



BERKELEY-CHARLESTON-DORCHESTER  
COUNCIL OF GOVERNMENTS

PLANNING, PARTNERSHIP & PROSPERITY

# PROGRAM MANAGEMENT PLAN

*Federal Transit Administration*

September 2019



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## Non-Discrimination

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

For more information on BCDCOGs Title VI Policy and the procedures to file a complaint, contact the Title VI Designee Robin Mitchum at (843) 529-0400; email [Robinm@bcdcog.com](mailto:Robinm@bcdcog.com); or write to the Title VI Coordinator at 5790 Casper Padgett Way, North Charleston, SC 29406. For more information visit the Title VI section of our website at <http://www.bcdcog.com>.

A complainant may file a complaint directly with the SC Department of Transportation by contacting the Title VI Program Coordinator, P.O. Box 191, Columbia, SC 29201-0191.

If information is needed in another language, contact (843) 529-0400

~Si se necesita información en otro idioma llame al (843) 529-0400

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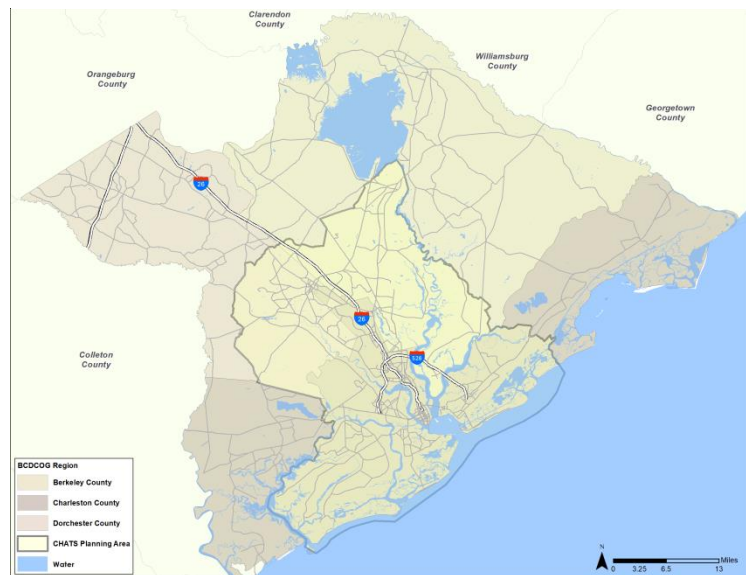
## Background

In 1968, several local governments in Berkeley and Charleston counties, created the first regional planning commission in the area. Dorchester County joined the group three years later which united the triumvirate within the lowcountry. In 1976, the organization established itself as the Berkeley Charleston Dorchester Council of Governments (BCDCOG). BCDCOG is a voluntary association of, by, and for local governments within the tri-county region. BCDCOGs purpose is to strengthen both the individual and collective power of local governments and to help recognize regional opportunities, eliminate unnecessary duplication, and make facilitate joint decision making.

Today, BCDCOG exists as one of South Carolina's eleven regional planning councils within the state. BCDCOG has a governing Board of Directors that consists of 57 local member jurisdictions within the region. The Board of Directors has a responsibility to set policies and provides direction for the programs that BCDCOG administers. BCDCOG provides local member governments with technical assistance in a variety of fields, including economic and community development, comprehensive planning, statistical information gathering and analysis, air quality, workforce development, multi-modal transportation planning, mobility management, geographical information services (GIS), and water resource management. In addition, the BCDCOG Board of Directors provides a forum for local leaders and citizens to actively engage in the conversation.

Federal law requires all metropolitan areas with populations greater than 50,000 people to designate a Metropolitan Planning Organization (MPO) to develop transportation plans and programs for the urbanized area. In 1977, Governor James Edwards appointed BCDCOG to perform the planning and programming functions of the Charleston Area Transportation Study (CHATS) planning area as the region's MPO. Generally speaking, BCDCOG represents the rural areas and the CHATS Policy Committee make decisions for the urbanized area. Since BCDCOG is the entity that is designated to manage federal funds and CHATS, it is the responsibility of BCDCOGs Board of Directors to approve this plan. BCDCOG/CHATS work cohesively with the South Carolina Department of Transportation (SCDOT), the Federal Highway Administration (FHWA), and the Federal Transit Administration (FTA) to ensure that multi-modal transportation planning in the region is a continuing, cooperative, and comprehensive process in the tri-county region.

Figure 1 - BCDCOG & CHATS Planning Area



The 2010 United States Census designated the current CHATS study area which is comprised of the tri-county region's most urbanized areas and other land expected to be urbanized within the next 20 years. The CHATS planning area currently serves approximately 1,000 square miles in all three counties and will be updated again during the 2020 Census. Figure 1 shows both the current BCDCOG and CHATS planning areas.

## **Introduction**

The current federal legislation, known as “Fixing America’s Surface Transportation Act (FAST Act),” authorizes transportation spending and was enacted by President Obama in December of 2015. The FAST Act ensures that transit dollars can be disseminated by the FTA to local and state economies throughout the United States.

The Program Management Plan (PMP) documents program objectives, policies, and procedures used by BCDCOG to administer federal funding opportunities from the FTA in the urbanized area of the tri-county region. Specifically, FTA Sections 5307, 5310, and 5339 are programs that are managed by BCDCOG and that are covered within this document. Section 5307 is the “Urbanized Area Formula Funding” program that distributes federal funding to the urbanized area for transit capital and operating assistance. Section 5310 funding is a program titled the “Enhanced Mobility for Seniors and Individuals with Disabilities.” Section 5310 provides formula funding to improve mobility for seniors and individuals with disabilities while removing barriers to transportation services in the urbanized area. Section 5339 includes federal funding that can be awarded competitively by the FTA (discretionary) or directly as a formula depending on the program that is being administered. Section 5339 is the “Grants for Buses and Bus Facilities Program” which passes federal funds to the urban area for capital projects such as replacing, rehabilitating, or purchasing buses, vans or related equipment and can be used to construct bus related facilities

## **Program Goals**

Ultimately, the goal is to improve both accessibility and mobility in transit throughout the Urbanized Area. Each federal funding source helps to invest in either transit capital or operational improvements for the region. BCDCOG, as a steward of federal money, will ensure that the funds are spent wisely and judiciously to improve opportunities for the users of the urbanized transit system. BCDCOG will achieve these goals by completing the following objectives:

1. Create, maintain, and utilize a PMP that clearly explains the administrative responsibilities of both BCDCOG and the subrecipients who apply for federal funding;
2. Proactively identify potential companies to work with or opportunities to improve transit through the CHATS planning process and the by using and maintaining a Human Services Coordination Plan;
3. Coordinate with other federally-assisted programs and services in order to make the most efficient use of federal resources.

## **Roles and Responsibilities**

In a letter dated October 30, 2013, the South Carolina Secretary of Transportation designated BCDCOG as the designated recipient of FTA funds for the Charleston-North Charleston Urbanized Area (Appendix A). As the designated recipient, BCDCOG is responsible for disseminating federal transit dollars to service providers in the urbanized areas. Where necessary, BCDCOG will hold a competitive selection of projects through a call for projects. Otherwise, BCDCOG will disperse funds annually to transit providers to maintain operations or improve capital investments. It is also the responsibility of BCDCOG to apply to FTA for funding for these programs using the designated electronic grant management system on behalf of itself and eligible subrecipients for Sections 5307, 5310, and 5339 projects within the recipient’s urbanized area. BCDCOG is responsible for the following:

1. Ensure that all FTA funding opportunities are included in a Metropolitan Transportation Improvement Program (MTIP) and the Statewide Transportation Improvement Program (STIP);
2. Certify a fair and equitable distribution of funds to subrecipients;
3. Manage all aspects of grant distribution and oversight for subrecipients receiving federal funding to include, but not limited to, certifications and assurances and that projects follow metropolitan and statewide planning requirements;
4. Submitting reports as required by FTA; including quarterly milestone status reports, quarterly financial status reports, semi-annual DBE Usage reports, annual Section 5310 activity report, triennial DBE Usage Goal Setting Methodology, Title VI Plan updates, and others as required;

5. Create, develop, and maintain a competitive application process when necessary that is solicited publicly, assures that applications are consistent with the locally coordinated human services plan, and ranks and prioritizes projects for funding (Section 5310);
6. Prepare a program of projects (POP) which lists the subrecipients and indicates whether they are private nonprofit agencies or local governmental authorities, designates the areas served (including rural areas), and identifies any tribal entities. In addition, the POP includes a brief description of the projects, total project cost and federal share for each project, and the amount of funds used for program administration from the 10 percent allowed;
7. Prepare agreements with each subrecipient that includes all the information required by FTA and 2 CFR part 200 and incorporate the FTA Master Agreement by reference.
8. Oversee project performance, conduct oversight reviews, provide technical support to subrecipients, and coordinate project closeouts.

## **Performance Measures**

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

Performance measures the BCDCOG will provide to FTA will include quantitative and qualitative information, as available, as follows:

### **Section 5307 (FTA C 9030.1E)**

1. Ridership: Average percent change in public transportation boardings per public transportation market of the 150 largest public transportation localities.
2. Accessibility: Percent of bus fleets and rail stations that are in compliance with the Americans with Disabilities Act of 1990 (ADA).
3. Condition: Improvement in the average condition of bus and rail fleets.

### **Section 5310 (FTA C 9070.1G)**

#### Traditional Section 5310 Projects

1. Gaps in Service Filled: Provision of transportation options that would not otherwise be available for seniors and individuals with disabilities measured in numbers of seniors and people with disabilities afforded mobility they would not have without program support as a result of traditional Section 5310 projects implemented in the current reporting year.
2. Ridership: Actual or estimated number of rides (as measured by one-way trips) provided annually for individuals with disabilities and seniors on Section 5310–supported vehicles and services as a result of traditional Section 5310 projects implemented in the current reporting year.

#### Other Section 5310 Projects

1. Increases or enhancements related to geographic coverage, service quality, and/or service times that impact availability of transportation services for seniors and individuals with disabilities as a result of other Section 5310 projects implemented in the current reporting year.
2. Additions or changes to physical infrastructure (e.g., transportation facilities, sidewalks, etc.), technology, and vehicles that impact availability of transportation services for seniors and individuals with disabilities as a result of other Section 5310 projects implemented in the current reporting year.
3. Actual or estimated number of rides (as measured by one-way trips) provided for seniors and individuals with disabilities as a result of other Section 5310 projects implemented in the current reporting year.

### **Section 5339 (FTA C 9030.1E)**

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 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. Section 5307 requirements apply to Section 5339 grants. The governor of a state or the governor's designee may transfer funds apportioned under the nation distribution to supplement amounts apportioned under the Rural Area (Section 5311(c)) 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.

Additional information on the Section 5339 Bus and Bus Facilities Formula Program, including transfer provisions to Section 5307, can be found in the successor to FTA Circular 9100, which is expected to be published as FTA Circular 5100

Performance measure requirements for this program are established through the Transit Asset Management Plan as prepared by the Transit Agencies that receive the funding in coordination with the MPO.

### **Coordination**

BCDCOG encourages coordination between all interested parties in the planning, proposal, execution, and administration of transit services covered under this plan. Primary stakeholders in this process include the Federal Transit Administration, CHATS MPO, SCDOT, grant applicants, transit service providers (public and private), and the public. BCDCOG promotes coordination through the metropolitan planning process, funding a mobility manager for the region, and by developing maintaining a Human Services Coordinated Transportation Plan.

### **FTA Section 5307 Program**

#### **Statutory Authority**

The Urbanized Area Formula Funding program (49 U.S.C. 5307) makes Federal resources available to urbanized areas and to Governors 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.

#### **Eligible 5307 Activities**

Eligible activities include 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 and security equipment and construction of maintenance and passenger facilities; and capital investments in new and existing fixed guideway systems including rolling stock, overhaul and rebuilding of vehicles, track, signals, communications, and computer hardware and software. All preventive maintenance and some Americans with Disabilities Act (ADA) complementary paratransit service costs are considered capital costs.

For urbanized areas with 200,000 in population and over (such as the BCD region), funds are apportioned and flow directly to a designated recipient selected locally to apply for and receive Federal funds.

#### **Program Goals**

Pursuant to 49 U.S.C. 5307, FTA apportions Urbanized Area Formula Program funds to urbanized areas (UZAs) and to states for public transportation capital projects, operating assistance, job access and reverse commute projects,



and for transportation-related planning. To support the continuation and expansion of public transportation services in the United States, Section 5307 supports public transportation by:

- a. assisting in the planning, engineering, design, construction, evaluation, and maintenance of public transportation projects, equipment, and facilities;
- b. facilitating cooperation between public transportation companies and private companies engaged in public transportation to encourage the planning and establishment of areawide public transportation systems needed for economical and desirable urban development;
- c. encouraging mobility management, employment-related transportation alternatives, joint development practices, and transit-oriented development;
- d. providing financial assistance to states and local governments to help carry out national goals related to mobility for all, including elderly individuals, individuals with disabilities, and economically disadvantaged individuals;
- e. investing in bus and bus-related activities such as replacement, overhaul, and rebuilding of buses; and
- f. investing in crime prevention, public transportation safety, and security equipment.

### **Program Measures**

The Government Performance and Results Act (GPRA), Pub. L. 103–62, (1993), requires FTA and other federal agencies to “establish performance goals to define the level of performance” and to “establish performance indicators to be used in measuring relevant outputs, service level, and outcomes” for each of its programs. The performance measures described below are designed to fulfill FTA’s obligations under GPRA.

FTA reports on program measures in conjunction with GPRA. The following indicators are targeted to capture overarching program information as part of the annual report that each grantee submits to FTA.

The measures FTA established for the Urbanized Area Formula Program are:

- a. Ridership: Average percent change in public transportation boardings
- b. Accessibility: Percent of bus fleets and rail stations that are in compliance with the Americans with Disabilities Act of 1990 (ADA).
- c. Condition: Improvement in the average condition of bus and rail fleets.

## **FTA Section 5310 Program**

### **Statutory Authority**

Title 49 U.S.C. 5310 / FAST Act Section 3006 authorizes the formula assistance program for the Enhanced Mobility of Seniors and Individuals with Disabilities Program and provides formula funding to States and designated recipients to improve mobility for seniors and individuals with disabilities.

### **Eligible 5310 Activities**

Under the FAST ACT, the 5310 Program provides grant funds for capital and operating expenses to recipients for the following:

1. At least 55 percent of program funds must be used on capital or “traditional” 5310 projects. Examples include:
  - a. Buses and vans; wheelchair lifts, ramps, and securement devices; transit-related information technology systems including scheduling/routing/one-call systems; and mobility management programs.
  - b. Acquisition of transportation services under a contract, lease, or other arrangement. Both capital and operating costs associated with contracted service are eligible capital expenses. User-side subsidies are considered one form of eligible arrangement. Funds may be requested for contracted services covering a time period of more than one year. The capital eligibility of acquisition of services as authorized in 49 U.S.C. 5310(b)(4) is limited to the Section 5310 program.
2. The remaining 45 percent is for other “nontraditional” projects described as: Capital and operating expenses for new public transportation services and alternatives beyond those required by the ADA, designed to assist individuals with disabilities and seniors. Examples include:
  - a. Travel training; volunteer driver programs; building an accessible path to a bus stop including curbs-cuts, sidewalks, accessible pedestrian signals or other accessible features; improving signage, or way-finding technology; incremental cost of providing same day service or door-to-door service; purchasing vehicles to support new accessible taxi, rides sharing and/or vanpooling programs; and mobility management.

### **Coordinated Planning Requirement**

Projects and project types must be included in the regional Human Services Coordination Plan. In addition, seniors and people with disabilities must be included in the development and approval of the coordinated plan.

### **Capital, Operating and Administration Allocations**

1. At least 55 percent of funds must be used on capital and public transportation projects planned, designed and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate or unavailable (“traditional 5310 projects”).
2. Up to 45 percent of funds may be spent for other public transit projects that:
  - a. Exceed ADA minimum requirements;
  - b. Improve access to fixed-route service and decrease reliance by individuals with disabilities on ADA-complementary paratransit service, or
  - c. Provide alternatives to public transportation that assist seniors and individuals with disabilities with transportation.
  - d. Up to 10 percent of funds can be spent for Program Administration (which may be funded at 100 percent federal share).

## Eligibility Requirements for Subrecipients

In order to meet the 55 percent requirement for traditional Section 5310 projects, FTA expects the State and designated recipient to apply for these funds on behalf of eligible subrecipients. Subrecipients for traditional 5310 projects include:

1. Private non-profit organizations; or
2. a state or local governmental authority that:
  - a. is approved to coordinate services for seniors and individuals with disabilities; or
  - b. certifies that there are no non-profit organizations readily available in the area to provide the service.

Eligible subrecipients for other Section 5310 activities include the following:

1. State or local governmental authority;
2. Private non-profit organization;
3. Operator of public transportation that receives a Section 5310 grant indirectly through a recipient;
4. Private operators of public transportation;
5. Private taxi companies that provide shared-ride taxi service to the public or to special categories of users (such as seniors or individuals with disabilities) on a regular basis.

## Competitive Selection Process

The competitive selection process, required under the previous federal legislation, is no longer mandatory. However, whether or not a State or a designated recipient uses a competitive selection process to award funds to subrecipients, the designated recipient must certify that funds allocated to subrecipients are allocated on a fair and equitable basis. BCDCOG will maintain a competitive selection process for 5310 funding.

## Federal and Local Share Funding Requirements

### Federal Share

Section 5310 funds may be used to finance capital and/or operating expenses. The federal share of eligible capital costs shall be in an amount equal to 80 percent of the net cost of the activity. The federal share of the eligible operating costs may not exceed 50 percent of the net operating costs of the activity. Recipients may use up to 10 percent of their apportionment to support program administrative costs including administration, planning, and technical assistance.

### Local Share/Matching Funds

The local share of eligible capital costs shall be not less than 20 percent of the net cost of the activity, and the local share for eligible operating costs shall be not less than 50 percent of the net operating costs. The local share may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local service agency or private social service organization, or new capital. Some examples of these sources of local match include: State or local appropriations; dedicated tax revenues; private donations; revenue from service contracts; toll revenue credits; and net income generated from advertising and concessions. Non-cash share such as donations, volunteered services, or in-kind contributions is eligible to be counted toward the local match as long as the value of each is documented and supported, represents a capital cost which would otherwise be eligible under the program, and is included in the net project costs in the project budget.

Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide local match for Section 5310 operating assistance. In either case, the cost of providing the contract service is included in the total project cost. No FTA program funds can be used as a source of local match for other FTA programs, even when used to contract for service. All sources of local match must be identified and described in the grant application at the time of grant award.

In addition, the local share may be derived from Federal programs that are eligible to be expended for transportation, other than DOT programs, or from DOT's Federal Lands Highway Program. Examples of types of programs that are potential sources of local match include: employment, training, aging, medical, community services, and rehabilitation services.

#### Exception

The Federal share may exceed 80 percent for certain projects related to ADA and CAA compliance as follows:

1. Vehicles. The Federal share is 85 percent for the acquisition of vehicles for purposes of complying with or maintaining compliance with ADA, 42 U.S.C. 12101 et seq or the Clean Air Act. A revenue vehicle that complies with 49 CFR part 38 may be funded at 85 percent Federal share. The local match would be then be 15%.
2. Vehicle-Related Equipment and Facilities. The federal share for project costs for acquiring vehicle-related equipment or facilities (including clean-fuel or alternative-fuel vehicle-related equipment or facilities) for purposes of complying or maintaining compliance with the Clean Air Act (CAA), 42 U.S.C. 7401 et seq), or required by the ADA, is 90 percent. FTA considers vehicle-related equipment to be equipment on and attached to the vehicle.

### **Project Selection Methodology**

BCDCOG will develop, maintain, and use a discretionary selection process to select eligible projects from eligible subrecipients. BCDCOG will require that selected projects be included or address a need in the locally developed regional Human Services Coordination Plan or the 2040 Long Range Transportation Plan that was approved in cooperation with stakeholders including individuals with disabilities and seniors utilizing transportation services.

BCDCOG also complies with all FTA regulations and guidance pertaining to Title VI of the Civil Rights Act; any subrecipient applying for 5310 funds will be required to sign a Civil Rights Assurance that guarantees the organization will adhere to FTA regulations and guidance pertaining to civil rights. The BCDCOG and subrecipients prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibit discrimination in employment or business opportunity.

Subrecipients will also be encouraged to the extent feasible, to provide service to seniors and people with disabilities not affiliated with their agency, as well as to the general public, on an incidental basis if such service does not interfere with transportation services for seniors and people with disabilities. In some situations it may be appropriate to provide Section 5310 assistance to an agency to provide transportation exclusively to its own clients, but even in situations in which it is not feasible for the agency to provide services to those in the community beyond its own clients, that agency must, when practicable, make the vehicle itself available to provide transportation service to other seniors and people with disabilities at times the agency is not using the vehicle for grant-related purposes. The recipient shall use the vehicle in the project or program for which it was acquired as long as needed, even if the project does not continue to receive Federal funding.

### **Program of Projects Development and Approval Process**

BCDCOG will follow this process:

1. Application workshop in conjunction with soliciting for 5310 applications;
2. Public notice is posted to solicit application in accordance with the BCDCOG Public Participation Plan;
3. BCDCOG reviews, ranks, and selects projects for inclusion in the POP;
4. BCDCOG makes recommendations of projects to the BCDCOG Project Selection Committee or Board of Directors;
5. After final selection has been made, POP map be delivered to CHATS for inclusion into the TIP;
6. Updated TIP with 5310 projects is sent to SCDOT for inclusion in STIP.

Throughout the selection, review, and adoption process, BCDCOG will work closely with FTA representatives to ensure a comprehensive, fair, and equitable distribution of funds.

### **Administration, Planning, and Technical Assistance**

BCDCOG may use up to 10% of the yearly apportionment of funding for administration, planning, and technical assistance of the 5310 program. These funds will support the development and continued administration of the application process, oversight of funded projects, and application assistance provided to grantees through BCDCOG.

In addition to program oversight and administration of the competitive award process, the administrative apportionment will support the designated recipient's staff time to provide technical services to subrecipients. These services include demographic data analyses, route planning, GIS file maintenance and cartographic composition of data, management assistance, marketing of transit services, and public education on transit services.

### **Transfer of Funds**

The request for transfer of funds should be made before applying for a grant if the grant application will fund projects using funds transferred from other programs. This includes funds flexed from the FHWA. Guidelines exist for the transfer of funds to various state administered programs and are available by coordinating with the BCDCOG staff.

The FTA regional administrator will be notified of the intent to have funds transferred so that FTA can initiate the transfer. For transfers of flexible funds, the notification must indicate the amount of funds transferred the recipient of transferred funds, and the program to which they are being transferred.

### **Private Sector Participation**

To maximize transportation opportunities in its service area for the elderly and persons with disabilities, BCDCOG looks to engage private transportation providers, including for-profit public transportation providers. BCDCOG will notify for-profit public transportation providers of relevant funding opportunities and make every effort possible to support their applications and services. All applications that meet eligibility requirements as established in this plan and by the FTA shall be considered equally during the competitive selection process. If selected and awarded based upon project proposals, private for-profit public transportation providers would become subrecipients to BCDCOG and held to the same reporting and invoicing standards as all other subrecipients.

### **Program Compliance Management**

#### Subrecipient Monitoring

BCDCOG will coordinate a grant subrecipient orientation workshop after the funding award to provide technical assistance on the process that would need to be followed and the federal requirements that would have to be met to receive the federal funds. BCDCOG will schedule regular meetings with the subrecipients to discuss issues or concerns regarding their projects and to provide assistance during implementation to ensure projects are consistent with the funding agreement. Subrecipients will also be required to provide quarterly progress reports and an annual report during the period in which they invoice for eligible activities until grant closeout.

Subrecipients would also need to provide supporting documentation when invoicing BCDCOG for expenses incurred. Projects sponsors will not be paid in advance of costs incurred. Instead, funds from the 5310 program will be paid to the subrecipient on a reimbursement basis only. BCDCOG will monitor closely all activities by the subrecipient and take corrective actions to resolve any noncompliance issues, including informing if they are at risk of losing any of the funding that was awarded. The subrecipient need also to comply with the auditing requirements specified in the agreement.

## Compliance Monitoring Process

BCDCOG will adhere to the following process to ensure internal compliance, as well as subrecipient compliance with federal requirements. BCDCOG and all subrecipients will execute the Certifications and Assurances, as published annually by FTA. BCDCOG will employ an internal 'checks and balances' system wherein staff reviews monthly and annual reports.

BCDCOG's Deputy Director of Finance and Administration will review invoices, requests for reimbursements, and procurement documentation to determine program compliance. Subsequently, BCDCOG staff will sign-off and coordinate on compliance approval with the BCDCOG Executive Director. Additionally, the elements stated in FTA and 2 CFR Part 200 and the FTA Master Agreement, by reference, will be incorporated into a subrecipient agreement to be executed before a notice to proceed is issued by the BCDCOG.

BCDCOG will follow the provisions in 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, ensuring that subrecipients that are public providers of public transportation or private organizations (whether non-profit or for-profit) follow the requirements.

## Financial Management

The BCDCOG complies with applicable requirements in the FTA Grant Management Guidelines (Circular 5010.1E) with regard to internal controls, financial management systems, cost standards, financial reporting requirements, and annual audit. With regard to cost allocations, the BCDCOG allows an indirect cost allocation model to indirect program-related costs to 5310 programs (as applicable). The financial management system will meet the standards set forth in 2 CFR 200. With regard to program income, funding from both programs is on a reimbursement basis, so that no program income accrues to the BCDCOG. The BCDCOG does not conduct third-party contract audits.

- (a) Financial reporting. Accurate, current, and complete disclosure of the financial results of financially-assisted activities must be made in accordance with the financial reporting requirements of the designated recipient or subrecipient.
- (b) Accounting records. Designated recipients and subrecipients must maintain records which adequately identify the source and application of funds provided for financially assisted activities. These records must contain information pertaining to designated recipient or subrecipient awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.
- (c) Internal control. Effective control and accountability must be maintained for all designated recipient and subrecipient cash, real and personal property, and other assets. Designated recipients and subrecipients must adequately safeguard all such property and must assure that it is used solely for authorized purposes.
- (d) Budget control. Actual expenditures or outlays must be compared with budgeted amounts for each designated recipient or subrecipient. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the designated recipient or subrecipient agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.
- (e) Allowable cost. Applicable Office of Management and Budget (OMB) cost principles, agency program regulations, and the terms of designated recipient and subrecipient agreements will be followed in determining the reasonableness, allowability, and allowability of costs. OMB Circular A-87 (codified at 2 CFR part 225) provides the Federal guidelines for allowable costs for recipients that are governmental authorities. OMB Circular A-122 (codified at 2 CFR part 230) provides comparable guidance for non-profit organizations. Expenses such as indirect costs or payments to a self-insurance fund must be documented appropriately. The restrictions on advertising and public relations permit advertising and public relations for "specific purposes necessary to meet the requirements of the Federal award." Similar provisions are

also contained in A-122. Transit marketing and promotion are allowable project costs under these provisions, since transit ridership is the ultimate purpose of the Federal designated recipient.

- (f) Source documentation. Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subrecipient award documents, etc.
- (g) Cash management. Procedures for minimizing the time elapsing between the transfer of funds from the U.S. Treasury and disbursement by designated recipients and subrecipients must be followed whenever advance payment procedures are used. Designated recipients must establish reasonable procedures to ensure the receipt of reports on subrecipients' cash balances and cash disbursements in sufficient time to enable them to prepare complete and accurate cash transactions reports to the awarding agency. When advances are made by letter-of-credit or electronic transfer of funds methods, the designated recipient must make drawdowns as close as possible to the time of making disbursements. Designated recipients must monitor cash drawdowns by their subrecipients to assure that they conform substantially to the same standards of timing and amount as apply to advances to the designated recipients.

### **Accounting System**

BCDCOG uses an accounting system to record and track program encumbrances and expenditures. All systems and procedures for financial management are in compliance with 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

### **Audit**

All invoicing and payment transactions are thoroughly reviewed during the independent annual audit of BCDCOG. BCDCOG reserves the right to review subrecipient financial records upon request. BCDCOG complies with the requirements of 2 CFR 200.

### **Close-Out**

BCDCOG will comply with the requirements set forth in the Close-Out Procedures section of the FTA Grant Management Guidelines (Circular 5010.1E).

### **Project Monitoring, Data Collection, and Reporting**

BCDCOG maintains a project file to track project expenditures, amounts charged to funding sources, local matching sources, and project budgets and schedules. BCDCOG will be responsible for reporting to FTA the total expenditures for each federal grant and reconciling the grant expenditures and revisions to the project budgets. Subrecipients are required to submit to BCDCOG status reports on a quarterly basis.

Subrecipients are required to prepare a variety of reports on a quarterly basis. These include a project narrative, local matching sources used, number of passenger trips provided, vehicle miles traveled, and revenue service hours provided. They are also required to report on a biannual basis their efforts in purchasing from DBE vendors and an annual vehicle condition report.

BCDCOG shall be responsible to submit the following reports to FTA: the annual program of projects status report, milestone activity reports, financial status reports, program performance report, DBE reports and other documentation as required by FTA. The annual program of projects status report for Section 5310 program activities will be submitted within 30 days from the end of the Federal fiscal year and is to include (1) an updated program of projects for each approved award that contains active projects reflecting revised project descriptions, changes in projects from one category to another, and adjustments within budget categories, (2) budget revisions for changes in line item budgets, if required by the regional office, (3) significant civil rights compliance issues, such as Title VI, Equal Employment Opportunity, or Disadvantaged Business Enterprise complaints against the recipient or subrecipients, and (4) notable accomplishments or problems involving subrecipients is responsible for ensuring

that grant funds are used properly and organizations comply with all of the requirements associated with the receipt of federal grant funds.

### **Procurement**

Procedures used by subrecipients to purchase eligible items with Section 5310 grant funds must ensure competitive procurement and conformity to applicable federal law, including 2 CFR 200 and FTA Guidance Circular: FTA C 4220.1F, "Third Party Contracting Requirements." Sub-recipients must perform in accordance with terms, conditions, and specifications of their contracts or purchase orders. BCDCOG will ensure that every sub-grant includes any clauses required by federal or state statute and executive orders and their implementing regulations.

### **Real Property**

Real property acquisition standards are included in the current FTA Circular 5010.1E, "Award Management Requirements." Subrecipients of a State may use the State's staff appraisers to prepare required independent appraisals.

### **Lease versus Buy Considerations**

A recipient may use capital funds to lease capital assets from another party in cases where it is determined that leasing would be more cost effective than either purchasing or constructing the asset. Recipients with pre-award authority must conduct the cost comparison before entering into the lease. Recipients should refer to regulations for further details on conducting the cost effectiveness comparison (47 CFR 32.2681).

Recipients should submit the cost comparison to the appropriate FTA regional office for review before entering into the lease or before approval of the grant which supports the lease. The cost comparison should be retained on file for later review or audit. When a recipient intends to enter into a lease of considerable duration (rather than paying for the lease in a lump sum at the beginning of the lease period), the recipient must be able to complete the acquisition with local funds in the event FTA funds are not available in later years.

### **Public Comment on Fare and Service Changes (Only Applicable to Section 5307 Recipients)**

According to 49 U.S.C. 5307(c)(1)(I), the recipient must certify that it has a locally developed process to solicit and consider public comment before raising a fare or implementing a major reduction of public transportation service. The recipient is expected to have a written policy that describes the public comment process on increases in the basic fare structure and on major service reductions. The recipient is responsible for defining a major service reduction. The policy should provide an opportunity for a public hearing or public meeting for any fare increase or major service reduction and should describe how the recipient will conduct such meetings and how the recipient will consider the results of such meetings in the process of changing fares and service. A public meeting is not mandatory; however, an opportunity for a public meeting in order to solicit comment must be provided.

During a review, the recipient should be able to provide evidence that public comments were considered. Guidance on this requirement is available in FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients."

### **Property Management**

The BCDCOG complies with all applicable requirements in the FTA Award Management Requirements (Circular 5010.1E) with regard to equipment, supplies, and rolling stock purchases by making the requirements part of the subrecipients' contract with the BCDCOG. BCDCOG will adhere to the vehicle useful life criteria that are detailed in the current FTA Circulars 9030.1E.

### **Equipment Management**

In general, equipment purchased in whole or in part using FTA funds must be maintained in good working order throughout its useful life. An inventory of all equipment purchased using FTA monies will be maintained by the subrecipient and will detail the date of acquisition, pertinent serial numbers (or VIN numbers), specific FTA money



used to purchase the item, date of expected disposal, purchase price, and records of maintenance. This information will be available upon request to BCDCOG staff for review, and may be checked against hardware during an on-site review. Equipment purchased using FTA funds must be maintained by the subrecipient at all times, and may not be leased, pledged, mortgaged, contracted, or obligated in any way beyond the initial scope of the FTA program involved and without explicit written permission from BCDCOG. Specific cases can be referred to BCDCOG for discussion. Disposal of equipment purchased using FTA funds, including vehicles, should follow the guidelines listed below:

1. The equipment must have exceeded its useful life, and in the case of vehicles, age and mileage parameters as determined by Federal standards for vehicle type. If equipment requires excessive maintenance to remain operable prior to reaching the end of its useful life an exception can be made to this guideline, pending BCDCOG approval.
2. Following guidelines established in the South Carolina Management Plan, handicapped accessible vehicles require documentation indicating that persons with disabilities will still have access to transportation if the vehicle is disposed. All persons with disabilities must have access to transportation.
3. Prior to scheduling disposal of equipment (including vehicles), the subrecipient will contact BCDCOG to discuss current FTA guidelines. This may include transferring the vehicle to another program. Please note, the BCDCOG will record a lien against the title for all vehicles purchased using FTA funds disbursed by BCDCOG as the designated recipient. Documentation of current insurance must be maintained at all times, and must be available for inspection by BCDCOG staff.

## **Maintenance**

BCDCOG is responsible for ensuring that federally funded equipment and facilities are kept in good operating order. As part of their standard subrecipient agreements, BCDCOG will require subrecipients to follow manufacturer's suggested maintenance activities and schedules to ensure they maintain equipment in good operating order and perform pre-trip inspections of vehicles. BCDCOG will check subrecipient maintenance records and may inspect vehicles during site visits.

Grantees must have a pre-trip inspection program that addresses vehicle condition, appearance, cleanliness, and safety. Grantees must maintain a file on each piece of equipment that contains daily logs, inspection checklists, and repair records.

## **Transfer of Property**

Title 49 U.S.C. 5334(h)(1) through (3) allows facilities and equipment and other assets (including land) which are no longer needed for the purposes for which they were acquired to be transferred to a local governmental authority to be used for a public purpose with no further obligation to the Federal government, if authorized by the Secretary of Transportation (i.e., approved by FTA). Recipients should review the current FTA Circular 5010.1E and contact their FTA regional office for further information.

## **Disposition**

Designated recipients are not required to return to FTA proceeds from the disposition of equipment where the fair market value of the per unit item being disposed of is less than \$5,000 dollars. If the per unit fair market value exceeds \$5,000 dollars, FTA will calculate the amount of proceeds it is owed based on the approved disposition method applied. Equipment or property that has not met its useful life, regardless of the value, will need to have the Federal grant portion returned by the subrecipients.

Funds derived from the disposal of transit vehicles or equipment originally purchased under a federal grant shall be retained by the grantee and used in supporting the provision of public transportation. BCDCOG will seek written confirmation that the proceeds have been deposited into an account controlled by the transit provider and used solely in support of their overall transit operations. The proceeds from disposing damaged vehicle or equipment

that have not met their useful life and their insurance settlement can be used only for the replacement of the vehicle/equipment.

### **Debarment and Suspension**

To prevent fraud, waste, and abuse in Federal transactions, BCDCOG is responsible for ensuring that federal funds are not provided to anyone who has been debarred, suspended, ineligible, or voluntarily excluded from participation in federally-assisted transactions. The U.S. General Services Administration (GSA) maintains a website, which is updated with real time data as it occurs. BCDCOG will review during site visits a subrecipient's transactions, particularly for vehicles and equipment, to verify that checks have been made.

### **Environmental Protection**

BCDCOG and all subrecipients receiving FTA funding will comply with the FTA's environmental impact regulations as they relate to transit projects. All projects seeking FTA financial assistance require compliance with NEPA implementing regulations (40 CFR 1500-1508), FHWA and FTA's Environmental Impact and Related Procedures (23 CFR 771), Efficient Environmental Reviews for Project (23 CFR 139), and numerous other environmental laws, regulations, and orders such as Section 106 of the National Historic Preservation Act (36 CFR 800), the Clean Water Act, and the Endangered Species Act. Project sponsors should consult with the FTA Regional Office early in project development to identify the appropriate class of action (categorical exclusion (CE), environmental assessment (EA), or environmental impact statement (EIS)) for the NEPA review and any other environmental requirements. Project sponsors should not move forward with any steps to develop the project that would preclude the fair consideration of alternatives (e.g. final design and construction) until FTA concludes the NEPA process by issuing a record of decision (ROD), finding of no significant impact (FONSI) or a CE. Property acquisition, other than for the linear right-of-way needed for the project (as determined in close consultation with FTA staff), should not take place until a ROD, FONSI, or CE is issued.

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

The principal CAA requirement with which funded projects must comply is the transportation conformity rule. The conformity requirements are contained in an Environmental Protection Agency (EPA) regulation (40 CFR 93), and they apply in nonattainment and maintenance areas only. These are areas that either: (1) currently violate one or more of the National Ambient Air Quality Standards (NAAQSs) (nonattainment areas); or (2) once violated the standards but have since been re-designated to attainment status by EPA (maintenance areas).

### **Fares Charged to Seniors and Persons with Disabilities During Nonpeak Hours**

According to 49 U.S.C. 5307(c)(1)(D), a recipient must certify that the fares charged to seniors, individuals with disabilities, or individuals presenting a Medicare card during nonpeak hours, for transportation using or involving a facility or equipment of a project financed under this section, are not more than 50 percent of the peak hour fare, regardless of whether the service is provided by the recipient or by another entity under contract, lease, or other arrangement. Because a Medicare card does not constitute proof of an individual's identity, it is reasonable for a transit agency to request confirmation of the individual's identity, either through secondary photo identification or by using a photographic identification card issued by the transit agency. It is also reasonable for a transit agency to verify the validity of the Medicare card being presented, and to facilitate the half-fare application process, a transit agency may request that the applicant validate the status of the card at the time the half-fare application is presented.

### **Environmental Justice**

BCDCOG and subrecipients must comply with Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which requires that the U.S. DOT and the FTA make environmental justice (EJ) part of planning process by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects on programs, policies, and activities of minority populations and/or low-income populations. Environmental justice includes incorporating environmental justice and non-discrimination principles into transportation planning and decision-making processes as well as

project-specific environmental reviews. BCDCOG has a Public Participation Plan and a Title VI Civil Rights and Limited English Proficiency Plan (LEP); these plans provides implementation steps for insuring that disadvantaged populations are included in the transportation planning process.

### **Section 504 and ADA Reporting**

Subrecipients will comply with Section 504 ADA requirements. The ADA, as amended (42 U.S.C. 12101 et seq.), prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities, as well as imposes specific requirements on public and private providers of public transportation. Complaints involving discrimination in service or employment must be reported to the Designated Recipient and will be investigated for resolution. Compliance reports and updates will be submitted to the designated recipient as a portion of the quarterly report. These reports will be reviewed as the method for monitoring subrecipients' compliance with Section 504 and Americans with Disabilities Act of 1990 (ADA) regulations prior to payment of any invoices. In addition, recipients of any FTA funds should be aware that they also have responsibilities under Titles I, II, III, IV, and V of the ADA in the areas of employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

### **Commercial Driver's License Requirements**

Employees of subrecipients operating vehicles All drivers of motor vehicles designed or used to transport more than fifteen passengers (including the driver) or of vehicles which have a gross combination weight rating of 26,001 pounds or more must have a CDL. Mechanics that drive the vehicles must also have a CDL.

### **Labor Protection**

- a. Davis-Bacon Act. For FTA programs, 49 U.S.C. 5333(a) imposes Davis-Bacon Act prevailing wage requirements. This provision applies only to construction projects. In the event that a project involves construction, Section 5333(a) requires the secretary to ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of loans or grants under Chapter 53 be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the secretary of Labor and in accordance with the Davis-Bacon Act, as amended. The secretary may not approve any such loan or grant without first obtaining assurance that required labor standards would be maintained upon the construction work. This assurance is obtained when recipients accept grant funds and sign the Master Agreement.
- b. Transit Employee Protection. Before FTA may award a grant for capital or operating assistance, fair and equitable arrangements must be made to protect the interests of transit employees affected by the proposed FTA assistance (49 U.S.C. 5333(b), formerly Section 13(c) of the Federal Transit Act as amended. Those arrangements must be certified by the secretary of Labor as meeting the requirements of the law.

Questions concerning employee protective arrangements and related matters pertaining to transit employees should be addressed to the Division of Statutory Programs, Employment Standards Administration, U.S. Department of Labor, Room N-1519, 200 Constitution Avenue NW, Washington, DC 20210; telephone 202-693-1193; fax 202- 693-1344.

### **On-Site Reviews**

BCDCOG and/or its representatives may perform on-site project monitoring visits with subrecipients. Site visits may be conducted using checklists that outline accounting, record-keeping, and administrative requirements in compliance with 2 CFR 200. The program compliance and regulatory requirements for receipt of federal funds; vehicle inventory, and maintenance records if the subrecipient received capital assistance shall apply and will be inspected at the on-site review.

## **Lobbying**

Recipients of federal grants and contracts exceeding \$100,000 must certify that they have not and will not use federally appropriated funds to pay for influencing or attempting to influence an officer or employee of any federal department or agency, a member of Congress, or an officer or employee of Congress in connection with obtaining any federal grant, cooperative agreement or any other federal award. BCDCOG requires each subrecipient receiving more than \$100,000 to complete FTA's Certification on Lobbying prior to contract execution. All bids for equipment prepared by these subrecipients are required to contain this certification as well.

## **Pre-Award and Post-Delivery Reviews**

Subrecipients that purchase rolling stock for use in revenue service must conduct a pre-award and post-delivery review to assure compliance with bid specifications, Buy America requirements, and federal motor vehicle safety requirements. Only purchases of more than 10 vehicles, other than unmodified vans or sedans, require in-plant inspection. BCDCOG will obtain the certifications from subrecipients through the Subrecipient Agreement. BCDCOG will prepare a checklist for its subrecipients to use in complying with FTA's pre-award audit requirements. The checklist will address "Buy America;" Federal Motor Vehicle Safety Standards; Bus Testing, and the subrecipient's own specifications. Sub-recipients are required to verify certified information by use of the checklist during the visit at the manufacturer's factory. BCDCOG will prepare a checklist (Visual Inspection Form and Road Test Form) for the subrecipient's use in the post-delivery inspection of the vehicle(s). A copy of the completed checklist is required when the subrecipient submits their request for reimbursement.

## **Buy America**

FTA may not obligate funds for a grantee project unless all steel, iron, and manufactured products are produced in the United States, unless the product is subject to a general waiver, or a waiver has been granted. Buy America requirements apply only if the purchase exceeds the threshold for small purchases, currently \$100,000. For purchases over this threshold, BCDCOG will review during site visits invitations for bids to determine if Buy America provisions are included, and examine bid responses and executed contracts to determine if properly executed Buy America certifications have been obtained.

## **Vehicle Use**

Vehicles must remain in use for the purposes intended by the federal program under which they are purchased. Maximum use of vehicles is encouraged, first for program related purposes, then for other federal program and project purposes, and finally for other community needs. BCDCOG is responsible for ensuring satisfactory continuing control over all vehicles purchased under Section 5310 and must ensure that vehicles are insured and used for eligible public transit purposes.

If subrecipients intend to take vehicles out of service for program purposes, they must notify BCDCOG before doing so. Sub-recipients must remit the federal percentage share of the equipment's current fair market value to BCDCOG. The fair market value is determined by obtaining an independent appraisal of the equipment.

The terms and conditions of vehicle use, disposition, and insurance requirements will be included in the Subrecipient Agreement prior to awarding funds for vehicles. BCDCOG will maintain an inventory of all vehicles purchased under each program, and will require subrecipients to submit annual vehicle use reports (miles, hours, passengers, and trip purpose) to ensure that vehicles are used in accordance with program requirements and are not underutilized.

## **Charter Bus Services**

Title 49 CFR 5323(d) limits charter service provided by federally assisted public transportation operators. FTA regulations specify these limitations in 49 CFR part 604—Charter Service, amended effective April 30, 2008 (73 FR 2326, Jan.14, 2008). Each recipient must enter into an agreement with FTA that the recipient will not engage in charter service unless permitted by FTA charter service regulations. FTA includes that agreement in its annual publication of Certifications and Assurances. Charter service is defined based on whether a third party requests the

service or whether the transit agency initiates the service. If a third party requests service, FTA will utilize four characteristics of charter service to determine whether the proposed service meets the definition of charter. If a transit agency initiates the service, FTA will look at whether the transit agency also charges a premium fare or accepts a subsidy from a third party.

In addition, the charter rule established a new electronic database. Interested private operators must register at the FTA charter registration website (<https://www.transit.dot.gov/regulations-and-guidance/access/charter-bus-service/charter-bus-service-registration>) in order to receive notice from transit agencies regarding potential charter trips. Private operators may register their geographic area by zip code. When a transit agency receives a request for charter service that does not fit within one of the other exceptions outlined in the rule, and it is interested in performing the service, it must send notice to all private operators registered in the recipient's geographic service area. The notice sent by the transit agency must conform strictly to the requirements of the rule, as additional information may void the notice and may subject the transit agency to a complaint from registered charter providers. The rule also provides for a detailed complaint process for addressing potentially frivolous complaint filings, in addition to complaints against transit agencies that violate the regulation, and a complaint process for removing private registered providers if they are abusing the process. The rule contains hearing procedures, appeal procedures, and several appendices to assist transit agencies with compliance, including a penalty matrix and a series of frequently asked questions and answers.

Please contact your BCDCOG Program Manager if you have questions on what constitutes charter service before registering or taking further action.

### **Subrecipient's DUNS Requirement**

If it is authorized to make sub-awards under its agreement with FTA, the recipient must notify potential sub-recipients that no entity may receive a sub-award from the recipient unless the entity has provided its DUNS number to the recipient. The recipient must not make any subaward to an entity unless the entity has provided its DUNS number to the recipient.

### **School Transportation**

Subrecipient agreements will include provisions related to compliance with 49 CFR 5323(f) and FTA regulations, "School Bus Operations," at 49 CFR 605.14. Sub-recipients must agree that they will:

1. Not engage in school transportation operations in competition with private school transportation operators only to the extent permitted by 49 U.S.C. 5323(f), and federal regulations; and
2. Comply with the requirements of 49 CFR part 605 before providing any school transportation using equipment or facilities acquired with federal assistance authorized by 49 U.S.C. chapter 53 or Title 23 U.S.C. for transportation projects.

### **Civil Rights**

As the Designated Recipient for the urbanized area, BCDCOG will comply with all FTA regulations and guidance pertaining to Title VI of the Civil Rights Act. In addition, any subrecipient applying for funding will be required to develop a Title VI Plan and sign a Civil Rights Assurance that guarantees the organization will adhere to FTA regulations and guidance pertaining to civil rights. BCDCOG and subrecipients will prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibit discrimination in employment or business opportunity. BCDCOG and subrecipients will prohibit discrimination on the basis of disability. BCDCOG and subrecipients will take the necessary measures to facilitate participation by Disadvantaged Business Enterprises (DBE). Specifically, applicants must certify that they will adhere to the relevant portions of the following regulations and guidelines:

1. 49 U.S.C. 5332 (Nondiscrimination in Federal Transit Programs)
2. 42 U.S.C. 2000d et seq. (Nondiscrimination-Title VI)

3. 49 CFR part 21 (Nondiscrimination in Federally-Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act)
4. FTA Circular 4702.1 (Nondiscrimination Guidelines for FTA Recipients)
5. Executive Order 12898 (As Discussed in US DOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations)
6. US DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons
7. 42 U.S.C. 2000e (Equal Employment Opportunity)
8. 42 U.S.C. 6101 et seq. (Nondiscrimination on the Basis of Age)
9. 29 U.S.C. 794 (Section 504 of the Rehabilitation Act of 1973)
10. 42 U.S.C. 12101 et seq. (The Americans with Disabilities Act of 1990)
11. US DOT regulations concerning 49 CFR part 27, 37, and 38
12. Responsibilities under Title I, II, III, IV and V of the Americans with Disabilities Act as defined by the FTA.
13. SAFETEA-LU Section 1101 (b), 23 U.S.C. Section 101 (10% rule to DBE's)
14. 49 CFR part 26 (Participation by DBEs Department Of Transportation-Financial Assistance Programs)
15. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d.
16. p. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e

Subrecipients will file a semi-annual Disadvantaged Business Enterprise report that will discuss expenditures made to certified DBE firms, dollar value of contracting opportunities, and identification of potential DBE firms in the area.

Subrecipients also will file an annual Title VI report that will discuss any complaints or lawsuits involving its organization, a list of federal funding received by the organization, and summaries of any civil rights complaints received by the organization. Civil rights complaints will be investigated for resolution.

### **Drug-Free Workplace**

In accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.), and 49 CFR part 32, each recipient is required to maintain a drug-free workplace for all employees and to have an antidrug policy and awareness program. The recipient must agree that it will provide a drug-free workplace and comply with all requirements of 49 CFR part 32. These provisions apply only to FTA's direct recipients and do not extend to sub-recipients.

The recipient is required to provide a written drug-free workplace policy statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and stating specific actions that will be taken for violations. The Department of Labor provides a drug-free workplace advisor to assist users in developing tailored policy statements at the following link: <http://www.dol.elaws/drugfree.htm>. The ongoing drug-free awareness program must inform employees about the dangers of drug abuse; about any available drug counseling, rehabilitation, and employee assistance programs; about penalties that may be imposed; and that employees are to be aware that the recipient operates a drug-free workplace.

An employee of an FTA recipient is required to report in writing any conviction for a violation of a criminal drug statute occurring in the workplace, and the recipient/employer is required to provide written notice to FTA within ten days of having received the notice. Within thirty days of receiving the notice of a conviction, the recipient/employer must have taken appropriate action against the employee or have required participation in a drug abuse assistance or rehabilitation program.

Technical assistance materials and training information to help recipients implement the drug-free workplace and D&A testing rules are available on FTA's website (<http://www.fta.dot.gov>) or by contacting FTA's office of safety and oversight, FTA headquarters, 1200 New Jersey Ave. SE, Washington, DC 20590.

## **Drug and Alcohol Testing (Only applicable to Section 5307 funding recipients)**

Organizations administering an FTA Section 5307 grant as a subrecipient through BCDCOG must adhere to a drug and alcohol testing policy. This includes maintaining a drug-free workplace as well as a drug and alcohol testing program for safety-sensitive employees. Specific questions about these policies should be directed to BCDCOG. In general, the following guidelines will apply to all 5310 subrecipients. Subgrantees must certify that they provide a drug-free workplace that meets the following standards:

1. Prominently display the drug and alcohol policy in the workplace. This display should notify employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited. This display should outline actions to be taken against employees in violation of the drug and alcohol policy.
2. Employees should receive a full copy of the drug and alcohol policy prior to beginning their duties with the organization.
3. Notify each employee that a condition of employment is to abide by the terms of the drug and alcohol policy. Employees must notify the subrecipient in writing if he/she is convicted of a violation of a criminal drug statute occurring in the workplace within five calendar days of the conviction. The subrecipient must notify BCDCOG immediately upon receipt of a notice of conviction, and BCDCOG will notify the FTA in writing within 10 calendar days of receiving notice of a conviction regarding an employee of a subrecipient.
4. Subgrantees must take the appropriate personnel action against an employee convicted of a violation of a criminal drug statute as defined by the organizational drug and alcohol policy. This may range from a requirement to participate satisfactorily in a drug abuse assistance or rehabilitation program up to termination of employment, dependent upon each organization's drug and alcohol policy.
5. Subgrantees must continually inform employees about the dangers of drug abuse in the workplace, the existence of a drug-free workplace, available programs to assist employees with drug counseling or rehabilitation, and any potential personnel actions that can be taken against employees who are in violation of the drug and alcohol policy.
6. Subgrantees must make a good-faith effort to continue to maintain drug-free workplace using guidelines 1 through 5.

Sub-grantees will provide the following drug and alcohol testing for safety sensitive employees:

1. Pre-employment testing will be conducted before an employee performs safety sensitive duties for the first time.
2. Reasonable suspicion testing will be conducted if an employee behaves in a manner characteristic of drug or alcohol misuse.
3. Any transit related accident must be followed by drug and alcohol testing for employees whose performance could have contributed to the accident.
4. Employees who have been suspended from work due to a violation of the drug and alcohol policy must be tested prior to resuming safety sensitive duties. These tests should be unannounced and at least six tests must be conducted in the first 12 months of returning to duty.
5. The subrecipient will reserve the right to randomly test employees working on safety sensitive duties before, during, or after fulfilling those duties. Drug and alcohol testing must be carried out in accordance with regulations developed by the US Department of Transportation and using a laboratory certified by the US Department of Health and Human Services. The test used for alcohol misuse is a breath analysis and for drug misuse a urine analysis. Employees undergoing a drug test should be tested for the presence of marijuana, cocaine, amphetamines, opiates, and phencyclidine (PCP). Documentation that clearly shows the subrecipient is performing all required drug testing, lists the test site and laboratory used, and continues to adhere to the drug-free workplace requirements will be reviewed by BCDCOG during program management reviews.

## **Safety and Security**

49 CFR 5329 grants FTA with the authority to establish a new comprehensive framework to oversee the safety of public transportation throughout the United States. The law requires, among other things, that the DOT issue a National Public Transportation Safety Plan, establish safety performance criteria for all modes of public transportation, define a “state of good repair,” establish minimum safety performance standards for public transportation vehicles, and a safety certification training program. States are required to strengthen their State Safety Oversight (SSO) programs and submit them to FTA for certification. In addition, public transportation agencies must establish comprehensive agency safety plans for their rail and bus operations.



## Appendix A – Designated Recipient Letter

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Secretary of Transportation  
Robert J. St. Onge, Jr.  
(803) 737-1312 Fax (803) 737-2038

October 30, 2013

Dr. Yvette G. Taylor, Regional Administrator  
Federal Transit Administration, Region IV  
230 Peachtree Street, NW, Suite 800  
Atlanta, Georgia 30303

**RE:** South Carolina Concurrence – Designation of Berkeley-Charleston-Dorchester Council of Governments for Urbanized Area Formula Funds

Dear Dr. Taylor:

Consistent with the provisions of *Moving Ahead for Progress in the 21<sup>st</sup> Century* (MAP-21) and as the designated agency responsible for fulfilling administrative functions as required by the Federal Transit Administration (FTA), I hereby concur with the designation of the Berkeley-Charleston-Dorchester Council of Governments (BCDCOG) to serve as the designated recipient for Charleston-North Charleston urbanized area and to administer FTA urbanized area formula program funds. The Charleston Area Transportation Study (CHATS) Policy Committee, acting as the designated policy board of the Metropolitan Planning Organization (MPO), supported this designation on August 19, 2013 through formal resolution.

As the designated recipient, Berkeley-Charleston-Dorchester Council of Governments will be responsible for developing a Program Management Plan (PMP), administering programs by ensuring that all subrecipients comply with Federal requirements, notifying eligible local entities of funding availability, developing program selection processes, determining project eligibility, developing the yearly program of projects and receiving and dispensing funds supporting the urbanized area within the Berkeley-Charleston-Dorchester region.

Should you require additional information, please contact Doug Frate, Deputy Secretary for Intermodal Planning at 803-737-1436.

Sincerely,

A handwritten signature in black ink, appearing to read "R. St. Onge, Jr.", is written over a circular blue stamp.

Robert J. St. Onge, Jr.  
Secretary of Transportation

DWF:dlg  
Enclosures

cc: Ron Mitchum, Executive Director, BCDCOG  
Christine Wilkinson, Executive Director, CARTA  
Doug Frate, Deputy Secretary for Intermodal Planning  
Johnny Mmanuikie, Assistant Director  
Diane M. Lackey, Statewide Programs Development Manager  
File: OPT



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NOV 19 2013

Secretary Robert J. St. Onge  
State of South Carolina  
Department of Transportation  
955 Park Street, Room 306  
Columbia, SC 29201

Attn: Mr. Douglas Frate

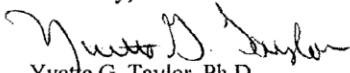
Re: Sections 5307, 5310 & 5339 Designated Recipient for the Charleston, South Carolina  
Urbanized Area

Dear Secretary St. Onge:

In response to your October 30, 2013 correspondence pertaining to the Federal Transit Administration (FTA) urbanized area formula program funds Designated Recipient (DR) designation for the Charleston, South Carolina urbanized area served by the Charleston MPO (CHATS), we are pleased to acknowledge the designation of the Berkeley-Charleston-Dorchester Council of Governments (SCDCOG) as DR for FTA's Sections 5307, 5310 and 5339 formula funds apportioned to the Charleston, South Carolina urbanized area. As further requested in supporting correspondence from BCDCOG and Charleston Area Regional Transportation Authority (CARTA), CARTA is acknowledged as a continuing direct recipient.

If we can be of further assistance please contact Ms. Jennifer Hibbert of my staff at 404-865-5632.

Sincerely,

  
Yvette G. Taylor, Ph.D.  
Regional Administrator

cc: Elliott Sumney (CHATS Chairman)  
Larry Hargett (TriCounty Link Board Chairman)  
Christine Wilkinson, (CARTA Executive Director)