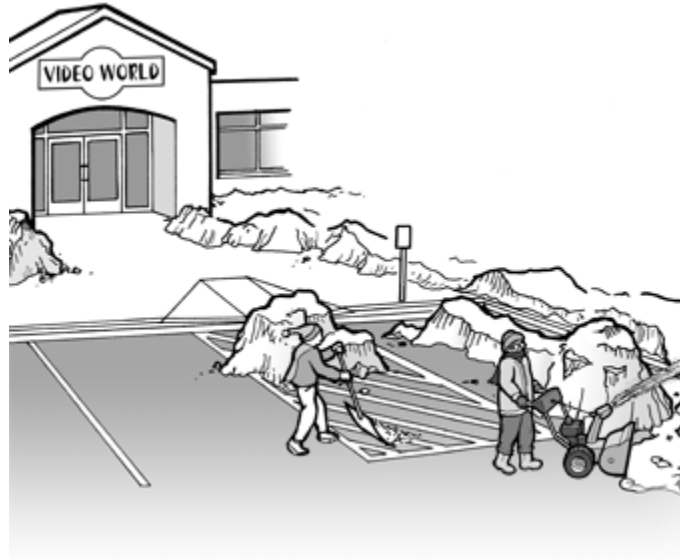
The path a person with a disability takes to enter and move through your business is called an "accessible route." This route, which must be at least three feet wide, must remain accessible and not be blocked by items such as vending or ice machines, newspaper dispensers, furniture, filing cabinets, display racks, or potted plants. Similarly, accessible toilet stalls, dressing rooms, or counters at a cash register must not be cluttered with merchandise or supplies.



**An accessible route allows customers using mobility devices to access items for sale.**

Temporary access interruptions for maintenance, repair, or operational activities are permitted, but must be remedied as soon as possible and may not extend beyond a reasonable period of time. Businesses must be prepared to retrieve merchandise for customers during these interruptions. For example, if an aisle is temporarily

blocked because shelves are being restocked, staff must be available to assist a customer with a disability who is unable to maneuver through that aisle. In addition, if an accessible feature such as an elevator breaks down, businesses must ensure that repairs are made promptly and that improper or inadequate maintenance does not cause repeated failures. Businesses must also ensure that no new barriers are created that impede access by customers with disabilities. For example, routinely storing a garbage bin or piling snow in accessible parking spaces makes them unusable and inaccessible to customers with mobility disabilities.



**Snow or other debris in accessible parking spaces and access aisles must be removed as soon as possible.**

#### **Shelves, Sales and Service Counters, and Check-Out Aisles**

The obligation to remove barriers also applies to merchandise shelves, sales and service counters, and check-out aisles. Shelves and counters must be on an accessible route with enough space to allow customers using mobility devices to access merchandise. However, shelves may be of any height since they are not subject to the ADA's reach range requirements. Where barriers prevent access to these areas, they must be removed if readily achievable. However, businesses are not required to take any steps that would result in a significant loss of selling space. At least one check-out aisle must be usable by people with mobility disabilities, though more are required in larger stores. When it is not readily achievable to make a sales or service counter accessible, businesses should provide a folding shelf or a nearby accessible counter. If these changes are not readily achievable, businesses may provide a clip board or lap board until more permanent changes can be made.



**A lowered counter and clear floor space are critical components of an accessible service counter.**

### **Food and Restaurant Services**

People with disabilities need to access tables, food service lines, and condiment and beverage bars in restaurants, bars, or other establishments where food or drinks are sold. There must be an accessible route to all dining areas, including raised or sunken dining areas and outdoor dining areas, as well as to food service lines, service counters, and public restrooms. In a dining area, remember to arrange tables far enough apart so a person using a wheelchair can maneuver between the tables when patrons are sitting at them. Some accessible tables must be provided and must be dispersed throughout the dining area rather than clustered in a single location.



**Restaurants must provide access to self-service items.**

Where barriers prevent access to a raised, sunken, or outdoor dining area, they must be removed if readily achievable. If it is not readily achievable to construct an accessible route to these areas and distinct services

(e.g., special menu items or different prices) are available in these areas, the restaurant must make these services available at the same price in the dining areas that are on an accessible route. In restaurants or bars with only standing tables, some accessible dining tables must be provided.

### **New Construction and Alterations**

The ADA requires that all new facilities built by public accommodations, including small businesses, must be accessible to and usable by people with disabilities. The 2010 Standards lay out accessibility design requirements for newly constructed and altered public accommodations and commercial facilities. Certain dates in the construction process determine which ADA standards – the 1991 Standards or the 2010 Standards – must be used.

If the last or final building permit application for a new construction or alterations project is certified before March 15, 2012, businesses may comply with either the 1991 or the 2010 Standards. In jurisdictions where certification of permit applications is not required, businesses can also choose between the 1991 or 2010 Standards if their jurisdiction receives their permit application by March 15, 2012. Businesses should refer to their local permitting process. Where no permits are required, businesses may comply with either the 1991 or 2010 Standards if physical construction starts before March 15, 2012. Start of physical construction or alterations does not mean the date of ceremonial ground breaking or the day demolition of an existing structure commences. In this situation, if physical construction starts after March 15, 2012, the business must use the 2010 Standards.

### **Alterations**

When a small business undertakes an alteration to any of its facilities, it must, to the maximum extent feasible, make the alteration accessible. An alteration is defined as remodeling, renovating, rehabilitating, reconstructing, changing or rearranging structural parts or elements, changing or rearranging plan configuration of walls and full-height partitions, or making other changes that affect (or could affect) the usability of the facility.

Examples include restriping a parking lot, moving walls, moving a fixed ATM to another location, installing a new sales counter or display shelves, changing a doorway entrance, replacing fixtures, flooring or carpeting. Normal maintenance, such as reroofing, painting, or wallpapering, is not an alteration.

<b>2010 ADA Standards Basics</b>
<b>Chapter 1: Application and Administration</b> Contains important introductory and interpretive information, including definitions for key terms used in the 2010 Standards.
<b>Chapter 2: Scoping</b> Sets forth what elements and how many of them must be accessible. Scoping covers newly constructed facilities and altered portions of existing facilities.
Note: The 2010 Standards do not address barrier removal. The revised regulations, however, require that barrier removal must comply with the 2010 Standards to the extent it is readily achievable.
<b>Chapters 3 – 10: Design and Technical Requirements</b> Provides design and technical specifications for elements, spaces, buildings, and facilities.
<b><u>Common Provisions for Small Business</u></b>
<b>Accessible Route</b> Section 206 and Chapter 4
<b>Parking Spaces</b>

Sections 208 and 502 specifically address parking spaces. The provisions regarding accessible route (section 206 and chapter 4), signs (section 216), and, where applicable, valet parking (section 209) also apply.

#### **Passenger Loading Zones**

Sections 209 and 503

#### **Sales and Service**

Sections 227 and 904 specifically cover sales and service areas, such as check-out aisles and sales and service counters. Section 226.1, exempts sales and service counters from the technical requirements of 902 (dining surfaces and work surfaces).

#### **Dining Surfaces**

Sections 226 and 902 specifically address fixed dining surfaces. The provisions regarding accessible routes in section 206.2.5 (Restaurants and Cafeterias) and 226.2 (Dispersion) also apply to dining surfaces.

#### **Dressing, Fitting, and Locker Rooms**

Sections 222 and 803 cover dressing, fitting, and locker rooms. The provisions on doors in sections 206.5 and 404 usually apply.

### **STEPS FOR SUCCESS**

Being proactive is the best way to ensure ADA compliance. Evaluate access at your facility, train your staff on the ADA's requirements, think about the ADA when planning an alteration or construction of a new facility, and, most importantly, use the free information resources available whenever you have a question.

#### **Assessing Your Facility**

The revised ADA regulations give businesses 18 months (until March 15, 2012) before they must comply with the 2010 Standards. The purpose of this phase-in period is to provide businesses sufficient time to plan and comply. Businesses are strongly encouraged to assess their facilities now to determine what architectural barriers exist. Until March 15, 2012, you have the choice of using the 1991 Standards or the 2010 Standards to remove architectural barriers, alter, or construct a new facility. Businesses that use the 1991 Standards during this phase-in period can take advantage of the safe harbor provision. Beginning March 15, 2012, only the 2010 Standards can be used.

#### **Staff Training**

A critical and often overlooked component of ensuring success is comprehensive and ongoing staff training. You may have established good policies, but if front line staff are not aware of them or do not know how to implement them, problems can arise. Businesses of all sizes should educate staff about the ADA's requirements. Staff need to understand the requirements on modifying policies and practices, communicating with and assisting customers, and accepting calls placed through the relay system. Many local disability organizations, including Centers for Independent Living, conduct ADA trainings in their communities. The Department of Justice or the ADA National Network can provide local contact information for these organizations.

#### **Tax Credit and Deduction**

To assist small businesses to comply with the ADA, the Internal Revenue Service (IRS) Code includes a Disabled Access Credit (Section 44) for businesses with 30 or fewer full-time employees or with total revenues of \$1 million or less in the previous tax year. Eligible expenses may include the cost of undertaking barrier removal and alterations to improve accessibility, providing sign-language interpreters, or making material available in accessible formats such as Braille, audiotape, or large print.

Section 190 of the IRS Code provides a tax deduction for businesses of all sizes for costs incurred in removing architectural barriers in existing facilities or alterations. The maximum deduction is \$15,000 per year.

## **ADA INFORMATION RESOURCES**

### **U.S. Department of Justice**

For more information about the revised ADA regulations and 2010 ADA Standards, please visit the Department of Justice's ADA Website or call our toll-free number.

ADA Website

<http://www.ADA.gov/>

ADA Information Line

800-514-0301 (Voice)

800-514-0383 (TTY)

24 hours a day to order publications by mail.

M-W, F 9:30 a.m. 5:30 p.m., Thursday 12:30 p.m. 5:30 p.m. (Eastern Time) to speak to an ADA Specialist. All calls are confidential.

"*Reaching Out to Customers with Disabilities*" explains the ADA's requirements for businesses in a short 10-lesson online course ([www.ada.gov/reachingout/intro1.htm](http://www.ada.gov/reachingout/intro1.htm)).

### **ADA National Network (DBTAC)**

Ten regional centers are funded by the U.S. Department of Education to provide ADA technical assistance to businesses, States and localities, and persons with disabilities. One toll-free number connects you to the center in your region:

800-949-4232 (Voice and TTY)

<http://www.adata.org/>

### **Access Board**

For technical assistance on the ADA/ABA Accessibility Guidelines:

800-872-2253 (Voice)

800-992-2822 (TTY)

### **Internal Revenue Service**

For information on the Disabled Access Tax Credit (Form 8826) and the Section 190 tax deduction (Publication 535 Business Expenses):

800-829-3676 (Voice) or 800-829-4059 (TTY)

<http://www.irs.gov/>

This publication is available in alternate formats for persons with disabilities.

This document has been developed for small businesses in accordance with the Small Business Regulatory Enforcement Flexibility Act of 1996.

### **Duplication of this document is encouraged.**

For more information about the ADA, please visit our website or call our toll-free number.

### **PDF Version of this Document**

**Return to ADA Home Page**, last updated: March 16, 2011

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**VII. PROPOSED CONTRACT**

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**NASHVILLE MTA RESERVES THE RIGHTS TO MAKE CHANGES TO THIS PROPOSED CONTRACT****CONTRACT NO 2011271-C  
BETWEEN  
NASHVILLE METROPOLITAN TRANSIT AUTHORITY  
AND  
CONTRACTOR  
FOR TRANSPORTATION SERVICES**

This Contract is entered into as of the 1st day of November 2012, by and between Nashville Metropolitan Transit Authority (hereinafter referred to as "Nashville MTA"), having its principal office located at 130 Nestor Street, Nashville, TN 37210, and CONTRACTOR. (hereinafter referred to as "Contractor"), having its principal office located at in which the parties agree as follows:

The following documents constitute the Contract and Contract Documents:

- Contract No 2011271-C
- Request for Proposal 2011271
- Contractor's Proposal dated

In the event of conflicting provisions, all documents shall be construed according to the following priorities:

- Any properly executed amendment to this Contract (most recent with first priority),
- Contract No 211271-C
- Request for Proposal 2011271
- Contractor's Proposal Dated

**WHEREAS**, a Coordinated Human Services Transportation Plan, hereinafter "CHSTP", is required by passage of the Safe Accountable Flexible Efficient Transportation Equity Act – A Legacy for Users, hereinafter "SAFETEA-LU", for projects which are funded under the Elderly Individual and Individuals with Disabilities, Jobs Access and Reverse Commute, hereinafter referred to as JARC and New Freedom programs; and

**WHEREAS**, MTA has been named the Federal Transit Administration designated recipient for the JARC and New Freedom funding programs, and is therefore responsible for the implementation of projects developed under the Nashville Urbanized area CHSTP; and

**NOW, THEREFORE**, in consideration of the premises, the mutual covenants and promises herein set forth and other good and valuable considerations, receipt and legal sufficiency of which is hereby acknowledged, MTA and Contractor do mutually agree as follows:

**1. Scope of Services**

Contractor agrees to provide and MTA agrees to purchase Transportation Services (hereinafter "Services"):

Contractor Service Information:

Contractor acknowledges and agrees to the reporting requirements for this Contract as stated in the RFP. The Contractor MUST submit Report to MTA no later than the 15<sup>th</sup> day of each month, for the term of this Contract. Reports will be sent to Sharon Simmons, email: [sharon.simmons@nashville.gov](mailto:sharon.simmons@nashville.gov). In the event Contractor fails to comply with the terms of the reporting requirements Contractor acknowledges and agrees MTA shall have the right to the immediate termination of this Contract for Contractor non-compliance. MTA, at its sole discretion, may grant Contractor an opportunity to cure Contractor's non-compliance.

Contractor acknowledges and agrees to comply with the Federal Fiscal Year 2011 Certifications and Assurances For Federal Transit Administration Assistance Programs as stated in the RFP 2011271. MTA will perform, a quarterly, Audit of Services. Contractor acknowledges and agrees to the Audit requirements as stated in the RFP

and as communicated by MTA. MTA will contact Contractor to schedule the quarterly Audit. In the event Contractor fails to comply with the terms of the Audit, as communicated by MTA, Contractor acknowledges and agrees MTA shall have the right to the immediate termination of this Contract for Contractor non-compliance. MTA, at its sole discretion, may grant Contractor an opportunity to cure Contractor's non-compliance.

Contractor acknowledges and agrees to comply with the MTA Drug Policy located in the RFP.

## **2. Term**

The term of the Contract shall be for 12 months. The Contract start date will be \_\_\_\_\_, 2012, the Contract end date will be \_\_\_\_\_, 2013.

This Contract may be extended by all the required parties with a properly executed amendment to this Contract.

MTA Contract obligations shall automatically terminate at Contract End Date.

## **3. Compensation**

This Contract shall have a not to exceed value of \$

Nashville MTA shall pay Contractor for services performed under this Contract for \_\_\_\_\_

The Contractor invoice, when submitted, for the Services(s) shall comply with the terms of this Contract. The invoice will be submitted to Nashville MTA, 130 Nestor Street, Nashville TN, 37210.

There will be no other charges or fees for the performance of this Contract unless agreed to in writing by both parties. Nashville MTA shall make reasonable efforts to make payments within thirty (30) days of received and approved invoice.

## **4. Taxes**

Nashville MTA shall not be responsible for any taxes that are imposed on Contractor. Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to MTA.

## **5. Copyright, Trademark, Service Mark, or Patent Infringement**

Contractor shall, at its own expense, be entitled to and shall have the duty to defend any suit which may be brought against Nashville MTA to the extent that it is based on a claim that the Service Work or other work products furnished infringe a copyright, Trademark, Service Mark, or patent. The Contractor shall have sole discretion in selecting counsel. Contractor shall further indemnify and hold harmless Nashville MTA against any award of damages and costs made against Nashville MTA by a final judgment of a court of last resort in any such suit. Nashville MTA shall provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority to enable Contractor to do so. No costs or expenses shall be incurred for the account of Contractor without its written consent. MTA reserves the right to participate in the defense of any such action. Contractor shall have the right to enter into negotiations for and the right to effect settlement or compromise of any such action, but no such settlement or compromise shall be binding upon Nashville MTA unless approved by the Nashville MTA Board.

If the Service Work or other work products furnished under this contract are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:

1. *Procure for Nashville MTA the right to continue using the products or services.*
2. *Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to MTA, so that they become non-infringing.*
3. *Remove the products or discontinue the services and cancel any future charges pertaining thereto.*
4. *Provided, however, that Contractor will not exercise option b.iii. until Contractor and Nashville MTA have determined that options b.i. and b.ii. are impractical.*

Contractor shall have no liability to Nashville MTA, however, if any such infringement or claim thereof is based upon or arises out of:

1. *The use of the Service Work or other work products in combination with apparatus or devices not supplied or else approved by Contractor.*
2. *The use of the Service Work or other work products in a manner for which the Service Work or other work products were neither designated nor contemplated.*
3. *The claimed infringement in which Nashville MTA has any direct or indirect interest by license or otherwise, separate from that granted herein.*

## **6. Termination**

**Breach.** Should Contractor or Nashville MTA fail to fulfill in a timely and proper manner its obligations under this Contract or if it should violate any of the terms of this Contract, either party shall have the right to terminate the Contract with a thirty (30) day notice and cure period. Such termination shall not relieve either party of any liability to the other for damages sustained by virtue of any breach by the other party.

**Lack of Funding.** Should funding for this Contract be discontinued, MTA shall have the right to terminate the Contract immediately, with no penalty, upon written notice to Contractor.

Either party may terminate this Contract at any time, with no penalty, upon thirty (30) day written notice to the other party. In the event of a termination under this section neither party will have further obligation to the other.

## **7. Maintenance of Records**

Contractor shall maintain documentation for all charges against MTA. The books, records, and documents of Contractor, insofar as they relate to Services performed or money received under the Contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by MTA or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles.

## **8. Monitoring**

The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring, auditing and evaluation by Nashville MTA, the Department of Finance, the Division of Internal Audit, or their duly appointed representatives.

## **9. Nashville MTA Property**

Any Nashville MTA property, including but not limited to books, records and equipment that is in Contractor's possession shall be maintained by Contractor in good condition and repair, and shall be returned to Nashville MTA by Contractor upon termination of the Contract. All goods, documents, records, work and other work product and property produced during the performance of this Contract are deemed to be Nashville MTA property.

## **10. Modification of Contract**

This Contract may be modified only by written amendment executed by all parties and their signatories hereto. All change orders, where required, shall be executed by all parties and their signatories hereto.

## **11. Partnership/Joint Venture**

Nothing herein shall in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. It is expressly agreed and understood between the parties that the Contractor is an independent Contractor to Nashville MTA and as such shall be viewed in law and equity as an independent contractor. No vicarious liability shall be imposed upon the Nashville MTA; Greater Nashville Regional Council, its employees, officers, Board members and member governments; Metropolitan Government of Nashville and Davidson County by any action of the Contractor in the performance of this Contract nor shall the doctrine of respondent superior be applicable to the Nashville MTA Greater Nashville Regional Council, its employees, officers, Board members and member governments; Metropolitan Government of Nashville and Davidson County through this Contract. None of the parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act or omission of any other party contrary to the terms of this paragraph.

## **12. Waiver**

No waiver of any provision of this contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.

## **13. Employment**

Contractor shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities.

Contractor shall not knowingly employ, permit, dispatch, subcontract, or instruct any person who is an undocumented and/or unlawful worker to perform work in whole or part under the terms of Contract.

Violation of either of these contract provisions may result in suspension or debarment if not resolved in a timely manner, not to exceed ninety (90) days, to the satisfaction of Nashville MTA.

## **14. Warranty**

Contractor warrants the preparation of materials, the selection of personnel, the fitness and operation of its recommendations, and the performance of other services under this Contract, pursuant to a high standard of performance in the profession. Contractor warrants that it will exercise diligence and due care and perform in a good and workmanlike manner all of the Services pursuant to this Contract. Approval or acceptance by Nashville MTA of any of Contractor's Service, work or other work products under this Contract shall not constitute, or be deemed, a release of the responsibility and liability of Contractor, its employees, agents or associates for the exercise of skill and diligence necessary to fulfill Contractor's responsibilities under this Contract. Nor shall Nashville MTA's approval or acceptance be deemed to be the assumption of responsibility by Nashville MTA for any defect or error in the Service, work or other work products prepared by Contractor, its employees, associates, agents, or subcontractors.

In the event Services performed are not acceptable Nashville MTA will furnish a letter of non-acceptance detailing the deficiencies within thirty (30) days after delivery or Service performance. Acceptance of delivery of an item or Services performed shall not release the Contractor from liability for services not performed, faulty workmanship or materials appearing even after final payment have been made.

## **15. Existing Nashville MTA Proprietary Rights**

Nashville MTA will retain existing ownership and all proprietary rights to its information. Some information may need to be disclosed to Contractor for purposes necessary for design and implementation. Contractor will treat MTA information as strictly confidential.

## **16. Nashville MTA Owned Data**

Nashville MTA will own and retain rights to all of its data. Some data will need to be disclosed to Contractor for purposes necessary for design and implementation. Contractor will treat Nashville MTA information as strictly confidential

## **17. Independent Contractor**

Contractor is offering its Services under this Contract as an independent contractor to Nashville MTA. In determining the existence of the Contractor, independent contractor status, the common law right to control shall apply. It is understood and agreed by Nashville MTA and Contractor that Contractor is and shall be viewed, treated and held out to be an independent contractor. Contractor and its employees are not employees or agents of Nashville MTA and are not eligible nor will receive any benefits through Nashville MTA, including but not limited to: federal social security, health, dental, or prescription of life insurance benefits, credit union or deferred compensation plans, and annual and sick leave benefits.

## **18. Compensation of Contractor's Personnel**

As neither Contractor or Contractor's Personnel are Nashville MTA, employees, Nashville MTA shall not take any action or provide Contractor's Personnel with any benefits or commitments inconsistent with any of such undertakings by Contractor. Rather, Contractor shall bear sole responsibility for payment of compensation to its personnel. Contractor shall procure and maintain Worker's Compensation Insurance as stated in Section 19

Insurance.

**19. Insurance**

During the term of this Contract, Contractor shall, at its sole expense, obtain and maintain in full force and effect for the duration of the Contract and any extension here of the types and amounts of insurance identified below by a check mark and in the proposal.

a)  Products Liability Insurance in the amount of one million (\$1,000,000) dollars (If the Contractor will be shipping to a receiving department at Nashville MTA)

b)  General Liability Insurance in the amount of one million (\$1,000,000) dollars

c)  Professional Liability Insurance in the amount of one million (\$1,000,000) dollars

d)  Automobile Liability Insurance in the amount of one million (\$1,000,000) dollars (if vendor will be making on-site deliveries)

e)  Worker's Compensation Insurance with statutory limits required by the State of Tennessee or other applicable laws and Employer's Liability Insurance with limits of no less than one hundred thousand (\$100,000) dollars, as required by the laws of Tennessee. (Not required for companies with fewer than five (5) employees).

f)  Other insurance

g) Such insurance shall:

1. Contain or be endorsed to contain a provision that includes Nashville MTA, its officials, officers, employees, and volunteers as additional insured's with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insured's.

2. For an claims related to this Contract Contractor's insurance coverage shall be primary insurance as respects Nashville MTA, its officers, officials, employees, and volunteers. Any insurance or self-insurance programs covering Nashville MTA, its officials, officers, employees, and volunteers shall be excess of Contractor's insurance and shall not contribute with it.

3. Automotive Liability Insurance including vehicles owned, hired, and non-owned. Said insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes Nashville MTA, its officials, officers, employees, and volunteers as additional insured's with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of Contractor.

4. Worker's Compensation (if applicable), Contractor shall maintain workers' compensation insurance with statutory limits as required by the State of Tennessee or other applicable laws and liability insurance. Contractor shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless employees are covered by Contractor's workers' compensation insurance coverage.

5. Other Insurance Requirements. Contractor shall:

a) Prior to commencement of services, furnish Nashville MTA with original certificates and amendatory endorsements effecting coverage required by this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to:

Nashville Metropolitan Transit Authority  
130 Nestor Street  
Nashville, TN 37210  
Attn: Planning Department

- b) Provide certified copies of endorsements and policies if requested by Nashville MTA in lieu of or in addition to certificates of insurance.
- c) Replace certificates, policies, and/or endorsements for any such insurance expiring prior to completion of services.
- d) Maintain such insurance from the time services commence until services are completed and attach the certificates of insurance in Nashville MTA system. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by Nashville MTA as a material breach of lease.
- e) Place such insurance with insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A-. Modification of this standard may be considered upon appeal to the Nashville MTA Director of Risk Management Services.
- f) Require all subcontractors to maintain during the term of the agreement Commercial General Liability insurance, Business Automobile Liability insurance, and Worker's Compensation/Employers Liability insurance (unless subcontractor's employees are covered by Contractor's insurance) in the same manner as specified for Contractor. Contractor shall file subcontractor's certificates of insurance in Nashville MTA's system.
- g) Any deductibles and/or self-insured retentions greater than \$10,000 dollars must be disclosed to and approved by MTA prior to the commencement of services.
- h) If the Contractor has or obtains primary and excess policy(ies), there shall be no gap between the limits of the primary policy and the deductible features of the excess policies.

**20. Indemnification and Hold Harmless**

Contractor will indemnify, defend and hold harmless Nashville MTA, its officers, agents and employees from:

Any claims, damages, costs and attorney fees for injuries or damages arising, in part or in whole, from the negligent or intentional acts or omissions of Contractor, its officers, employees and/or agents, including its sub or independent contractors, in connection with the performance of the contract, and,

Any claims, damages, penalties, costs and attorney fees arising from any failure of Contractor, its officers, employees and/or agents, including its sub or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

MTA will not indemnify defend or hold harmless in any fashion the Contractor from any claims arising from any failure, regardless of any language in any attachment or other document that the Contractor may provide.

**21. Remedies and Liabilities**

Nashville MTA and Contractor recognize that circumstances may arise entitling Nashville MTA to damages for breach or other fault on the part of the Contractor arising from this Contract. The parties agree that in all such circumstances Nashville MTA's remedies and the Contractor's liabilities will be limited as set forth below and that these provisions will survive notwithstanding the termination or other discharge of the obligations of the parties under this Contract.

(i) EXCEPT FOR DAMAGES ARISING OUT OF THE CONTRACTOR'S INTENTIONAL MISREPRESENTATION, GROSS NEGLIGENCE OF WILLFUL MISCONDUCT, OR BODILY INJURY, DEATH, OR DAMAGE TO REAL OR TANGIBLE PROPERTY DIRECTLY CAUSED BY CONTRACTOR'S NEGLIGENCE, BOTH PARTIES AGREE THAT THE CONTRACTOR'S LIABILITY (UNDER BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE), IF ANY, FOR DAMAGES RELATING TO THIS CONTRACT SHALL NOT EXCEED THE FEES PAID TO CONTRACTOR BY MTA UNDER THIS CONTRACT.

(ii) IN ADDITION TO THE FOREGOING NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL OR OTHER DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOST REVENUE OR LOSS OF PROFITS, EVEN IF SUCH OTHER PARTY HAS BEEN ADVISED OF THE

LIKELIHOOD OF THE OCCURRENCE OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

(iii) CLAUSES (i) AND (ii) SHALL APPLY IN RESPECT OF ANY CLAIM, DEMAND OR ACTION BY A PARTY IRRESPECTIVE OF THE NATURE OF THE CAUSE OF ACTION UNDERLYING SUCH CLAIM, DEMAND OR ACTION, INCLUDING, BUT NOT LIMITED TO, BREACH OF CONTRACT OR TORT.

(iv) THIS LIMITATION OF DAMAGES SHALL NOT HAVE ANY EFFECT ON THE CONTRACTOR'S INSURANCE LIMITS EFFECT ON THE CONTRACTOR'S INSURANCE LIMITS REQUIRED UNDER THIS CONTRACT FOR ANY CLAIMS THAT ARE COVERED OR SHOULD BE COVERED UNDER SUCH INSURANCE POLICIES CARRIED BY THE CONTRACTOR.

NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY, ANY PROVISION OR PROVISIONS OF THIS SECTION WILL NOT APPLY TO THE EXTENT THEY ARE (IT IS) FINALLY DETERMINED BY A COURT OF COMPETENT JURISDICTION, INCLUDING APPELLATE REVIEW IF PURSUED, TO VIOLATE THE LAWS OR CONSTITUTION OF THE STATE OF TENNESSEE.

## **22. Assignment**

Neither party may assign its rights or delegate its responsibilities under this Contract.

## **23. Governing Law**

The validity, construction and effect of this Contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee. Tennessee law shall govern regardless of any language in any attachment or other document that the Contractor may provide.

## **24. Venue**

Any action between the parties arising from this Contract shall be maintained in the courts of Davidson County of the State of Tennessee.

## **25. Entire Agreement**

This Contract states the entire Contract between the parties. No alteration, modification, release, or waiver of this Contract or any of the provisions hereof shall be effective unless in writing, executed by the parties hereto.

## **26. Export**

Contractor represents and warrants that neither the Product, Documentation, Work nor the work product shall be disclosed to any foreign national, firm, or country, nor shall be exported from the United States without first complying with all the requirements of the International Traffic in Arms Regulations and the Export Administration Act, including the requirement for obtaining an export license, if applicable. Contractor shall fully indemnify Nashville MTA for any breach of this representation.

## **27. Force Majeure**

No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation of covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

## **28. Severability**

If any provision of this Contract is held invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted and the remainder of this Contract shall remain in full force and effect.

## **29. Contract Alterations**

No alterations or variables in the terms of this Contract and the RFP shall be valid or binding upon Nashville MTA unless agreed to and authorized in writing by Nashville MTA.

## **30. Counterpart**

It is agreed that this Contract may be signed either on a single document, or in counterpart, and when executed, such counterparts shall have the same force and effect as if originally executed on one document.

**31. Attorney Fees**

If at any time it is necessary for either party to undertake any action to enforce the terms of this Contract the parties agree to pay all costs of the prevailing party, including reasonable attorney fees and court costs.

**32. Disclosure**

**As a recipient of public funds the Contractor is obligated and shall agree to post the below notice so it is visible to the Public.** NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

**33. Vehicle and Equipment – Useful Life Management**

The Contractor agrees to comply with the FTA Circular 5010.1D and the FTA Master Agreement in accordance with the terms as they apply to the management of federally funded vehicles and equipment. If Contractor requires additional information regarding the requirements please contact Nashville MTA.

**34. Notices**

Each person executing this Contract on behalf of an entity personally certifies and warrants to all other parties that this Contract has been duly authorized and approved by such entity, that such person is authorized to sign on behalf of such entity, that no other signature is required to bind such entity, and that such entity shall be legally bound as set forth herein by such signature.

Any and all notices, requests, demands and other communications contemplated, called for, permitted or required to be given hereunder shall be in writing under this Contract and shall be sent to:

MTA: Nashville Metropolitan Transit Authority  
130 Nestor Street  
Nashville, TN 37210  
Attn: Sharon Simmons, Program Coordinator, Planning Department  
Attn: Jim McAteer Director of Planning, Planning Department  
Attn: Pat Downs, Capital Grants Administrator

Contractor:

IN WITNESS WHEREOF, MTA AND CONTRACTOR HAVE EXECUTED THIS CONTRACT AS OF THE DATE FIRST ABOVE WRITTEN.

NASHVILLE METROPOLITAN TRANSIT AUTHORITY    CONTRACTOR

\_\_\_\_\_  
Paul J. Ballard  
Chief Executive Officer

\_\_\_\_\_  
Date

Attest:

By: \_\_\_\_\_  
Edward W. Oliphant, CFO

\_\_\_\_\_  
By: \_\_\_\_\_

Title: \_\_\_\_\_

Sworn to and subscribed to before me, a Notary Public, this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by \_\_\_\_\_, the \_\_\_\_\_ of Contractor and duly authorized to execute this instrument on Contractor's behalf.

\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_