

# **New Mexico State Management Plan For The Administration of Federal Transit Grants**



**Prepared by:  
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Transit and Rail Division**

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**[http://dot.state.nm.us/en/Transit\\_Rail.html](http://dot.state.nm.us/en/Transit_Rail.html)**

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## **I. INTRODUCTION**

The primary objective of the New Mexico Department of Transportation (NMDOT) Transit and Rail Division is to assist the State in the establishment and maintenance of public, private and non-profit passenger transportation systems. This assistance is provided by the Transit and Rail Division through a working relationship with the Federal Transit Administration (FTA), as well as Regional Transportation Planning Organizations (RTPO), Metropolitan Planning Organizations (MPO), local and tribal governments, and transit providers.

FTA requires each state to have an approved State Management Plan (SMP) on file with its regional office. The SMP is a document that describes the state's policies and procedures in administering the Section 5310, 5311, and 5339 programs. Additions or amendments to the SMP must be made and submitted to FTA whenever a state significantly changes its management of the program, or when new program management requirements are imposed by FTA. Changes may be required as the result of a state management review by FTA.

The intent of the New Mexico SMP is to document the State's mission, goals, policies, procedures, and administrative guidelines for the FTA 49 U.S.C. Sections (§) 5303, 5304, 5307, 5309, 5310, 5311, 5311(b)(3), 5311(f), and 5339 programs. The SMP is updated regularly, as federal information is received and/or changes to state processes in administering the federal grants takes place.

Information about the Transit and Rail Division may be found by going to the Division's website at [http://dot.state.nm.us/en/Transit\\_Rail.html](http://dot.state.nm.us/en/Transit_Rail.html).

## **II. GENERAL TRANSIT PROGRAM INFORMATION**

### **A. Roles and Responsibilities**

#### **1. Federal Transit Administration (FTA)**

The FTA headquarters office is responsible for providing overall policy and program guidance; apportioning funds annually to the states; developing and implementing financial management procedures; initiating and managing program support activities; and conducting national program review and evaluation.

The FTA regional offices have the day-to-day responsibility for administration of the program. Regional office activities include: reviewing and approving state grant applications; obligating funds; managing grants; overseeing the state's implementation of the annual program, including revisions to the program of projects; receiving state certifications; reviewing and approving SMPs; providing technical assistance and advice to the states as needed; and performing state management reviews every three years, or as circumstances warrant.

FTA headquarters contact address and phone number:

Federal Transit Administration  
 Office of Communications and Congressional Affairs  
 1200 New Jersey Avenue SE  
 East Building  
 Washington, DC 20590  
 Phone: 202-366-4043  
 Fax: 202-366-3472

## 2. New Mexico DOT Transit and Rail Division

To the extent permitted by law, FTA gives the states maximum discretion in designing and managing the Section 5311 program to meet its rural public transportation needs. Where possible, FTA defers to a state’s development of program standards, criteria, procedures, and policies to provide the state with the flexibility it needs to standardize its management of FTA assistance and related state programs.

In addition, 2 CFR Part 200, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” permits a state to rely on its own laws and procedures instead of federal procedures in the areas of financial management systems, equipment, and procurement. A state may pass its procedures down to its subrecipients that are public authorities. Similarly, when a private provider of public transportation services enters into a third party contract with a state or public subrecipient of a state, as opposed to a subagreement, the state’s procedures will apply to the third party contract. However, nonprofit subrecipients must comply with the “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations” at 49 CFR Part 19. FTA delegates authority to the state whenever allowed, including but not limited to the following:

- (1) Document the state’s procedures in an SMP;
- (2) Notify eligible local entities of the availability of the program;
- (3) Plan for future transportation needs, and ensure integration and coordination among diverse transportation modes and providers;
- (4) Solicit applications;
- (5) Develop project selection criteria;
- (6) Review and select projects for approval;
- (7) Forward an annual program of projects and grant application to FTA;
- (8) Certify eligibility of applicants and project activities;
- (9) Ensure compliance with federal requirements by all subrecipients;
- (10) Monitor local project activity;
- (11) Oversee project audit and closeout; and
- (12) File a National Transit Database report each year for itself and each subrecipient.

The NMDOT Transit and Rail Division was designated by the Governor as administrator and recipient pursuant to the provisions of 49 USC Sections 5303, 5304, 5309, 5310, 5311, and 5339. The Division is also the designated recipient of Section 5307 Governor’s Apportionment funds in the small urbanized areas. The legal authority for NMDOT’s ability to carry out capital,

administrative, and operating assistance; or technical assistance projects directly, by lease, contract or otherwise is set forth below.

NMDOT is authorized under New Mexico’s Public Mass Transportation Act Sections 67-3-67 to 67-3-70 NMSA 1978 (as amended by Sections 37, 37-8, and 39, Chapter 268, Laws of 1987), to enter into agreements with any bureau, department, or agency of the United States government dealing with or concerning the planning, design, acquisition, construction, maintenance or supervision of any public mass transportation program or system, or the operation thereof. Additionally, NMDOT may enter into agreements with any other bureau, agency or department of the state; any city/municipality, county, school district or other political entity of this state; or any individual, firm, partnership, corporation, association or other organization to carry out the foregoing.

Where projects involve a local share provided by a city/municipality, county, tribal government, firm, partnership, corporation, association or other organization, a description of the anticipated source(s) of local funding must be provided.

NMDOT must exercise adequate oversight to ensure that only eligible activities receive federal assistance and that subrecipients meet federal requirements. In administering the project, the Transit and Rail Division has the primary responsibility for the following:

- Provide for appropriate technical assistance for rural areas;
- Ensure that there is a fair and equitable distribution of program funds within the state, including funds to Indian tribes;
- Ensure a process whereby private transit operators are provided an opportunity to participate, including private providers of public transportation services, through service agreements with operators of public transportation services or as subrecipients;
- Expend funds for the support of intercity bus transportation to the extent required by law; and
- Provide for maximum feasible coordination of public transportation services assisted by FTA with transportation services assisted by other federal programs.

### **3. Metropolitan Planning Organizations (MPOs)**

Albuquerque, Santa Fe, Las Cruces, Farmington, Los Lunas, and Sunland Park are urbanized areas with designated MPOs. Each of the MPOs is a recipient of FTA Section 5303 - metropolitan transportation planning assistance – and is responsible for financial and planning coordination of FTA programs within its respective planning area. The MPOs are as follows:

#### **Farmington Metropolitan Planning Organization (FMPO)**

<http://www.farmingtonmpo.org/>

City of Farmington  
800 Municipal Drive  
Farmington, New Mexico 87401  
Phone: (505) 599-1466  
Fax: (505) 599-1299

**Mesilla Valley Metropolitan Planning Organization (MPO)**

<http://www.las-cruces.org/departments/community-development/mesilla-valley-metropolitan-planning-organization>

City of Las Cruces  
P. O. Box 20000  
Las Cruces, New Mexico 88004  
Phone: (575) 541-2066  
Fax: (575) 528-3155

**Mid-Region Metropolitan Planning Organization (MRMPO)**

<http://www.mrcog-nm.gov/>

Mid-Region Council of Governments  
809 Copper Avenue, N.W.  
Albuquerque, New Mexico 87102  
Phone: (505) 247-1750  
Fax (505) 247-1753

**Santa Fe Metropolitan Planning Organization (SFMPO)**

<http://santafempo.org/>

City of Santa Fe  
500 Market Street, Suite 200  
P. O. Box 909  
Santa Fe, New Mexico 87504-0909  
Phone: (505) 955-6614  
Fax: (505) 955-6655

**El Paso Metropolitan Planning Organization (EPMPO)**

<http://www.elpasompo.org/>

City of El Paso  
10767 Gateway Boulevard – Suite 605  
El Paso, Texas 79935  
Phone: (915) 591-9735  
Fax: (915) 591-7296

**4. Regional Transportation Planning Organizations (RTPOs)**

Rural communities outside the jurisdictions of the MPOs are included in Regional Transportation Planning Organizations (RTPOs). The RTPOs provide a planning process to meet federal and state regulations and guidelines for transportation planning in rural areas. Among their many duties, the RTPOs have the responsibility to provide a public forum and serve as an advisory board to prioritize the federal transit applications in their respective areas. For additional information, visit the RTPO website at <http://www.rtpnm.org>. The projects are then submitted for inclusion into the State Transportation Improvement Program (STIP) and become part of the NMDOT submission to FTA as the Program of Projects (POP). The contact information for New Mexico's RTPOs is as follows:



**Mid-Region Rural Transportation Planning Organization (MRRTPO)**

Mid-Region Council of Governments  
809 Copper Avenue, NW  
Albuquerque, New Mexico 87102  
Phone: (505) 247-1750  
Fax: (505) 247-1753

**Northeast Regional Transportation Planning Organization (NERTPO)**

Eastern Plains Council of Governments (Guadalupe, Harding, Quay, and Union Counties)  
418 North Main Street  
Clovis, New Mexico 88101  
Phone: (575) 762-4505  
Fax: (575) 762-7715

North Central New Mexico Economic Development District (Colfax, Mora, and San Miguel Counties)  
P.O. Box 5115  
Santa Fe, New Mexico 87502  
Phone: (505) 827-7313  
Fax: (505) 852-4835

**Northern Pueblos Regional Transportation Planning Organization (NPRTPO)**

North Central New Mexico Economic Development District  
P. O. Box 5115  
Santa Fe, New Mexico 87502  
Phone: (505) 827-7313  
Fax: (505) 827-7414

**Northwest Regional Transportation Planning Organization (NWRTPO)**

Northwest New Mexico Council of Governments  
409 South Second Street  
Gallup, New Mexico 87301  
Phone: (505) 722-4327,  
Fax: (505) 722-9211

**South Central Regional Transportation Planning Organization (SCRTPO)**

South Central Council of Governments  
600 Highway 195 – Suite D  
P. O. Box 1082  
Elephant Butte, New Mexico 87935-1082  
Phone: (575) 744-0039, Fax: (575) 744-0042

**Southeast Regional Transportation Planning Organization (SERTPO)**

Southeastern New Mexico Economic Development District/Council of Governments  
1600 SE Main, Suite D  
Roswell, New Mexico 88203  
Phone: (575) 624-6131  
Fax: (575) 624-6134

Eastern Plains Council of Governments  
418 North Main Street  
Clovis, NM 88101  
Phone: (575) 762-4505  
Fax: (575) 762-7715

**Southwest Regional Planning Organization (SWRTPO)**

Southwest Council of Governments  
P.O. Box 2157  
Silver City, New Mexico 88062  
Phone: (575) 388-1509  
Fax: (575) 388-1500

**5. Regional Transit Districts (RTD)**

In 2003, the New Mexico Legislature passed Senate Bill 34, “Regional Transit District Act” (RTDA), Sections 73-25-1 through 73-25-18, NMSA 1978. authorizing the creation of regional transit districts in the State of New Mexico and outlining the powers and duties of the RTDs.

In 2004, House Bill 231, “Regional Transit Gross Receipts Tax Imposition,” was passed allowing for member municipalities and counties of an RTD to seek an increase in Gross Receipts Tax (GRT) in those governmental units for regional transit district purposes.

In 2007, House Bill 1265, “County Regional Transit Gross Receipts,” was passed and repealed the municipal transit gross receipts tax and streamlined the manner in which an increase to GRT for regional transit district purposes can be implemented. If a majority of the voters in the RTD approve a GRT ordinance, the ordinance becomes effective in accordance with the provisions of the County Local Option Gross Receipts Taxes Act.

Four RTDs have been certified in New Mexico. A service plan must be approved by the respective RTD Board in order to apply for and receive operational funding administered by NMDOT.

**North Central Regional Transit District (NCRTD)** comprises the following governmental entities:

- Counties of Los Alamos, Taos, Rio Arriba and Santa Fe
- The cities of Española and Santa Fe
- Towns of Edgewood and Taos
- Pueblos of Pojoaque, Ohkay Owingeh, Nambé, San Ildefonso, Santa Clara, and Tesuque

NCRTD was certified by the New Mexico State Transportation Commission on September 16, 2004. Its Board approved a Service Plan on July 7, 2006. NCRTD started operating service October 2007. A 1/8th of 1 percent GRT ballot measure was approved by the voters on November 4, 2008. The GRT measure has a 15-year sunset and is set to expire June 30, 2024.

NCRTD provides free and premium fare bus transit connecting communities and pueblos throughout the counties of north central New Mexico including Los Alamos, Rio Arriba, Santa Fe, and Taos. Further expanding its reach, the signature RTD Blue Buses provide riders with connections to New Mexico Rail Runner, Santa Fe Trails, NMDOT Park and Ride, Los Alamos Atomic City Transit, Taos Chile Line and Red River Miner’s Transit. All of its buses are ADA accessible and equipped with bicycle racks. NCRTD operates 24 fixed routes.

Demand response service is provided in the City of Española and surrounding communities within a 15-mile radius of the Española park and ride lot and only within Rio Arriba County.

Contact: [www.ncrtd.org](http://www.ncrtd.org)

NCRTD, 1327 Riverside Drive, Española, New Mexico 87532

For route information: 866-206-0754 or (505) 629-4725

**Rio Metro Regional Transit District** comprises the following governmental entities:

- Counties of Sandoval, Bernalillo and Valencia
- Villages of Los Ranchos de Albuquerque, Bosque Farms, Los Lunas and Corrales
- Cities of Rio Rancho, Albuquerque and Belen
- Town of Bernalillo

Rio Metro RTD was certified by the New Mexico State Transportation Commission on March 29, 2005. Its service plan was approved by its Board July 16, 2008. A 1/8th of 1 percent GRT ballot measure was approved by the voters on November 4, 2008. There is no sunset provision for the ballot measure.

Rio Metro RTD provides over 1 million passenger trips and operates NM Rail Runner Express commuter train, commuter bus, fixed-route local service that connects to rail stations, demand response service in Valencia County and the City of Rio Rancho, and demand taxi service in Bernalillo County.

Contact: [www.riometro.org](http://www.riometro.org)

Rio Metro, 809 Copper Avenue, NW, Albuquerque, NM 87102

(505) 247-1750

**South Central Regional Transit District (SCRTD)** comprises the following governmental entities:

- Counties of Doña Ana
- Villages of Hatch and Williamsburg
- Cities of Sunland Park, Las Cruces, Truth or Consequences, and Elephant Butte
- Town of Mesilla

SCRTD was certified by the New Mexico State Transportation Commission on November 30, 2006. SCRTD's service plan was approved by its Board April 29, 2015. SCRTD began providing service in 2016. SCRTD operates 4 fixed-routes and 1 contract service route in Doña Ana County. SCRTD provides service connections to Roadrunner transit, El Paso County and Sun Metro as well as connections to the NM Gold Route Park & Ride service.

Contact: SCRTD, P.O. Box 7634, Las Cruces, NM 88006  
(575) 323-1620

[www.scrtd.org](http://www.scrtd.org)

**Southwest Regional Transit District (SWRTD)** comprises the following governmental entities:

- Counties of Luna, Hidalgo, and Grant
- Municipalities of Deming, Columbus, Silver City, and Lordsburg

SWRTD was certified by the New Mexico State Transportation Commission on February 20, 2007. The service plan was approved by the SWRTD Board on June 16, 2008.

SWRTD provides service via Corre Caminos Transit. Corre Caminos Transit operates a local bus route in Silver City, as well as paratransit service. Also three intercity bus routes operate out of Silver City: two express routes providing nonstop service to Lordsburg and Deming, and one shorter route providing service to Hurley and intermediate points.

Contact: SWRTD

1313 North Country Club Road, PO Box 1078, Deming, NM 88031  
(575) 494-3384

## **6. Statewide Transportation Improvement Program (STIP)**

NMDOT's Statewide Transportation Improvement Program (STIP) is the State's four-year multi-modal transportation preservation and capital improvement program. It is cooperatively and/or consultatively planned, comprehensive in its scope through the innovative use of Federal and State resources, fiscally constrained and attempts to address the multimodal transportation needs of New Mexico's transportation customers. This transportation preservation and capital improvement program identifies multi-modal transportation projects that use federal, state, state capital outlay and local government transportation funds. It includes projects of regional significance (projects with high public interest or air quality impacts) and projects in the National Parks, National Forests and Tribal Lands.

The STIP includes the Transportation Improvement Program (TIP) from the MPOs. The State of New Mexico's STIP is updated every two years in accordance with federal requirements, but can be amended on a quarterly basis in accordance with NMDOT STIP protocols and procedures. This program, in its final form, meets the requirements of Moving Ahead for Progress in the 21st Century (MAP-21), the current law that provides federal funds for transportation projects. This act was officially signed into law by President Obama on July 6, 2012.

The STIP is a product of the transportation programs planning process. The final product becomes a project scheduling and funding document. The projects are identified through various transportation management systems and planning processes involving local and regional governments, MPOs, RTPOs, other state and transportation agencies, and the public. Through

the STIP, NMDOT allocates resources to those projects assigned the highest priority through these planning and programming processes.

Transit and Rail Division-related projects in the STIP reflect current and projected projects based on actual and estimated funds from the FTA. Programs include: Enhanced Mobility for Seniors and Individuals with Disabilities (49 USC 5310), Formula Grants for Rural Areas (49 USC 5311), Rural Transit Assistance Program (RTAP, 49 USC 5311(b)(3)) State Administration (49 USC 5310 and 5311), State Planning and Research (49 USC 5304), Metropolitan Planning (49 USC 5303), Urbanized Area Formula Program (49 USC 5307), Intercity Bus Program (49 USC 5311(f)), Bus and Bus Facilities Program (49 USC 5339), and Capital Investment Program (49 USC 5309), if applicable.

## **7. Transportation Improvement Program (TIP)**

The Transportation Improvement Program (TIP) is a planning document that describes how federal transportation funds will be used in MPO areas. The TIP covers a period of six (6) years and lists, in detail, all transportation projects that will receive federal transportation funds within that timeframe.

## **8. Regional Transportation Improvement Program Recommendations (RTIPR)**

The RTIPR is a set of prioritized recommended projects developed within the RTPO planning process. The projects are selected for funding, and inclusion in the STIP, by NMDOT in consultation with RTPO members.

## **9. Coordinated Public Transit – Human Services Transportation Plan**

FTA requires maximum feasible coordination with transportation service assisted from other federal sources. All applicants must document coordination efforts in grant applications. Section 5310 projects must be derived from a locally developed public transit-human services transportation coordinated plan. The plans must address the following elements:

- An assessment of available services that identifies current transportation providers (public, private and nonprofit);
- An assessment of transportation needs of individuals to be served with the funding sought, that is, individuals with disabilities, older adults and people with low incomes;
- Strategies, activities and/or projects to address the identified gaps between current services and needs, as well as opportunities to improve efficiencies in service delivery;
- Priorities for implementation based on resources (from multiple program sources), time and feasibility for implementing specific strategies and/or activities identified.

Section 5311 providers must participate in the development of these plans.

As the statewide designated recipient of Section 5310 funds, NMDOT's Transit and Rail Division coordinates with transit and human services transportation providers, RTPOs, MPOs and the general public to develop these plans. The main purpose of this plan is to analyze the transit services currently available in the plan area and makes strategy recommendations for

transit program and mobility coordination. The plan identifies the transportation needs of individuals with disabilities, seniors and people with low incomes; provides strategies for meeting those local needs; and prioritizes transportation services for funding and implementation. The Transit and Rail Division has developed six Coordination Plans based on the State's RTPO boundaries. Where MPO and RTPO boundaries fall within one another, the Plan was completed for the MPO, as well as the RTPO. The Mid-Region MPO has developed the Coordination Plan for its four-county area. The seven Coordination Plans for New Mexico are:

- Northern Pueblos Regional Transportation Planning Organization/Santa Fe Metropolitan Planning Organization Coordination Plan
- Northeast Regional Transportation Planning Organization Coordination Plan
- Northwest Regional Transportation Planning Organization/Farmington Metropolitan Planning Organization Coordination Plan
- South Central Regional Transportation Planning Organization/Las Cruces Metropolitan Planning Organization/ El Paso Metropolitan Planning Organization Coordination Plan
- Southeast Regional Transportation Planning Organization Coordination Plan
- Southwest Regional Transportation Planning Organization Coordination Plan
- Mid-Region Council of Governments Coordination Plan (developed its own)

The Coordination Plans are located electronically at [http://dot.state.nm.us/content/nmdot/en/Transit\\_Rail.html](http://dot.state.nm.us/content/nmdot/en/Transit_Rail.html)

## **B. Overview of Transit Funding Programs**

### **1. Section 5303 – Metropolitan Planning Program and Section 5304 – State Planning and Research Program**

The Metropolitan Planning Program (MPP) provides FTA financial assistance to help urbanized areas (UZAs) plan for the development, improvement, and effective management of their multimodal transportation systems. MPP funds are available to carry out the metropolitan transportation planning process and meet the transportation planning requirements of the joint Federal Transit Administration (FTA)/Federal Highway Administration (FHWA) planning regulations. MPP grants are available to assist with: preparing transportation plans and programs; planning, engineering, designing and evaluating a public transportation project; and conducting technical studies related to public transportation. In carrying out the metropolitan transportation planning process, the MPO, the State and public transportation operator(s) within the respective MPO planning area cooperatively determine their mutual responsibilities. NMDOT's Transit and Rail Division is the designated recipient for MPP funds. NMDOT provides Metropolitan Transportation funds annually to five MPOs to support metropolitan planning projects.

The State Planning and Research Program (SPRP) provides FTA financial assistance to States for statewide transportation planning and other technical assistance activities including supplementing the technical assistance program provided through MPP; planning support for non-urbanized areas; training and educational programs; and human resource programs. The NMDOT Transit and Rail Division is the designated recipient for SPRP funds. The Division uses the funds to conduct rural transportation planning studies directly or to award grants for rural transportation planning projects.

## **2. Section 5307 - Urbanized Area Formula Program**

This program makes federal resources available for transit capital and operating assistance in urbanized areas and for transportation-related planning. An urbanized area is an incorporated area with a population of 50,000 or more that is designated as such by the U.S. Department of Commerce, Bureau of the Census.

Section 5307 funds constitute a core investment in the enhancement and revitalization of public transportation systems in the nation's urbanized areas, which depend on public transportation to improve mobility and reduce congestion.

Eligible purposes include operations, planning, engineering design and evaluation of transit projects, and other technical transportation-related studies; capital investments in bus and bus-related activities such as replacement of buses, overhaul of buses, rebuilding of buses, crime prevention, security equipment and construction of maintenance and passenger facilities; capital investments in new and existing fixed guideway systems, including rolling stock, overhaul and rebuilding of vehicles, track, signals and communications; and computer hardware and software. All preventive maintenance and some Americans with Disabilities Act (ADA) complementary paratransit service costs are considered capital costs.

NMDOT is the designated recipient for urbanized areas with populations of less than 200,000. NMDOT allocates the funds to small urbanized areas and enters into supplemental agreements with the recipients that allow them to apply directly to FTA for the funds. The direct recipients of Section 5307 funds are the cities of Farmington, Las Cruces, Santa Fe, and Los Lunas (Rio Metro RTD).

For urbanized areas with populations of 200,000 and over, funds are apportioned and flow directly to co-designated recipients selected locally to apply for and receive federal funds (City of Albuquerque and Rio Metro RTD). Operating assistance is an eligible expense only for public transportation operators that operate 100 or fewer buses in peak fixed route (Rio Metro RTD up to a variable percentage published by the FTA each year). Furthermore, at least one percent of the funding apportioned to each area must be used for security, and an additional one percent must be used for transit enhancement activities such as historic preservation, landscaping, public art, pedestrian access, bicycle access and enhanced access for individuals with disabilities.

## **3. Section 5309 - Bus and Bus Facilities Program**

The Bus and Bus Facilities Program (Section 5309) was a discretionary grant program for bus transit projects. This program was repealed under MAP-21 and replaced with the Section 5339 Bus and Bus Facilities Formula Program.

FTA allocates discretionary funding under this program to proposals solicited through several notices of funding availability (NOFAs). In the recent past, these included the State of Good Repair Initiative, the Bus Livability Initiative and the Veterans Transportation and Community Living Initiative.

Funds awarded in response to these NOFAs are available for obligation until they lapse, and are subject to the program terms and requirements at the time of allocation.

#### **4. Section 5310 – Enhanced Mobility of Seniors and Individuals with Disabilities Program**

Through the Section 5310 Program, the Transit and Rail Division provides grants to non-profit corporations and associations, and public bodies approved by the state to enhance mobility of seniors, and individuals with disabilities. Public bodies which certify to the Governor that no non-profit corporation or association is readily available in an area to provide transit service may be eligible. The specific purpose of Section 5310 is to provide transportation services which meet the special needs of seniors and persons with disabilities for who mass transportation services are unavailable, insufficient, or inappropriate.

Funds will be used to purchase vehicles and related capital equipment. The State’s Section 5310 Program of Projects (POP) is included in the STIP that is submitted to the federal funding agencies annually. Where applicable, the projects are included in a TIP.

The goal of the Section 5310 Program is to enhance coordination of federally-assisted programs and services in order to encourage the most efficient use of federal resources and achieve the national goal of improved mobility of seniors and individuals with disabilities. All selected projects must be consistent with the Coordinated Public Transit - Human Services Transportation Plans in the respective RTPO or MPO area. See section II.A.9 of this document for more information.

#### **5. Section 5311 – Formula Grants for Rural Areas Program**

Through the Section 5311 Program, the Transit and Rail Division provides administrative, operating, and capital assistance for public transportation projects in rural areas. The program is designed to (1) help meet the transportation needs of transit-dependent people and to enhance access to health care, shopping, education, employment, public services, and recreation; (2) assist in the maintenance, development, improvement and use of public transportation systems; (3) encourage and facilitate the most efficient use of all federal funds used to provide passenger transportation in non-urbanized areas through the coordination of programs and services; (4) assist in the development and support of intercity bus transportation; and (5) provide for the participation of private transportation providers in non-urbanized transportation to the maximum extent feasible. The State’s Section 5311 Program of Projects (POP) is included in the STIP that is submitted to the federal funding agencies annually.

#### **6. Section 5311 (f) - Intercity Bus Program**

Section 5311(f) requires each state to expend at least 15 percent of its annual Section 5311 apportionment “to carry out a program to develop and support intercity bus transportation.” The requirement to spend at least 15 percent applies only to the amount of FTA’s annual apportionment of Section 5311 funds to the state; it does not apply to any funds the state subsequently transfers to its Section 5311 program from another program.

NMDOT meets this requirement by funding intercity bus service of its NMDOT Park and Ride intercity bus service, as well as the intercity bus services of rural subrecipients that connect cities in New Mexico to the national intercity bus network.



## **7. Section 5311(b)(3) - Rural Transit Assistance Program (RTAP)**

Section 5311(b)(3) authorizes the Secretary “to make grants and contracts for transportation research, technical assistance, training and related support services in non-urbanized areas.” RTAP provides a source of funding to assist in the design and implementation of training and technical assistance projects and other support services tailored to meet the specific needs of transit operators in non-urbanized areas. RTAP has both state and national program components. The state program provides an annual allocation to each state to develop and implement training and technical assistance programs in conjunction with the state’s administration of the Section 5311 formula assistance program. The national program provides for the development of information and materials for use by local operators and state administering agencies, and supports research and technical assistance projects of national interest.

## **8. Section 5339 - Bus and Bus Facilities Formula Program**

The Section 5339 Bus and Bus Facilities Program is a formula grant program that provides funding to states and UZAs for bus-related capital projects. This program was established under MAP-21, which concurrently repealed the Section 5309 Bus and Bus Facilities discretionary grant program.

Under the Section 5339 Bus and Bus Facilities formula program, a portion of the funds are allocated through an initial national distribution to states. The initial distribution to states is utilized as capital for the rural transit Section 5311 program subrecipients.

The remaining funds are apportioned consistent with the formula under 5336 (other than subsection (b)) to states and UZAs on the basis of population, vehicle revenue miles, and passenger miles. The Section 5339 funds are allocated by the State to the small urban areas utilizing the same formula FTA utilizes to distribute Section 5307 funds to the small urbanized areas. This method has been vetted and accepted by the direct recipients in each small urbanized area.

States are responsible for administering the funds apportioned to small UZAs, which includes applying directly to FTA for the funds. NMDOT suballocates the funds to small urbanized areas that allow them to apply directly to FTA for the funds. The direct recipients of Section 5339 funds are the cities of Farmington, Las Cruces, Santa Fe, and Los Lunas (Rio Metro RTD).

The Transit and Rail Division may transfer funds apportioned under the national distribution to supplement amounts apportioned under the Rural Area (Section 5311) or Urbanized Areas Formula (5307) programs. However, the law does not allow Section 5339 funds apportioned pursuant to the Section 5336 formula to be transferred to the Section 5307 or 5311 programs.

## C. Goals and Objectives

### 1. New Mexico Department of Transportation Vision and Mission Statement and Values

Multi-Modal Transportation choices invigorate the economy and connect people in small towns and cities and facilitate transportation of goods and people to other states and nations.

Vision Statement: Set the standard for a safe, reliable and efficient transportation system.

Mission Statement: Provide a safe and efficient transportation system for the traveling public, while promoting economic development and preserving the environment of New Mexico.

Values: Safety, Accountability, Customer Service, Integrity, Team Work, and Communication

The Transit and Rail Division supports NMDOT's mission and goals by developing transit as a viable transportation choice for all residents of and visitors to New Mexico by working to:

- a. Provide access and mobility to all segments of the population, especially the transit dependent;
- b. Assist our customers in effectively and efficiently providing transportation options;
- c. Promote public transportation education to the public, elected officials and partners;
- d. Enhance service quality within the State;
- e. Create a statewide transportation network;
- f. Ensure safe and affordable transit service;
- g. Establish Regional Transit Districts;
- h. Develop staff that greatly enhances the professionalism of all transportation providers in the State; and
- i. Expand funding opportunities for public transportation and effectively manage, leverage, and oversee the use of those funds.

### 2. Program Objectives

#### a. Section 5310 – Enhanced Mobility of Seniors and Individuals with Disabilities Program

- (1) Ensure that seniors and individuals with disabilities have the same rights as all people to utilize transportation facilities and services.
- (2) Special efforts shall be made in the planning and design of transportation facilities and services to assure seniors and individuals with disabilities the availability of transportation which they can effectively utilize.
- (3) Continue to provide for the special needs of seniors and individuals with disabilities for which transportation services are unavailable, insufficient, or inappropriate.

#### b. Section 5311 – Formula Grants for Rural Areas Program

- (1) Enhance access of people in non-urbanized areas to health care, shopping, education, employment, public services, and recreation.

- (2) Assist in the maintenance, development, improvement, and use of public transportation systems in rural and small urban areas.
- (3) Maintain needed intercity public transportation services through assistance to intercity transit operators who serve residents of non-urbanized areas.

**c. Section 5311 (b)(3) Rural Transit Assistance Program (RTAP)**

- (1) Promote the safe and effective delivery of public transportation in non-urbanized areas and make the most efficient use of public and private resources.
- (2) Foster the development of state and local capacity of addressing the training and technical assistance needs of the rural/small urban transportation community.
- (3) Improve the quality of information and technical assistance available through the development of training and technical assistance resource materials.
- (4) Facilitate peer-to-peer self-help through the development of local networks of transit professionals.
- (5) Support the coordination of public and private specialized human service transportation services.
- (6) Build a national database of the non-urbanized segment of the public transportation industry.

**National RTAP:**

The National RTAP Program brings practical training to the place where the rubber hits the road. Since its inception, National RTAP has developed and distributed training materials, provided technical assistance, generated reports, published best practices, granted scholarships, conducted research and offered peer assistance with the goal of improved mobility for the millions of Americans living in communities with populations under 50,000.

Much of the work of National RTAP is overseen by the National RTAP Review Board. Its expertise in the field of rural transit helps guide and inform the development of National RTAP products and services. The Review Board is made up of both local transit operators and state departments of transportation personnel.

More National RTAP information and technical assistance can be found by calling its toll-free hotline (888-589-6821) or accessing its website at: <http://nationalrtap.org>

**D. Eligibility**

**1. Section 5310 – Enhanced Mobility of Seniors and Individuals with Disabilities Program**

All selected projects under this program must be consistent with the Coordinated Public Transit - Human Services Transportation Plans in the respective RTPO or MPO area. See section II.A.9 of this document for more information.

There are three categories of eligible subrecipients of Section 5310 funds:

- a. Private non-profit organizations. A non-profit organization is a corporation or association determined by the Secretary of the Treasury to be an organization described by 26 USC §501(c) which is exempt from taxation under 26 USC §501(a), or one which has been determined under state law to be non-profit and for which the designated state agency has received documentation certifying the status of the non-profit organization.
- b. Public entities that certify to the Governor that no non-profit corporations or associations are readily available in an area to provide the service.
- c. Public entities approved by the state to coordinate services for seniors and individuals with disabilities.

Local public bodies eligible to apply for Section 5310 funds as coordinators of services for seniors and individuals with disabilities are those designated by the State to coordinate human service activities in a particular area. Examples of such eligible public bodies are a county agency on aging or a public transit provider that the State has identified as the lead agency to coordinate transportation service funded by multiple federal or state human service programs.

Subrecipients must have adequate governance, documented policies and procedures, an employee training and development program, a maintenance program, and a safety and security plan.

## **2. Section 5311 – Formula Grants for Rural Areas Program**

Eligible recipients or subrecipients include state agencies, local public bodies and agencies thereof, private non-profit organizations and operators of public transportation services. The definition of local governmental bodies includes Indian tribes. Eligible non-profit organizations may also serve tribal transportation needs. Private for-profit operators of transit services participate in the program as third-party contractors for subrecipients, rather than as subrecipients.

Subrecipients must have adequate governance, documented policies and procedures, an employee training and development program, a maintenance program, a safety and security plan, and a marketing program.

## **3. Section 5311(b)(3) – Rural Transit Assistance Program (RTAP)**

The NMDOT Transit and Rail Division is the only eligible grant applicant for RTAP funds. The Transit and Rail Division's activities related to these funds are training, technical assistance, research and related support services. Local agencies may submit a request for RTAP scholarships used for travel and training after line item amounts are depleted for out-of-state per diem. Depending on the amount of funding available, these scholarships may be limited in number and/or amount.

## **E. Funding Requirements-Federal/Local Match Ratio**

### **1. Section 5310 – Enhanced Mobility of Seniors and Individuals with Disabilities Program**

The federal share of eligible capital costs may not exceed 80 percent of the net cost of the program. The local share of eligible capital costs shall be no less than 20 percent of the net cost of the program. All of the local share must be provided from sources other than federal funds except where specific legislative language of a federal program permits its funds to be used to match other federal funds.

Some examples of non-federal sources of local match which may be used for any or the entire local share include: state or local appropriations; dedicated tax revenues; private donations; and net income generated from advertising and concessions. NMDOT does not allow in-kind contributions to be used as local match.

Applicants must list a budget and the source of funding in the application and submit a board resolution supporting the application and committing the local resources.

### **2. Section 5311 – Formula Grants for Rural Areas Program**

Capital and Project Administration: The federal share of eligible capital and project administrative expenses may not exceed 80 percent of the net cost of the project.

Operating: The federal share shall not exceed 50 percent of the net operating deficit included in the project. Of the remainder of the deficit, 50 percent must be financed from sources other than Federal funds or revenues of the system.

All of the local share must be provided from sources other than federal funds except where specific legislative language of a federal program permits its funds to be used to match other federal funds.

Some examples of non-federal sources of local match which may be used for any or the entire local share include: state or local appropriations; dedicated tax revenues; private donations; and net income generated from advertising and concessions. NMDOT does not allow in-kind contributions to be used as local match.

Applicants must list a budget and the source of funding in the application and submit a board resolution supporting the application and committing the local resources.

### **3. Section 5311 (b)(3) – Rural Transit Assistance Program (RTAP)**

There is no federal requirement for a local match for RTAP funds.

## **F. Program Complaint Procedures**

### **1. Local Complaint Procedures**

The State requires all local transportation providers to have complaint procedures in place that incorporate due process. As an example, NMDOT provides the following recommendations:

- a) A detailed description of the procedures for filing a complaint;
- b) Prompt and equitable resolution;
- c) An opportunity for the complainant to provide additional information;
- d) Notification to complainant of whom to contact regarding the status of the complaint;
- e) An appeal procedure.

### **2. State Complaint Procedures**

A complaint submitted to the NMDOT Transit and Rail Division must be in writing, detail the exact nature of the complaint and be accompanied by sufficient evidence to enable the Transit Bureau Manager to make a preliminary determination as to whether probable cause exists that a violation has taken place. The Transit Bureau Manager may undertake any investigation process deemed necessary. No more than 30 days will be allowed for a response to a validated complaint. If further action is desired, the complainant may file directly with the FTA. The Transit and Rail Division maintains a log of complaints and keeps the log on file for at least five years. Send complaints to:

NMDOT – Transit and Rail Division  
Transit Bureau Manager  
PO Box 1149  
Santa Fe, NM 87504-1149  
RE: Complaint

### III. STATE PROGRAM MANAGEMENT

#### A. Minimum Requirements for Potential Applicants

##### 1. Section 5310 – Enhanced Mobility of Seniors and Individuals with Disabilities Program

- a. To be eligible to receive Section 5310 funds, Applicants must be:
  1. Private non-profit organizations. A non-profit organization is a corporation or association determined by the Secretary of the Treasury to be an organization described by 26 USC §501(c) which is exempt from taxation under 26 USC §501(a), or one which has been determined under state law to be non-profit and for which the designated state agency has received documentation certifying the status of the non-profit organization.
  2. Public entities that certify to the Governor that no non-profit corporations or associations are readily available in an area to provide the service.
  3. Public entities approved by the state to coordinate services for seniors and individuals with disabilities.
- b. The applicant must show an established need for the project.
- c. The applicant must demonstrate the ability to work with seniors and/or individuals with disabilities.
- d. The applicant must demonstrate collaboration with other transit systems.
- e. The applicant must prove that matching funds are available for the approved capital purchase prior to vehicle delivery.
- f. The applicant must have good management, operational and accounting capabilities.
- g. The applicant must provide information to identify the service area, including the number of seniors and individuals with disabilities to be served by the program.
- h. All selected projects must be consistent with the Coordinated Public Transit - Human Services Transportation Plans in the respective RTPO or MPO area.
- i. The applicant must supply a current DUNS in order to apply for Federal Transit Administration funding. When applications are received, Transit staff validates the applicant's DUNS through the web link: <https://www.sam.gov/portal/SAM/>

##### 2. Section 5311 – Formula Grants for Rural Areas Program

- a. Eligible recipients or subrecipients of Section 5311 funding include state agencies, local public bodies and agencies thereof, private non-profit organizations, and operators of public transportation services. The definition of local governmental authority includes

Indian tribes. Eligible non-profit organizations may also serve tribal transportation needs. Private for-profit operators of transit services participate in the program as third-party contractors for eligible subrecipients, rather than as subrecipient. State agencies may further limit subrecipient’s eligibility requirements in order to comply with state laws or to further program goals.

- b. The proposed system must provide transportation service to the general public and must be a fixed route, route deviation or demand response system. The system must be equipped and available to serve the needs of seniors, semi-ambulatory, wheelchair users and other disabled and transit-dependent public. The applicant is subject to the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973, both of which address what the system must do to provide transportation to individuals with disabilities.
- c. The proposed system must display on its vehicles that the system is public transportation, along with its telephone number, and this must be visible from at least a distance of thirty (30) feet.
- d. The applicant must ensure that adequate funds are available to match Section 5311 funds and to provide for ongoing operations.
- e. Section 5311 applications must include the following in the yearly applications:
  - 1. Type of service provided. This includes if the request is for startup of new services, maintaining service at the current level or expanding the existing service. This also includes the applicant’s historical and projected data.
  - 2. Inventory of all vehicles, either funded by FTA or by other funds, which are used in the daily operation of the service.
  - 3. Project coordination with other transit services in the service area.
  - 4. Program justification, which explains in detail the need for this program. This includes the Agency’s mission statement, goals, and objectives for the program, and a copy of the Operations Profile.
  - 5. A list of any active lawsuits or complaints with regard to civil rights.
  - 6. Budget information for previous year, current year and the request for the application period.
  - 7. Affidavit of notice of intent to apply for federal funds.
  - 8. The applicant must supply a current DUNS in order to apply for Federal Transit Administration funding. (See <https://www.sam.gov/portal/SAM.>)



## **B. State’s FTA Grant Application Process, Timeline, and Program of Projects Development**

The State’s grant applications to FTA are prepared each year and submitted electronically via FTA’s electronic grant system for Sections 5305, 5310, 5311 and 5339. Once notification is received from FTA of New Mexico’s forthcoming year of program allocation and state approval of grant awards for the upcoming fiscal year, the State’s FTA grant application begins.

Cities, counties, tribal governments and other agencies which serve seniors and individuals with disabilities are notified of the beginning of the funding process through the RTPOs, MPOs and the Transit and Rail Division’s distribution list. The Transit and Rail Division also places notices in newspapers statewide to announce the beginning of the new funding cycle, and places a notice on its website at: [http://www.dot.state.nm.us/en/Transit\\_Rail.html](http://www.dot.state.nm.us/en/Transit_Rail.html)

The Transit and Rail Division has an established timeline (Appendix A) of tasks and responsibilities which it follows during the fiscal year to administer federal transit grants.

Sample applications are also attached in the Appendices for Sections 5310 (Appendix B), 5311 (Appendix C), as well as an Application Guide (Appendix F).

### **1. Section 5310 – Enhanced Mobility of Seniors and Individuals with Disabilities Program**

NMDOT is the designated recipient for administering the Section 5310 program statewide (e.g. rural, small urbanized or large urbanized). The funding is distributed to each geographic area based on the published FTA annual apportionment.

Since New Mexico has an updated Coordinated Public Transit – Human Services Transportation Plan, funds are allowed by FTA to be transferred between rural and small urban areas to the large urbanized area, but not from large urbanized area to the rural or small urban areas. If the need arises to transfer funds between small urban and rural areas, NMDOT reserves the right to transfer funds between the two geographic areas based on funding demand and needs. NMDOT tracks the award of funds by geographic area in its annual program of projects.

Section 5310 is reserved primarily for capital purchases (traditional 5310 projects). A small amount of Section 5310 is utilized for operating assistance.

As per FTA regulations, NMDOT reserves the right to utilize Section 5310 funds within the 10 percent limitation for administration, planning, and technical assistance.

The following describes the State of New Mexico’s grant application process as it relates to Section 5310:

- a. The Notification of Solicitation for Letters of Intent to apply for funds occurs approximately one year and five months prior to the federal fiscal year (FFY) in which the funds will be eligible to be expended. For example, the Notification of Solicitation for Letters of Intent to apply for funds for FFY 2018, which starts in October 2017, will be issued in May 2016. This date may vary, depending on when the annual federal allocation is made.

The Notification of Solicitation for Letters of Intent is sent to the various entities and the RTPO/MPO both in electronic and/or hardcopy form. The Notification of Solicitation is also published in newspapers statewide. The applicants' Letters of Intent to apply for funding are usually due to the Transit and Rail Division within 30 days of the distribution of the Solicitation of Notice. The Letter must specify the type of grant for which the applicant is applying, an entity contact person, and that person's phone number, mailing address, fax number and email address.

- b. After receiving Letters of Intent to apply, the Transit and Rail Division mails/e-mails application packets that include the formal application and instruction guide for the appropriate grant to the interested parties. The instructions include a deadline by which the completed application must be returned to the Transit and Rail Division. This action occurs typically in June/July; however, this can vary based upon timing of the annual federal allocation. The requests for application training must be made within one week of receipt of the application.
- c. Upon formal application submittal, the staff of the Transit and Rail Division reviews the application for eligibility and content. After this review, staff sends a status letter to the applicant regarding the status of the application:
  - If the application is incomplete or contains incorrect responses, a deadline is set for the applicant to furnish that information to the Transit and Rail Division. If the information is not forwarded by that date, the applicant will be found ineligible and will not be able to compete for that year's funds.
  - A letter of completion is sent to applicants who successfully complete the application without deficiencies.

This action occurs typically in July/August; however, this action can vary based on when the annual federal allocation is made.

- d. The applications and deficiency letters are sent to the appropriate RTPO and MPO, depending on the service area to be covered by the funds for which the applicant is applying, for evaluation/presentation of the application.
- e. Regional and Statewide Prioritization of Transit Applications. Each RTPO/MPO conducts a regional prioritization of the applications. See Section III.D for details. Every attempt will be made to fund eligible applicants. Financial restrictions may prohibit this practice as federal appropriations can vary. All recommended Section 5310 projects will be included in the RTIPR, TIP and/or STIP as needed.
- f. For the applicant projects recommended for funding, the Transit and Rail Division staff will prepare a Section 5310 Program of Projects (POP) and grant application package to be submitted electronically via FTA's electronic grant system.
- g. Certifications and Assurances for all FTA grants are attested to on a one time, once per year basis via FTA's electronic grant system and a hardcopy is kept on file.

- h. A Memorandum of Agreement (MOA) is offered to the approved applicants. The MOA is a contract between the subrecipient and NMDOT. The MOA defines how much funding will be received and for what purpose(s) the funding will be used. The MOA describes specifically the service the subrecipient provides. Use of funding or equipment for a service other than that described in the MOA without prior permission from the Transit and Rail Division is cause for termination of the contract. Termination means the funding and equipment will be redistributed to other applicants. By signing the MOA, the subrecipients agrees to comply with several terms and conditions imposed by the federal government and the State of New Mexico.
- i. All selected projects to subrecipients under this program must be consistent with the Coordinated Public Transit - Human Services Transportation Plans in the respective RTPO or MPO area. See Section II.A.9 of this document for more information.

## **2. Section 5311 – Formula Grants for Rural Areas Program**

Once the Transit and Rail Division receives the annual Section 5311 program allocation amount from FTA, staff determines the total amount of the Section 5311 allocation that will be available for administration, intercity bus and subrecipient distribution.

The Transit and Rail Division may utilize up to 10 percent of the New Mexico annual allocation to administer this program and provide technical assistance.

Fifteen percent of the federal allocation is dedicated for intercity bus projects. Funds for intercity services will be allocated by the Division as a set-aside, and information may be provided to the annual RTPO regional process, as needed.

The balance of the Section 5311 allocation is distributed to New Mexico's Section 5311 subrecipients. The subrecipients may apply for administrative, operating and capital monies under the Section 5311 program.

- a. The Notification of Solicitation for Letters of Intent to apply for funds occurs approximately one year and five months prior to the federal fiscal year (FFY) in which the funds will be eligible to be expended. For example, the Notification of Solicitation for Letters of Intent to apply for funds for FFY 2018, which begins October 2017, will be issued May 2016. This can vary based on when the annual federal allocation is made available.

The Notification of Solicitation for letters of intent is sent to the various entities and the RTPO/MPO both in electronic and/or hardcopy form. The Notification of Solicitation is also published in newspapers Statewide. The applicants' letters of intent to apply for funding are usually due to the Transit and Rail Division within 30 days of the distribution of the Solicitation Notice. The letter must specify the type of grant for which the applicant is applying, a contact person for the entity, and that person's phone number, mailing address, fax number and email address (if available).

- b. After receiving letters of intent to apply, the Transit and Rail Division mails/e-mails application packets that include the formal application and instruction guide for the

appropriate grant to the interested parties. The instructions include a deadline by which the completed application must be returned to the Transit and Rail Division. This typically occurs in June/July; however, this can vary based on when the annual federal allocation is made. Requests for application training must be made within one week of receipt of the application.

- c. Upon formal application submittal, the staff of the Transit and Rail Division reviews the application for eligibility and content, and sends a review letter to the applicant regarding the status of the application:
  - If the application is incomplete or contains incorrect responses, a deadline is set for the applicant to furnish that information to the Transit and Rail Division. If the information is not forwarded by that date, the applicant will be found ineligible and will not be able to compete for that year's funds.
  - A letter of completion is sent to applicants who successfully complete the application without deficiencies.

This occurs typically in July/August; however, this can vary based on when the annual federal allocation is made.

- d. The applications and deficiency letters are sent to the appropriate RTPO - or MPO if there is connectivity with the urban program - for evaluation/presentation of the application.
- e. Regional and Statewide Prioritization of Transit Applications. Each RTPO/MPO conducts a regional prioritization of the applications, as described in this Plan. See Section III.D for details.
- f. Every attempt will be made to fund eligible applicants. Financial restrictions may prohibit this practice as federal appropriations can vary. All recommended Section 5311 projects will be included in the RTIPR, TIP, and/or STIP as needed.
- g. For projects that are recommended for funding, the Transit and Rail Division staff will prepare a Section 5311 Program of Projects (POP) and grant application package which is submitted electronically FTA's electronic grant system.
- h. Certifications and Assurances for all FTA grants are attested to on a one-time, once per year basis via FTA's electronic grant system and a hardcopy is kept on file.
- i. Each subrecipient receives a Memorandum of Agreement (MOA) to be approved and signed by NMDOT's legal authority; the subrecipient's designated official; and NMDOT's Deputy Secretary. The MOA is a contract between the subrecipient and NMDOT. The MOA defines how much funding will be received and for what purpose(s) the funding will be used. The MOA describes specifically the service the subrecipient provides. Use of funding or equipment for a service other than that described in the MOA without prior permission from the Transit and Rail Division is cause for termination of

the contract. By signing the MOA, the subrecipient agrees to comply with all terms and conditions imposed by the federal government and the State of New Mexico.

### **3. Section 5339 – Bus and Bus Facilities Formula Program**

The Bus and Bus Facilities Program (Section 5339) replaced the Section 5309 Bus and Bus Facilities Discretionary Program.

Under the Section 5339 Bus and Bus Facilities formula program, a portion of the funds are allocated through an initial national distribution to states. The initial distribution to states is utilized as capital for the rural transit Section 5311 program subrecipients.

The remaining funds are apportioned consistent with the formula under 5336 (other than subsection (b)) to states and UZAs on the basis of population, vehicle revenue miles and passenger miles. The Section 5339 funds are allocated by the State to the small urban areas utilizing the same formula FTA utilizes to distribute Section 5307 funds to the small urbanized areas. This method has been vetted and accepted by the direct recipients in each small urbanized area.

The Transit and Rail Division may transfer funds apportioned under the national distribution to supplement amounts apportioned under the Rural Area (Section 5311) or Urbanized Areas Formula (5307) programs. However, the law does not allow Section 5339 funds apportioned pursuant to the Section 5336 formula to be transferred to the Section 5307 or 5311 programs.

States are responsible for administering the funds apportioned to small UZAs, which includes applying directly to FTA for the funds.

### **4. Section 5311(b)(3) – Rural Transit Assistance Program**

Upon notification by FTA of New Mexico's RTAP allocation, the Transit and Rail Division develops an annual program of projects. The Transit and Rail Division submits the RTAP program of projects in conjunction with the State's Section 5311 program application.

The Transit and Rail Division has broad discretion in selecting the best manner by which to provide assistance and implement projects under the State RTAP. The delivery mechanisms the Transit and Rail Division intends to use include:

- 1) Technical assistance and guidance by the Transit and Rail Division staff
- 2) Contracts with private consultants, universities, non-profit organizations, state transit associations or other organizations of operators
- 3) Support of peer-to-peer networks of individuals to provide assistance to each other
- 4) Interagency agreements with other state agencies, both within the state and in other states
- 5) Scholarships or tuition and expenses for individuals to attend training courses or workshops

## **C. Regional and Statewide Prioritization of Transit Applications**

NMDOT's Transit and Rail Division is the designated recipient of all Sections 5310 and 5311 funds. As such, the Transit and Rail Division is the accountable and responsible entity in the State of New Mexico to monitor and oversee implementation of federally funded transit programs and compliance with all FTA grants regulations from a planning, operational, safety and fiduciary perspective.

The RTPOs and MPOs shall provide public participation, as well as advisory regional prioritization of transit grant proposals which request funds for proposed services in their region.

If the amount of requested funds is greater than the federal funds available after preliminary budget recommendations are made by the Transit and Rail Division, a Statewide Prioritization of Transit Applications will be developed by the Transit and Rail Division after the RTPO/MPO Regional Prioritization process as described in the flowchart in section III.D.

In the spring of each year, the Transit and Rail Division will conduct a Statewide Transit Application Budget Recommendation meeting. Regional and Statewide prioritization of projects and recommended funding levels will be presented during the meeting.

### **1. Regional Prioritization of Transit Applications**

Building upon the Transit and Rail Division's oversight and regulatory compliance responsibilities, the RTPOs and MPOs shall play a key advisory role from a planning and public participation perspective in recommending a regional prioritization of transit applications.

The annual process for regional prioritization of transit is as follows:

- a. The RTPO/MPO will receive a complete copy of Sections 5310 and 5311 applications in their jurisdiction by early fall. The RTPO/MPO planner assigned to this task has the flexibility to decide how much of the application to distribute to his/her respective transit evaluation committee members. Enough of the application shall be distributed to allow the committee members to evaluate every application from a planning and regional priority perspective. The Applicant will present a presentation in front of the committee members. The Transit and Rail Division recommends that the following be provided to the committee members for review:
  - Sections I-VII and IX of the 5311 application
  - Sections I-VIII of the 5310 application
- b. Based on the application, the RTPO/MPO Committee or Board will prioritize each application. A one page scoring sheet will be provided to the RTPO/MPO with general items to prioritize. Each of the items should be prioritized as high, medium-high, medium or low by each of the committee members. Each committee member will then provide a final overall prioritization of the application of high, medium-high, medium or low. The RTPO/MPO Planner will then group the applications into overall priority categories of high/medium-high/medium/low. (See Appendix F: Application Guide)

Each RTPO/MPO shall conduct a public meeting, which the applicant is required to attend, in order to clarify the committee's questions and make a brief application presentation for funding to the public. The public meeting shall be conducted in the fall of the year prior to the start of the grant. Participation by each applicant is mandatory, and should consist of (1) a brief summary of the application to include any necessary clarifications to the application, and (2) responses to questions from the transit prioritization/evaluation committee. The applicant receives a copy of the scoring sheet and is aware of the criteria for which they will be evaluated. If the applicant does not attend the meeting, the application will receive a low score and could be made ineligible for increases in funding. The committee should be encouraged to attend the public meeting to pose questions regarding the application; however, a prioritization score can be submitted prior to the meeting based on the written application.

## **2. Statewide Prioritization of Transit Projects**

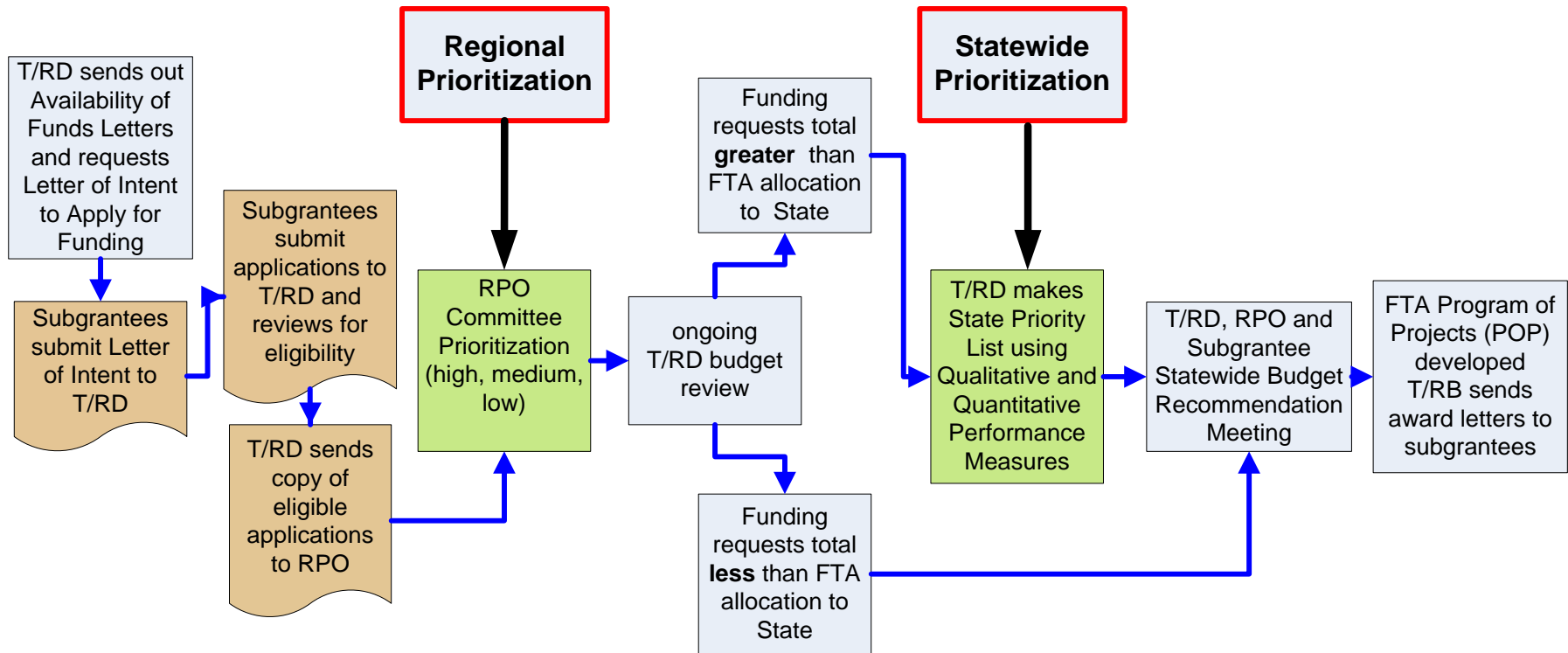
The annual Statewide Transit Application Budget Recommendation meeting by the Transit and Rail Division is held in the spring of each year; attendance is recommended but not required. The Applicant has the opportunity to participate via a conference call. The meeting discusses the application process, award amounts, and the process for applying to the upcoming grant, and any other topics of concern.

- a. For the Section 5310 grant program the Regional Prioritization ranking of high/medium-high/medium/low will be utilized as one measure to determine the level of funding that will be awarded.
- b. For the Section 5311 grant program, in addition to the Regional Prioritization ranking of high/medium-high/medium/low, the Section 5311 grant applications receive a statewide review/evaluation. The Transit and Rail Division assesses the budget requests and utilizes quantitative and qualitative performance measures to provide a Statewide Prioritization.

The general process and standards that the Transit and Rail Division will utilize are as follows:

1. Due to consistency and reliability of a steady funding source for transit programs to succeed, current transit service providers will be given priority for funding over new applicants.
2. Applicants that provide transit service will be given priority over applicants that do not provide transit service.
3. Applicants that utilize/request more total operating budget than administrative budget will be given priority over those applicants that have an imbalance of administrative funds in their proposed program.
4. Quantitative and standard performance measures of current transit providers will be assessed and placed into a funding distribution index. Budget recommendations will be made on past performance and proposals for improvement.

## New Mexico State Management Plan FTA Grant Process: From Application to Funding



**T/RD - NMDOT Transit and Rail Division**

**RPO - Regional Transportation Planning Organization**

**FTA - Federal Transit Administration**



## **D. Financial Management**

### **1. State Human Resources, Accounting, and Reporting Enterprises (SHARE)**

The Transit and Rail Division uses the State financial management system, SHARE, and internal worksheets to track and account for FTA funds. The Division performs monthly reconciliations between the balances in FTA’s electronic grants system and SHARE.

### **2. Grant Audit and Closeout**

The Transit and Rail Division closes out grants with subrecipients within 90 days of completion of project activity. The Division performs a final reconciliation of the SHARE grant data, internal worksheets and FTA’s electronic grant system. The Division makes any needed final adjustments and then submits the final reimbursement request in FTA’s electronic payment system (ECHO). If needed, the Division updates the POP, budget worksheets and fixed asset listing for submission to FTA’s electronic grant system and revises the budget in FTA’s electronic grant system. The Division requests grant closeout from FTA within 90 days of completion of all project activities statewide.

### **3. Subrecipient Oversight**

The Transit and Rail Division ensures that Section 5311 subrecipients have the financial management systems to receive and track FTA funds. The Division obtains the most recent audit with grant applications, provides a worksheets for subrecipients to use for monthly reimbursement requests, follow up to ensure findings are addressed, and reviews back-up documentation for a sample of reimbursement requests during biennial site visits.

For Section 5310 capital purchases, subrecipients do not receive any cash so no oversight is necessary.

## **E. Project Monitoring and On-Site Reviews**

An on-site review is conducted with each Section 5310 and 5311 subrecipient biennially. The purpose of the review is to identify the strengths and weaknesses of a transit system.

The Transit and Rail Division staff is responsible for direct oversight and technical assistance of subrecipients on a continuing basis. On-site technical reviews ensure that subrecipients are in compliance with state and federal regulations, and are adhering to the terms outlined in the MOA.

For 5310 subrecipients, these visits also include:

- Transportation Policies and Procedures
- Federal Requirements
- Driver Training
- Vehicle Inspection and Maintenance
- Safety

For Section 5311 subrecipients, these visits also include:

- Governance, Leadership and Administration
- Federal Requirements
- Human Resource Management
- Employee Training and Development
- Service Design and Delivery
- Passenger Relations and Standards
- ADA Complementary Paratransit Service
- Marketing
- Transit Vehicles and Facilities
- Bus Inspection and Maintenance
- Scheduling, Dispatching and Communications
- Transit Safety and Security
- Emergency Preparedness

Subrecipients must respond to deficiencies noted in final reports within the stated timeframes.

The review is designed to be used as one part of a technical assistance effort. That is, after completion of a review, technical assistance is provided to the service provider to improve deficient areas and to document exemplary performance to share with other transit systems.

## **F. Drug and Alcohol Testing Policy and Procedures**

FTA requires the testing of employees who perform safety sensitive functions, as defined in 49 CFR Part 655. The actual drug and alcohol testing procedures are outlined in 49 CFR Part 40. The following six types of testing are required:

1. Pre-employment
2. Random
3. Post-accident
4. Reasonable suspicion
5. Return to duty
6. Follow-up

Safety-sensitive employees of all subrecipients are tested for marijuana, cocaine, opiates, phencyclidine and amphetamines before performing safety-sensitive functions. Safety sensitive employees of all subrecipients are also tested randomly for marijuana, cocaine, opiates, phencyclidine, amphetamines, and alcohol. Currently, random selections are made on a quarterly basis and employees tested at a minimum rate of 25 percent of the safety sensitive pool annually for drugs and 10 percent annually for alcohol.

The Transit and Rail Division provides technical assistance in the area of Drug and Alcohol policy development to subrecipients, including training provided through contractors. A Drug and Alcohol annual review of each subrecipient's program is conducted to ensure continued

compliance. Additionally, a review of the testing site (laboratory) ensures compliance with federal regulations.

The FTA requires annual drug and alcohol program Management Information System (MIS) reports from subrecipients and their contractors with safety-sensitive employees. The reports cover the previous calendar year. The Division reviews and approves the reports before submitting them to the FTA by March 15.

## **G. FTA Grant Reports**

### **1. Annual Program of Projects Status Report**

At least annually for Section 5310 and 5311 grants, the Transit and Rail Division submits program of projects status reports. The reports include:

- a) Updated programs of projects that contain active projects reflecting revised project descriptions, changes in projects from one category to another and adjustments within budget categories
- b) Budget revisions that reflect changes in line item budgets
- c) Significant civil rights compliance issues, such as Title VI, Equal Employment Opportunity (EEO), or Disadvantaged Business Enterprise (DBE) complaints against the state or subrecipients
- d) Notable accomplishments or problems involving subrecipients

### **2. Federal Financial Reports and Milestone Progress Reports**

The Transit and Rail Division, on a quarterly basis, provides a Federal Financial Report (FFR) for each active/open grant to the FTA Region VI Office electronically via the FTA's electronic grant system.

### **3. Section 5310 Program Measure Reports**

The Transit and Rail Division submits program measures to the FTA annually.

For each subrecipient of Section 5310 funds, the Transit and Rail Division reports the subrecipient's address, names of counties served, estimated one way trips and number of individuals eligible to be served.

### **4. Disadvantaged Business Enterprise (DBE) Annual Goal and Semi-Annual Report**

Every three years, NMDOT submits an overall goal for the utilization of DBEs. The goal covers the contracting opportunities of the state and its subrecipients.

NMDOT submits a Uniform Report of DBE Awards or Commitments and Payments by June 1 and December 1. The June 1 report covers the period October 1 through March 31. The December 1

report covers the period April 1 through September 30. The report includes the contracting activities of the state and its subrecipients. NMDOT notifies each subrecipient to submit a semi-annual report of its DBE awards or commitments and payments for inclusion in the statewide uniform report.

## **5. Rural National Transit Database (NTD)**

The National Transit Database (NTD) is the FTA's primary national database for statistics on the transit industry. The NTD was established by Congress to be the Nation's primary source for information and statistics on the transit systems of the United States. Recipients of Section 5311 grants are required by statute to submit data to the NTD. The legislative requirement for the NTD is found in Title 49 USC 5335(a).

The Transit and Rail Division collects all required data from all of the subrecipients and submits the report to NTD.

## **H. Procurement**

The procurement procedures used by the Transit and Rail Division and its subrecipients comply with applicable State law (Procurement Code Chapter 13), NMDOT procurement manual, federal requirements contained in FTA Circular 4220.1F (Third Party Contracting Guidance), Buy America (49 CFR Part 661), pre-award and post-delivery audits (49 CFR Part 663), bus testing (49 CFR Part 665), suspension/debarment (2 CFR Part 180), and restrictions on lobbying (49 CFR Part 20).

For direct procurements, the Division develops procurement documents and includes all federally required clauses and certifications. The NMDOT Procurement Section reviews procurements for compliance with State requirements. The State General Services Administration advertises and awards procurements.

The Transit and Rail Division provides subrecipients with model procurement procedures that address all FTA requirements. The Division monitors its subrecipients' capital purchases through pre-award review and approval of procurement documents. The Transit and Rail Division provides its subrecipients with procedures for procuring buses, vans and transit-related equipment.

Guidelines for capital expenditures are defined in the application. For municipalities, public bodies and tribes, reimbursement of an approved procurement may be directly with the vendor or directly with the local entity for the federal portion of the funds.

For any private, non-profit organizations that are subrecipients utilizing the New Mexico Transit Vehicle Price Agreements, NMDOT will pay the vendor directly for the federal share of the purchase price of the vehicle(s). The remaining local share of the purchase price will be remitted to NMDOT, prior to vehicle delivery. NMDOT will submit the federal and local share payments directly to the vendor.

Private, non-profit organizations that are subrecipients and choose to procure vehicles independently will be responsible for the total payment to the vendor at the time of delivery upon

approval of the procurement from NMDOT. The reimbursement request of the approved procurement for the federal share will be submitted by the subrecipient to NMDOT.

### I. Vehicle Ownership and Title

At the time the Transit and Rail Division pays the vendor or subrecipient for a vehicle, a Manufacturer’s Statement/Certificate of Origin (MS/CO) is sent by the vendor to the subrecipient in order to register the vehicle. An Odometer Mileage Statement and Application for Certificate of Title are provided at the time of vehicle delivery by the vendor.

Each vehicle will be titled to the subrecipient to ensure the ability to obtain insurance. The NMDOT must be listed as the lien holder on the title for **all** vehicles purchased with funds administered by NMDOT. The NMDOT will remain the lien holder on the title to any vehicles purchased with FTA funds until its final disposition. Under normal circumstances, NMDOT will *only consider* disposition of a vehicle in any category that has met the minimum useful life benchmark (ULB) **either** years or miles (which ever happens first) **and** if vehicles are no longer in a state of good repair **or** can no longer be maintained to a state of good repair within reasonable measures, according to the following schedule:

| Category   | Typical Characteristics |                             | Minimum Life |         |
|--|-------------------------|-----------------------------|--------------|---------|
|  | Approx. GVW             | Average Cost                | Years        | Miles   |
| Heavy-Duty Large Bus                             | 33,000 to 40,000        | \$325,000 to over \$600,000 | 15           | 625,000 |
| Heavy-Duty Small Bus                             | 26,000 to 33,000        | \$200,000 to \$325,000      | 13           | 455,000 |
| Medium-Duty and Purpose-Built Bus                | 16,000 to 26,000        | \$75,000 to \$175,000       | 10           | 285,000 |
| Light-Duty Mid-Sized Bus                         | 10,000 to 16,000        | \$50,000 to \$65,000        | 8            | 240,000 |
| Light-Duty Small Bus, Cutaways, and Modified Van | 6,000 to 14,000         | \$30,000 to \$40,000        | 7            | 175,000 |

However, meeting the useful life minimum requirements, in years or miles will not guarantee release and disposal of a vehicle. The NMDOT will review all requests for disposition. NMDOT will also consider earlier disposition, other than the above schedule for documented and unusual circumstances, and will review requests on a case-by-case basis.

The following insurance coverages are recommended by FTA and NMDOT **as a minimum** amount of coverage:

| Coverage Category           | Vehicles carrying 15 or fewer people | Vehicles carrying 16-39 people | Vehicles carrying 40+ people |
|-----------------------------|--------------------------------------|--------------------------------|------------------------------|
| Bodily injury or all deaths | \$1,000,000                          | \$2,000,000                    | \$3,500,000                  |
| Property damage             | \$750,000                            | \$750,000                      | \$750,000                    |
| Cargo damage                | \$10,000                             | \$10,000                       | \$10,000                     |

In the event of loss due to casualty, fire or theft, the insurance settlement will be used toward the replacement of lost assets.

## **J. Vehicle Inspection and Maintenance**

The Transit and Rail Division requires its subrecipients to maintain equipment in a clean, safe and mechanically sound condition and follow manufacturers' minimum requirements. The NMDOT provides its subrecipients with vehicle maintenance procedures. Specific vehicle maintenance procedures have been developed for use in FTA-funded programs. These procedures are attached as Appendix G. NMDOT provides subrecipients an Excel spreadsheet for scheduling preventive maintenance inspections and vehicle maintenance procedures. Transit Operating Procedures for Safety and Security (TOPSS), a manual developed by NMDOT, provides guidance on vehicle maintenance plans and provides a template Vehicle Inspection Report, Preventive Maintenance Inspection Report, and Vehicle Defect and Correction Report.

The Transit and Rail Division monitors maintenance of FTA-funded equipment. Quarterly 5310 ridership reports discuss maintenance performed and NMDOT visually inspects buses and facilities, and reviews maintenance records during biennial site visits.

## **K. Disposition**

States and their subrecipients should follow state laws and procedures for disposing of equipment. States are required to use the net income from disposition of equipment to reduce the gross project cost of other capital projects (carried out under 49 USC Chapter 53) or return to FTA the proceeds from the disposition of equipment, unless permitted to do otherwise under FTA Circular 5010.1D (i.e., fair market value less than \$5,000 or transfers).

Only when minimum useful life requirements have been met *and* vehicles are no longer in a state of good repair *or* can no longer be maintained to a state of good repair within reasonable measures, will ordinary disposition actions be taken. When vehicles with remaining useful life are no longer needed for a transit project or program, disposition actions for vehicles with remaining useful life may include redistribution of assets by the NMDOT to active subrecipients. In this case, vehicles will be transferred using a pro-rata share of the local investment based on the fair market value of the vehicle.

The NMDOT will review all requests for disposition. NMDOT will also consider earlier disposition, for documented and unusual circumstances, and will review requests on a case-by-case basis.

Once a vehicle disposition request has been approved, the subrecipient will have the discretion to choose the form of disposal for the vehicle, upon release of the title. The Transit and Rail Division will release the title(s) to the subrecipient only at disposition with the direction that each subrecipient will:

- Notify the Transit and Rail Division of the intent to dispose of a vehicle and provide the following:
  - Vehicle Disposition Request Form (provided by NMDOT)
  - Fair market value estimate

- Upon satisfactory review and acceptance of the disposition request and supporting documentation, the Transit Grants and Program Specialist will obtain the designated signature on the title and mail it to the subrecipient. Upon the sale of the vehicle the subrecipient will then provide copies of the following documents:
  - Bill of sale
  - Copy of the Title with buyer's signature
  - Copy of the payment
- Upon the sale of the vehicle, the subrecipient will:
  - Establish a separate transit capital account for all vehicle sale proceeds over \$5,000.
  - Future application request(s) must include capital fund balances from vehicle sale proceeds.
  - Use 100 percent of these capital funds in the transit account towards the purchase of transit vehicles or transit-related equipment.
- Vehicle sale proceeds disposed of for \$5,000 or less can be placed into the subrecipients general fund.

#### IV. TECHNICAL ASSISTANCE AND TRAINING

The Transit and Rail Division provides technical assistance and training to small urban and rural public transit operators. This assistance is geared toward the development of competent transit management and improving the effectiveness of transit operations.

A variety of technical assistance services such as planning, vehicle and equipment procurement, project management and management evaluation is conducted. A biennial on-site technical assistance audit/visit is conducted with each subrecipient with a follow-up "request for action" report. A transit library is also maintained by the State for technical reference by local operators. Another vital service offered is driver and passenger assistance training. These areas of assistance are described in more detail below.

### A. Technical Assistance

#### 1. Planning and Project Development

Statewide planning and other technical assistance are provided under Section 5304. Activities (including supplementing the technical assistance program provided through the Metropolitan Planning Formula Program) include planning support for non-urbanized areas, research, development and demonstration projects, and fellowships for training in the public transportation field, university research and human resource development.

#### 2. Vehicle and Equipment Procurement

The Transit and Rail Division assists subrecipients in the procurement of grant-related equipment. For standard equipment requests, the State's price agreements are used. Each year new specifications are written with the aid of the State's Purchasing Department to ensure compliance

with state procurement code and to include the FTA-required clauses in procurements. All procurement is conducted in a manner providing full and open competition and excludes in-state or local geographic preference clauses. The Transit and Rail Division works with the chosen vendor and the subrecipients on the required local match regarding collection of the local portion, delivery, inspection and compliance with FTA regulations.

### **3. Project Management**

Information and technical assistance are provided to local Section 5310 and 5311 agencies by the Transit and Rail Division staff.

In addition to support offered by the State staff through telephone and e-mail conversations, and on-site visits/meetings, there are several publications, technical assistance papers and forms that have been prepared to help subrecipients with transportation project management. A biennial on-site technical assistance audit/visit is conducted with each subrecipient with a follow-up "request for action" report.

### **4. Safety and Security**

Consistent with requirements established by both FTA and the Transit and Rail Division to address safety, security and emergency preparedness in all aspects of transit system development, individualized Safety, Security and Emergency Preparedness Plans (SSEPP) and Transit Operating Procedures for Safety and Security (TOPSS) manuals have been developed for all Section 5311 transit systems. The SSEPP and TOPSS documents are designed to be utilized in conjunction with one another.

- The SSEPP outlines the process used by the transit system agency to make informed decisions that are appropriate for its operations, passengers, employees and communities regarding the development and implementation of a comprehensive security and emergency preparedness program.
- The TOPSS provides guidelines for each subrecipient in terms of standard safety operating procedures, emergency operating procedures and transit security. It is referenced in the all-hazards SSEPP (consistent with FTA guidelines) and supports the SSEPP in terms of day-to-day and crisis management decision making.

The SSEPP references the TOPSS document in terms of specific content on planning, preparing and responding to the system's mission; and the two documents together are bookend tools used to enhance the safety, security and emergency preparedness of individual transit systems.

## **B. Training**

The Transit and Rail Division conducts training for drivers, dispatchers and management. This training is performed by the staff, vendors supplying vehicles, or contracted with an outside individual or organization.

The training can consist of seminars and workshops on rural transit management and operations topics. The Transit and Rail Division works directly with all subrecipients to identify training



needs. Subrecipients are encouraged to attend training sessions, and some sessions may be mandatory. Subrecipients can be financially assisted through the New Mexico RTAP Scholarship Program.

The specific training programs the Transit and Rail Division provides or funds for its subrecipients include:

1. Customer Sensitivity and Assistance
2. Defensive Driving
3. Crisis Management
4. First Aid and CPR
5. Drug and Alcohol Supervisory Awareness
6. Wheelchair Procedures and Maintenance
7. Updates to Drug and Alcohol Procedures
8. Grants Management and Budgeting
9. Safety, Security, and Emergency Preparedness
10. Various trainings at the request of the subrecipient

These trainings are open to all subrecipients of Sections 5310 and 5311 assistance.

## **V. CERTIFICATIONS AND ASSURANCES**

All subrecipients must comply with various federal requirements. These Certifications and Assurances, which are required to be signed by an authorized public official, are part of the formal contract process. The Transit and Rail Division, when submitting State grant applications to the FTA, is also required to execute Certifications and Assurances both on behalf of the State and with respect to the local subrecipients.

## **VI. OTHER PROVISIONS**

Note: This section is subject to change per FTA guidance. All subrecipients must comply with the following provisions.

### **A. Private Sector Participation**

The Transit and Rail Division requires subrecipients or potential subrecipients to contact existing public and private transit providers. The reasons for this policy are:

- To provide early involvement of private operators in the planning of services;
- To evaluate private operators' ability to meet service needs in the marketplace without subsidy;
- To create opportunities for the private sector to present service proposals for new or restructured services developed by the public; and,
- To provide fair comparisons of costs.

The contact is accomplished by publishing a notice in the local newspaper and sending a letter to all known providers in the area. In the public notice, information is provided about the proposed service and the method of communicating with the subrecipients and the Transit and Rail Division.

Subrecipients are encouraged by the Transit and Rail Division to involve private transit providers in the early stages of project development. If an existing public or private provider submits a formal complaint seeking to prevent the Transit and Rail Division from approving the proposed application the following resolution procedures will apply:

1. Complaints received by the subrecipients shall be resolved by the subrecipients;
2. Complaints received by the Transit and Rail Division will be sent to the subrecipients for local resolution efforts;
3. Should the subrecipients be unable to resolve the complaint, NMDOT will implement the public hearing process outlined in the Application Guide.

## **B. Civil Rights**

### **1. General**

NMDOT has developed the following requirements and procedures to ensure that no person in the State of New Mexico shall on the basis of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance. Prior to approval of any grant award, all potential subrecipients shall submit to NMDOT the following information:

- A list of any active lawsuits or complaints naming the potential subrecipients that allege discrimination on the basis of race, color, sexual orientation or national origin with respect to service or other transit benefits.
- A list of all pending applications for financial assistance and all financial assistance currently provided by other federal agencies.
- A summary of all civil rights compliance review activities conducted during the last three (3) years. The summary shall include:
  1. Purpose or reason for review;
  2. Name of organization performing the review;
  3. Summary of findings and recommendations of the review; and,
  4. Report on the findings and recommendations of the review.

NMDOT maintains a file of all such reports and requires that the subrecipients have records available for review by NMDOT or FTA.

The signed Nondiscrimination Assurances (part of the annual Certifications and Assurances completed by subrecipients) guarantee that all such records and other information required by FTA Circular 4702.1 are compiled as appropriate and maintained by NMDOT and the subrecipient. These are then forwarded to FTA.

NMDOT is responsible for providing information about the grant programs to all potential subrecipients.

All subrecipients provide service area demographic information with annual applications. NMDOT will monitor each subrecipient through site visits and desk audits to assure that each subrecipient is in

compliance with the Title VI requirements. If it is determined that any subrecipients, either Section 5310 or 5311 is in non-compliance, funds will be withheld until corrections are made.

## **2. Beneficiary Rights under Title VI**

NMDOT operates its programs and services without regard to race, color and national origin in accordance with Title VI of the Civil Rights Act. Any person who believes she or he has been aggrieved by any unlawful discriminatory practice under Title VI may file a complaint with NMDOT.

For more information on the NMDOT's civil rights program, and the procedures to file a complaint, please contact Damian Segura, Title VI Program Coordinator, at (505) 629-9890 or [damian.segura@state.nm.us](mailto:damian.segura@state.nm.us), or visit our administrative offices at 1596 Pacheco St., Santa Fe, NM 87505. For more information, visit [www.dot.state.nm.us](http://www.dot.state.nm.us).

A complainant also may file a complaint directly with the Federal Transit Administration (FTA), Office of Civil Rights, and Attention: Title VI Program Coordinator, East Building, 5th Floor-TCR, 1200 New Jersey Ave., SE, Washington, DC 20590. Phone: (202) 366-4018.

If information is needed in another language, please contact Damian Segura, Title VI Program Coordinator, at (505) 629-9890 or [damian.segura@state.nm.us](mailto:damian.segura@state.nm.us), or visit our administrative offices at 1596 Pacheco St., Santa Fe, NM 87505.

## **3. Title VI Plans**

Guidance for developing a Title VI plan has been relayed by the Transit and Rail Division to its subrecipients. Transit and Rail has on file approved Title VI plans from all subrecipients. The Division reviews implementation of the plans during biennial technical assistance audit site visits.

## **C. Environmental Protection**

### **1. Clean Air Act (CAA)**

The principal requirement affecting subrecipients is the transportation/air quality conformity review process. In general, transportation plans, programs and projects shall be found to conform to approved State (air quality) Implementation Plans (SIP) before they can be funded by FHWA or FTA. Most of the projects typically funded under this program (operating assistance, purchase and rehabilitation of transit vehicles, operating equipment, construction of most storage and maintenance facilities, etc.) have been exempted by regulation from the conformity review process. A complete list of exempted highway and transit projects is found in 40 CFR 51.361.

### **2. Alternative Fuels**

The federal government encourages the State to investigate the use of alternative fuels, including propane, compressed natural gas or electricity. NMDOT encourages its Section 5310 and 5311 subrecipients to use alternative fuels where appropriate. The Transit and Rail Division recognizes that alternative fuels may not be available in all areas of the State.

### 3. Environmental Impact Statements

Activities and projects which have very limited or no environmental effects, such as planning and technical studies, program administration, operating assistance and transit vehicle purchases, are viewed as having a Categorical Exclusion (CE) from preparing an Environmental Impact Statement (EIS). NMDOT must submit an assurance to the FTA that such projects are categorically excluded under FTA's regulations. The FTA's regulation classifies categorically excluded actions and projects into two groups.

The first group contains activities and projects, such as those listed above, that have very limited or no environmental effects at all. Because environmental impacts of these activities are either non-existent or minimal, no environmental documentation is required. In the NMDOT's assurances submitted with the applications for projects in Category A, or as projects are advanced to Category A, the State assures FTA that the projects are categorical exclusions under 23 CFR 771.117(c) unless otherwise noted.

The second group of projects which are normally categorically excluded are projects involving more construction and greater potential for off-site impacts. Examples include new construction or expansion of transit terminals, storage and maintenance garages, office facilities and parking facilities. It is the applicant's responsibility to provide documentation that clearly demonstrates that the stated conditions or criteria are met and that no significant adverse effects will result.

For any project that is not found to be a CE, the State may be required to prepare an Environmental Assessment (EA) for public comment. FTA will review the EA to determine if a Finding of No Significant Impact (FONSI) is appropriate. A project that requires an EA may not be included in Category A before the FTA has issued a FONSI for the project.

### D. Charter Rule

The Charter Rule describes the state's procedures for complying with the charter regulation, including the process used to ensure subrecipients are in compliance with the charter regulation and any agreements the state has with registered charter providers. Charter and tour services are not eligible for FTA assistance. (See 49 CFR Part 604, "Charter Service Final Rule")

Section 5310 and 5311 subrecipients are exempt from the FTA charter rule provided the service is for program purposes only. "Program purposes" is defined as transportation that serves the needs of either human service agencies or targeted populations, such as seniors, individuals with disabilities, low income, etc.

"Program purposes" do not include exclusive service for other groups formed for purposes unrelated to the special needs of these targeted populations. Thus, Section 5310 and 5311 subrecipients who intend to provide charter service that is outside their program purposes must follow the guidelines outlined below.

All FTA subrecipients are prohibited from providing charter service using FTA-funded equipment and facilities unless allowed under an exception. The Transit and Rail Division requires any subrecipients wishing to provide charter service to comply with the procedures in the Final Rule on Charter Service.

The Transit and Rail Division must be notified via email or postal service that a request for charter service exception is being submitted to FTA – including all supporting documentation. The Division follows up on program compliance during biennial site visits.

A summary of the Charter Service Final Rule follows (provided for summary purposes only. Please consult regulatory text for exact requirements):

**Exemptions for:**

- Transit systems transporting transit employees
- Program purposes for transit agencies receiving funds under Sections 5310 and 5311
- Emergency response and preparedness
- Recipients in non-urbanized areas transporting employees for training

**Exceptions:**

- Government Officials on official government business (80 hours annually)
- Qualified Human Service Organizations (QHSO) (qualified groups serving seniors who are disabled and low income)
- Leasing
- Agreement with other private operators
- No response by registered charter provider
- Petitions to the Administrator for events of regional or national significance, time-sensitive events or hardship

**Reporting:**

- Done on a quarterly basis
- Submitted through FTA’s electronic grant system
- Required for all charter service performed under the government officials, qualified human service agency, leasing and no response exceptions
- Dockets established for Government Officials, Petitions to the Administrator, Advisory Opinions/Cease and Desist Orders, Complaints for Removal, Complaints and Hearings. Check [www.regulations.gov](http://www.regulations.gov).

- FTA Registration Website, web address, takes the place of “willing and able” paper process.
- Private operators and some QHSOs must register. Can be removed from website for cause.
- Formal advisory opinions now available as well as cease and desist orders.
- Complaints have clear procedures and deadlines for industry and FTA.
- Hearings can be held before a neutral arbiter (Presiding Official).
- Assessment of remedy based on several criteria and there is a list of possible monetary assessments.
- Help available on website: [http://dot.state.nm.us/Transit\\_Rail.html](http://dot.state.nm.us/Transit_Rail.html)
- FTA created new position to assist with new rule requirements. The Ombudsman for Charter Service can be contacted at: [ombudsman.charterservice@dot.gov](mailto:ombudsman.charterservice@dot.gov)

## **E. Disadvantaged Business Enterprise (DBE) Program**

The Department of Transportation (DOT) has a policy of helping small businesses owned and controlled by socially and economically disadvantaged individuals, including minorities and women, to participate in contracting opportunities created by DOT financial assistance programs.

In 1983, Congress enacted the first disadvantaged business enterprise (DBE) statutory provision. This provision required the Department to ensure that at least 10 percent of the funds authorized for the highway and transit financial assistance programs be expended with DBEs. In 1987 Congress reauthorized and amended the statutory DBE program. In the transportation legislation of that year, Congress, among other changes, added women to the groups presumed to be disadvantaged. Since 1987, DOT has established a single DBE goal, encompassing both firms owned by women and minority group members.

### **1. How the Program Works**

The DOT DBE regulations require recipients of DOT federal financial assistance, namely, state and local transportation agencies, to establish goals for the participation of disadvantaged entrepreneurs and certify the eligibility of DBE firms to participate in their DOT-assisted contracts.

Each DOT-assisted State and local transportation agency is required to establish narrowly-tailored DBE goals. Then these DOT-assisted agencies evaluate their DOT-assisted contracts throughout the year and establish contract specific DBE subcontracting goals where goals are needed to ensure nondiscrimination in federally-assisted procurements. The level of DBE subcontracting goals may vary from their approved DBE goal; however, at the end of the year the amount of contract/subcontract award to DBE's should be consistent with the overall goal.

### **2. New Mexico Department of Transportation Policy**

It is the policy of NMDOT to implement the provisions of 49 CFR Part 26 with the following objectives:

- a) to ensure nondiscrimination in the award and administration of United States Department of Transportation assisted contracts in NMDOT's highway, transit and airport financial assistance programs;
- b) to create a level playing field on which DBEs can fairly compete for DOT-assisted contracts;
- c) to ensure that NMDOT's DBE Program is narrowly tailored in accordance with applicable law;
- d) to ensure that only firms that fully meet the eligibility standards specified in 49 CFR Part 26 are permitted to participate as DBEs;
- e) to help remove barriers to the participation of DBEs in DOT-assisted contracts;
- f) to assist the development of firms that can compete successfully in the marketplace outside the DBE Program;

NMDOT establishes the State DBE goal triennially. The subrecipients may contact the NMDOT Office of Equal Opportunity Programs to obtain the current goal.

## **F. Suspension/Debarment**

To prevent fraud, waste and abuse in federal transactions, persons or entities, which by defined events or behavior potentially threaten the integrity of federally-administered non-procurement programs, are excluded from participation in FTA-assisted programs. NMDOT certifies that it is not excluded from federally-assisted transactions and ensures that none of their principals (as defined in the governing regulation, 49 CFR Part 29, and FTA Circular 2015.1), subrecipients, or third-party contractors or subcontractors are debarred, suspended, ineligible or voluntarily excluded from participation in Federally-assisted transactions. Before entering into a contract supported with FTA funds that exceeds \$25,000, NMDOT and subrecipients must search the Excluded Parties Listing System at SAM.gov to ensure that contractors are not debarred or suspended and document the results for the search. This area is addressed in a subsection of the NMDOT contract signed by its subrecipients.

## **G. Lobbying**

Recipients of federal grants and contracts exceeding \$100,000 certify that they have not and will not use federal funds to pay for influencing or attempting to influence an officer or employee of any federal department or agency, a member of Congress, any officer or employee of Congress, or an employee of a member of Congress, in connection with obtaining any federal grant, cooperative agreement or any other federal award. NMDOT certifies this agreement to the FTA on behalf of subrecipients. Every subrecipient certifies this agreement to the State through its Memorandum of Agreement.

NMDOT obtains signed lobbying certifications from contractors submitting bids or proposals for FTA-funded contacts that exceed \$100,000. The Transit and Rail Division ensures that subrecipients comply with lobbying requirements when procuring with FTA funds.

If a subrecipient or contractor uses non-federal funds for lobbying, NMDOT obtains and submits to FTA an initial disclosure form (SF-LLL). NMDOT obtains and submits updated disclosure forms in any quarter in which an event occurs that requires disclosure, or that materially affects the accuracy of the information contained in any disclosure form previously filed by the entity.

## **H. Americans with Disabilities Act (ADA)**

Titles II and III of the Americans with Disabilities Act of 1990 provide that no entity shall discriminate against an individual with a disability in connection with the provision of transportation service. The law sets forth specific requirements for vehicle and facility accessibility, and the provision of service. These requirements are codified by regulations issued by the U.S. Department of Transportation at 49 CFR Parts 27, 37 and 38.

No entity may discriminate against an individual with a disability in connection with the provision of transportation service. Each public entity operating a fixed-route system must ensure that all newly-acquired vehicles are accessible to and usable by individuals with disabilities, including wheelchair users, and must provide paratransit or other special service to individuals with disabilities who are unable to use the fixed route system that is comparable to the level of service provided to individuals without disabilities who use the fixed route system. Each public entity

operating a demand-response system for use by the general public must ensure that all newly-acquired vehicles are accessible to and usable by individuals with disabilities, including wheelchair users, unless the level of service provided is already equivalent to that provided to individuals without disabilities.

Adequate provisions must be made to accommodate portable oxygen tanks, personal care attendants and service animals.

All entities must construct new facilities to be used in providing designated public transportation services so that the facility is accessible to and usable by individuals with disabilities, including wheelchair users. Any entity that alters a facility shall ensure that the altered portions of the facility are accessible to individuals with disabilities, including wheelchair users.

The Transit and Rail Division monitors its subrecipients for compliance with ADA through review and approval of bus and construction procurements, review and approval of ADA complementary paratransit plans, and site visits.

## **I. School Bus Operations**

Subrecipients of FTA funds may not provide school bus transportation. School bus operations are defined by FTA as transportation by bus exclusively for school students or personnel. Tripper service is authorized under the FTA definition provided under 49 CFR Part 605.3. Tripper service means regularly scheduled mass transportation service which is open to the public, and which is designed or modified to accommodate the needs of school students and personnel, using various fare collections or subsidy systems. Buses used in tripper service must be clearly marked as open to the public and may not carry designations such as “school bus” or “school special.” These buses may stop only at a subrecipient’s or operator’s regular service stops. All routes traveled by the tripper buses must be within a subrecipient’s or operator’s regular route service as indicated in its published route schedules.

The Transit and Rail Division monitors its subrecipients for compliance with school bus regulations during its biennial site visits.

## **J. Construction**

The Transit and Rail Division does not directly manage construction projects funded with FTA assistance. Subrecipients must comply with all environmental requirements and have procedures to manage the project either through the use of in-house staff or contractors. Contracts must include FTA-required clauses and subrecipients must obtain required certifications. Facilities must comply with ADA accessibility requirements. The Transit and Rail Division reviews procurement documents to ensure ADA requirements are included and NMDOT Design Center staff reviews the plans for compliance with ADA.

## **K. Drug Free Workplace for Transit and Rail Division Employees**

NMDOT is a drug-free workplace that prohibits the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in the workplace.



Transit and Rail Division staff must abide by the terms of Administrative Directive - 633 Omnibus Controlled Substance & Alcohol Testing Program (effective 11/01/11) and Administrative Directive - 628 Code of Conduct (effective 02/01/12) as a condition of employment. If convicted of a drug statute violation occurring in the workplace, they are to report such to their supervisor in writing no later than five days after such a conviction.