
**APPLICATION FOR ASSISTANCE
UNDER SECTION 5311 OF CHAPTER 53,
TITLE 49, UNITED STATES CODE
(CFDA #20.509)**

**Missouri Department Of Transportation
P.O. Box 270
Jefferson City, Missouri 65102**

January 2, 2018

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INTRODUCTION

Section 5311 of Title 49, United States Code herein referred to as 5311, provides operating assistance to public transportation systems in nonurbanized areas. A nonurbanized area is an area outside a city of 50,000 plus inhabitants and its densely settled fringe areas.

Eligible applicants of Section 5311 assistance must be either public bodies or private nonprofit corporations. Private for profit providers of service are eligible through purchase of service agreements with a local public body for the provision of public transportation services.

Section 5311 of Title 49, United States Code provides capital assistance to those systems providing general public services. Capital projects are funded at the ratio of 80 percent federal funds with 20 percent local match required.

This document contains the forms, certifications, and assurances necessary to apply for capital and operating assistance. The State Management Plan and Operator's Manual should also be reviewed for additional information. A copy of this document is available at the address shown below. The State Management Plan can be viewed on MoDOT's web site at the following address:

[http://www.modot.org/othertransportation/transit/documents/MoDOT State Management Plan DEC-2013.pdf](http://www.modot.org/othertransportation/transit/documents/MoDOT_State_Management_Plan_DEC-2013.pdf)

MoDOT does not discriminate on the basis of race, color, creed, national origin, sex or age, and prohibits discrimination in employment or provision of services.

If you have any questions concerning this program, please contact the:

**Missouri Department of Transportation
ATTN: Transit
P. O. Box 270
Jefferson City, Missouri 65102
(573) 751-7481**

MoDOT's Commitment to Civil Rights

Title VI of the Civil Rights Act of 1964 is a Federal law that protects individuals and groups from discrimination on the basis of their race, color, and national origin in programs and activities that receive Federal financial assistance. Reference to Title VI includes other civil right provisions of Federal statutes and related authorities to the extent they prohibit discrimination in programs and activities receiving Federal financial assistance.

Title VI compliance is defined as when the recipient has effectively implemented all of the Title VI requirements or can demonstrate that every good faith effort has been made toward achieving this end. MoDOT and all Section 5311 program recipients must meet these requirements.

All programs conducted by MoDOT and the Section 5311 program recipients must meet the requirements. Education, training, work opportunities, benefits, and provision of services are examples of programs that must meet the Title VI requirements, whether provided directly by the recipient or its agents, contractors, or other vendors.

Discrimination is defined as: an act (action or inaction) whether intentional or unintentional, through which a person or group, solely because of race, color, national origin, disability, sex, age or income status, has been otherwise subjected to unequal treatment or impact, under any program or activity receiving Federal financial assistance.

A complaint may be filed by any individual or group that believes they have been subjected to discrimination or retaliation based on their race, color, national origin, sex, age, disability or income status. The complaint may be filed by the affected party or a representative and must be in writing.

Section 5311 program recipients who feel they have been discriminated against by any MoDOT employee or its agent/contractor may contact MoDOT's External Civil Rights Office. A review will be made to determine if MoDOT has jurisdiction to investigate the issues raised. If MoDOT does not have jurisdiction, the complaint will be forwarded to the appropriate agency. If MoDOT does have jurisdiction, the allegations will be investigated and an attempt will be made to resolve the matter. If violations are found and negotiations to correct the violation are unsuccessful, enforcement proceedings may be initiated to attain compliance.

In addition, any individual or group who believes they have been discriminated against by an employee of a Section 5311 program recipient or its agent/contractor should first contact the Section 5311 recipient in writing. MoDOT should also be notified of the complaint within 5 working days.

MoDOT and the Section 5311 program recipients are prohibited from retaliating against any person because they reported an unlawful policy or practice, or made charges, testified, or participated in any complaint action under Title VI. If an individual or group believes they have been retaliated against, they should immediately contact MoDOT's External Civil Rights Office to report their allegation. Filing a complaint with MoDOT does not prevent an individual or group from seeking remedy through other resources.

Complaints should be addressed to:

External Civil Rights/Title VI Coordinator
P. O. Box 270
Jefferson City, MO 65102
573-526-2978

RECOMMENDED STEPS IN COMPLETING APPLICATIONS FOR SECTION 5311 ASSISTANCE

The Missouri Department of Transportation requires one complete, correct application **no less than 90 days** prior to project start date. All applicants are required to furnish the data requested in this handbook. The Missouri Department of Transportation recommends that the following areas be given first priority as they require substantial time to complete:

Operating/capital budget (See pages 5 and 8-9).

Public hearing process (See page 19).

Authorizing ordinance/resolution from your governing body. (See page 11 or 12).

Legal opinion to determine if any pending legal issue prevents the applicant from submitting an application or carrying out the responsibilities of a Section 5311 grant (See page 13).

All applicants should carefully review the section on holding a public hearing. Failure to schedule a proper public hearing may cause an applicant to have to reschedule another public hearing or delay the project.

The balance of the assurances and exhibits may be completed at the project manager's discretion. Please review your application for completeness prior to submitting to the Missouri Department Of Transportation.

PROJECT SELECTION CRITERIA

The Section 5311 program has a major goal. The program is designed to assist locally supported general public transportation systems. To accomplish this goal, the department has established two categories of direct grantees.

First priority is given to local public bodies because they meet the program's primary objective of offering general public service. Not-for-profit organizations are also allowed to participate in the program if they meet program criteria and have available local matching funds.

Specific application instructions begin on the next page.

Submit a letter from your agency addressed to the Missouri Department of Transportation, c/o Transit, requesting assistance.

EXAMPLE:

Dear Director:

The _____ is applying for a grant of \$_____.00 under Section 5311 of title 49, United States Code, to assist in financing a public transportation project. The applicant affirms that the data shown in this application are true and correct.

Sincerely,

Authorized Official

(Cab coupon projects must also submit a letter requesting Missouri Department of Transportation authorization to begin the bid process)

Even though you may address this letter to the Director of MoDOT, do not send the application to the Director's office. Send it to the Transit Section.

APPLICATION FOR SECTION 5311 ASSISTANCE
PROJECT PERIOD: _____, 2018 - _____, 2019

Date: _____

Applicant's Name: _____

Mailing Address: _____

Street Address (if different from mailing address): _____

City, State, Zip _____

Contact Person: _____

Phone Number: _____ Fax Number: _____

E-Mail Address: _____

County: _____ U.S. Congressional District: _____

Missouri Senate District: _____ Missouri Representative District: _____

General description of Project:

(additional pages may be attached but please submit a summary of no more than 2 pages for attachment to the agreement)

Proposed Capital Funding:

Federal Funds \$ _____
Local Match \$ _____
TOTAL BUDGET \$ _____

Proposed Operating Funding:

Federal Funds \$ _____
Local Match \$ _____
Fares \$ _____
TOTAL BUDGET \$ _____

Authorized Official

SAMPLE
CAPITAL PROJECT BUDGET

PROJECT PERIOD: _____

CAPITAL PURCHASES

Description	Total Estimated Cost	Federal Portion	Local Portion	Replacement or Backup Vehicle
1 Purchase of four new 25-passenger gasoline powered small city buses, air conditioned, wheelchair lift equipped.	\$177,000	\$141,600	\$35,400	2 – expansion, 2 replacments – will replace vehicles 202 and 204 (see vehicle roster)
2 Purchase of four two-way radios (\$2,000) and one base station (\$5,000)	\$7,000	\$5,600	\$1,400	
SUBTOTAL	\$184,000	\$147,200	\$36,800	
Federal Share (80%)	\$147,200			
Local Cash Share (20%)	\$36,800			
TOTAL – this amount should = amount shown on application page	\$184,000			

Prioritize items in order of importance, i.e., the most important item should be listed first, the second most important item should be listed second, etc.

* Please state if vehicles being requested are for expansion or replacement purposes. This can be identified on the vehicle roster page which follows.

** Purchase of land, A & E services, construction of facilities and/or purchases of facilities are eligible items but the applicant must be a public entity established by Missouri Law.

SAMPLE VEHICLE ROSTER

Grantee Number	Model Year	Type of Vehicle	Mileage	Current Status of vehicle	Vehicle Identification Number	Will vehicle be replaced or not
202	1999	Minibus	120,000	Active		yes
204	1999	Minibus	143,000	Active		yes
600	2000	Van	76,000	Active		no
701	2003	Van	32,000	Active		no
702	2003	Van	29,000	Active		no

Applicants must compute spare ratio. Spare ratio is the number of backup vehicles divided by the total number of vehicles owned. Federal funds will not support vehicle acquisitions that result in a spare ratio greater than 30%. **The Missouri Department of Transportation will not apply for vehicles if the applicant's vehicle spare ratio exceeds 30%.**

If an applicant operates a fixed route system, please indicate how many vehicles are needed to operate a peak period service.

All new vehicles requested must be identifiable as being for replacement purposes or expansion of service if that is anticipated

ATTACHMENT B

COMMITMENT OF THE LOCAL SHARE

The local contribution for capital purchases will be made in cash by the

from sources other than Federal funds or transit revenues. Funds are currently available in the account for matching capital transit assistance.

Note: If funds are not currently available, describe expected source.

It is further understood that no refund or reduction of the local contribution shall be made at any time unless there is at the same time a refund of a proportional amount of the federal grant.

Mayor/Authorized Official

ATTEST:

City Clerk/Secretary

SAMPLE

PROJECTED OPERATING BUDGET

Project Period: _____

Please code your Section 5311 budget per Chart of Accounts as listed on the DBE reporting spreadsheet.

Total Expenses

Administrative Costs to be reimbursed at 80%			
503.03	Drug & Alcohol Testing	\$1,200	
503.03	Physicals	600	
509.08	Background Checks	480	
506.00	Insurance (itemize each type, do not include Health Ins.)	22,000	
	Total 80% Expenses		<u>\$24,280</u>
501.00	Project Manager's Salary	\$30,500	
501.00	Secretary/Bookkeeper	22,000	
502.01	Manager-Fringe	5,050	
502.01	Secretary-Fringe	4,200	
503.03	Professional/Technical Services	1,800	
505.00	Building Utilities (lights, heat, water)	1,350	
505.02	Telephone	1,000	
509.01	Memberships	1,000	
509.02	Travel (mileage)	1,000	
509.03	Office Supplies	4,450	
514.01	Public Hearing Notices	200	
514.02	Marketing/Advertising	800	
	Total 50% Expense		<u>\$73,350</u>
	Total Administrative Expense		<u>\$97,630</u>
501.01	Driver Salaries	200,000	
502.01	Drivers-Fringe	22,500	
501.03	Dispatcher	19,500	
503.05	Maintenance (Labor and Parts)	16,000	
502.03	Dispatcher-Fringe	2,500	
504.01	Fuel and Oil	17,000	
507.04	Registration and Licensing	1,200	
	Total Operating Expense		<u>\$278,700</u>
	Total Expense (this should be the amount shown on the application page)		\$376,330
	Less Expense to be reimbursed at 80%		<u>-\$24,280</u>
	Total Expense to be reimbursed at upto 50%		<u>\$352,050</u>

Calculation of Funding Request

		Expense	Funding Request
Expenses to be reimbursed at 80%		\$24,280	\$19,424
Expenses to be reimbursed at up to 50%		\$352,050	
Less Ineligible Expense (Charter, MEHTAP, JARC, etc.)		-\$10,500	
Less Fares		-\$76,000	
Net Eligible Expense		<u>\$265,550</u>	
Revenues/Local Match Available	\$149,500		
Less Match for 80% exp	<u>\$4,856</u>		
Net Revenues/Local Match		<u>\$144,644</u>	
Net Deficit			<u>\$120,906</u>
Section 5311 Funding Request			<u>\$140,330</u>
Revenue/Local Match			
AAA	\$18,000		
General Funds	57,500		
Sheltered Workshop	17,225		
State Transit	7,690		
County	22,000		
United Way	1,400		
Medicaid	<u>25,685</u>		
		<u>\$149,500</u>	

Authorizing Ordinance for Public Entities (Resolutions will not be accepted)

CITY OF _____

ORDINANCE NO. _____

BILL NO. _____

An Ordinance to authorize the Mayor to apply for federal financial assistance on behalf of the _____ and to execute any contract(s) resulting from such application for any grants between the _____ and the Missouri Highways and Transportation Commission providing for capital, operating, and/or marketing assistance, comprised of federal funds to be expended for Commission-approved transit projects.

Be it ordained by the City Council of _____ as follows:

Section 1. That the Mayor is hereby authorized to apply for federal financial assistance on behalf of the _____ and to execute any contract(s) resulting from such application for any grants between the _____ and the Missouri Highways and Transportation Commission providing for capital, operating, and/or marketing assistance, comprised of federal funds to be expended for Commission-approved transit projects.

Section 2. That all ordinances or parts of ordinances therefore enacted which are in conflict herewith are hereby repealed.

Section 3. This ordinance shall be in full force and effect from and after the date of its passage and approval. Read two times, passed and approved on this day of _____, 20____.

APPROVED AS TO FORM

City Attorney

Mayor

Attest:

City Clerk

A RESOLUTION TO APPLY FOR THE FUNDS IS ACCEPTABLE. HOWEVER, EXECUTION OF THE CONTRACTS REQUIRES AN ORDINANCE BE PASSED. IF YOU INCLUDE BOTH THESE ACTIONS (THE APPLICATION AND THE EXECUTION OF THE CONTRACTS) INTO ONE AUTHORIZING DOCUMENT, IT MUST BE AN ORDINANCE.

**AUTHORIZING RESOLUTION
FOR
NONPROFIT CORPORATIONS AND QUASI-PUBLIC ENTITIES**

WHEREAS, the Missouri Department of Transportation is authorized to make grants for general public transportation projects; and,

WHEREAS, the contract for financial assistance will impose certain obligations upon the applicant, including the provision by it of the local share of project costs; and

WHEREAS, it is the goal of the applicant to provide the best transit system that can be provided with the funds available.

NOW THEREFORE, be it resolved by the _____ as follows:

1. That the Executive Director is authorized to execute and file applications for Section 5311 assistance on behalf of _____, a nonprofit corporation, with the Missouri Department of Transportation to aid in the financing of a public transportation system.
2. That the Executive Director is authorized to furnish such additional information as the Missouri Department of Transportation may require in connection with the application of the project.
3. That the President or Chairperson is authorized to execute grant agreement(s) on behalf of the _____ with the Highways and Transportation Commission for aid in the financing of Section 5311 assistance.

Adopted this _____ day of _____, 20____.

Signature _____

Typed Name _____

Title _____

ATTEST

Secretary of the Board

This resolution may include authorizing the President (or other official) to execute the agreements when MoDOT issues them. If it does not, a separate resolution must be submitted when the agreements are returned to MoDOT.

SAMPLE

LEGAL OPINION

Date

The Honorable John Doe
Mayor of _____
City Hall
City of _____, Missouri

or M. _____
Executive Director
Not-for-profit Corporation
Address
City, MO

Dear _____

This communication will serve as the requisite opinion of counsel to be filed with the Missouri Department of Transportation in connection with the application of the (City of ____, Missouri/Not-for-profit) for financial assistance pursuant to the provisions of Section 5311 of Title 49, United States Code herein referred to as 5311. I understand that the (City of ____, Missouri/Not-for-profit) has been duly designated a recipient in accordance with the provisions of Section 5311, and that the Missouri Department Of Transportation has concurred in the designation. The legal authority for the (City of ____, Not-for-profit)'s ability to carry out the project directly, by lease, contract, or otherwise is set forth below:

1. The (City of ____, Missouri/Not-for-profit) is authorized under Chapter 77, RSMo. 1969 **(for public entities)** or 355.131 RSMo. **(for not-for-profit corporations)**, as amended, to provide and assist public transportation by acquisition, construction and operation of existing or additional transit facilities. This assistance may be provided directly by the (City of ____, Missouri/Not-for-profit), and/or purchase of service or lease arrangements with other parties.
2. I have reviewed the pertinent federal, state, and local laws, and I am of the opinion that there is no legal impediment to making this application. Furthermore, as a result of my examinations, I find that there is no pending or threatened litigation which might in any way adversely affect the proposed project, or the ability of the (City of ____, Missouri/Not-for-profit), to carry it out.

Respectfully submitted,

Attorney

CERTIFICATION OF COMPLIANCE WITH CIVIL RIGHTS

**29 U.S.C. § 623, 42 U.S.C. § 2000 42 U.S.C. § 6102, 42 U.S.C. § 12112 42 U.S.C. § 12132,
49 U.S.C. § 5332 29 CFR Part 1630, 41 CFR Parts 60 et seq.**

Civil Rights - The following requirements apply to the underlying contract:

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

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

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

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

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

(3) Disadvantaged Business Enterprise – To the extent authorized by Federal law, the Applicant agrees to facilitate participation by Disadvantaged Business Enterprises (DBEs) in the Project and assures that each subrecipient, lessee, third party contractor, or other participant at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable.

(4) Access to Services for Persons with Limited English Proficiency – The Applicant agrees to facilitate compliance with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S. C. section 2000d-1 note, and follow applicable provisions of U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 *Fed. Reg.* 74087, December 14, 2005, except to the extent that FTA determines otherwise in writing.

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

The following information is required by the Federal Transit Administration. The economic/racial/ethnic composition of your governing body or riders will not be considered as a factor in awarding grants.

Check yes or no:

Our governing body (board of director, city council, etc.) is made up predominantly of minority and/or low-income individuals. yes no

Potential riders/clients of our transportation service will be predominantly minority and/or low-income individuals. yes no

Signature _____

Title _____

Date _____

LABOR

Please state in a narrative how this project will affect the employment conditions of your employees. What is the anticipated impact on employment of eligible public mass transportation providers in your proposed service area? Federal Transit Administration rules and regulations have defined public transportation as "any transportation by bus or rail or other conveyance, either publicly or privately owned, which provides to the public general or special services on a regular and continuing basis." Public transportation does not include the following: 1) school bus, charter or sightseeing service; 2) exclusive ride taxi service; and 3) service to individuals or groups which excludes use by the general public (i.e., age or income restrictions).

The term transportation service area of your project is intended to include the geographic area over which the project is operated and the area whose population is served by the project, including adjacent areas affected by the project.

Note: An eligible recipient includes those providers who are approved to receive Section 5311 assistance and other providers who qualify for Section 5311 assistance.

Applicants for Section 5311 assistance are required to agree to the conditions of the labor protection warranty. If the applicant agrees to the warranty, the applicant shall include in the application a statement agreeing to abide by all conditions of the Section 533 (b) warranty (see Exhibit B-1). A listing of eligible public mass transportation providers in the applicant's transportation service area should be provided as Exhibit B-2 (see example).

You must submit a narrative as required – do not send this page back.

**ACCEPTANCE OF SPECIAL 5333(B) OF TITLE 49, UNITED STATES CODE
WARRANTY FOR APPLICATION TO THE SMALL
URBAN AND RURAL PROGRAM**

Name of Grantee: _____

Address: _____

Telephone: _____

The recipient, for and in consideration of a transportation grant to be made available to the recipient, pursuant to Section 5311 of Title 49, United States Code, hereby agrees to accept the terms and conditions of the Special 5333 (b) Warranty, incorporated herein and made a part hereof by reference, absent a waiver by the U.S. Department of Labor.

The recipient hereby agrees that it is the exclusive designated legally responsible party under the terms of the Special Section 5333 (b) Warranty and that the state of Missouri, acting through the Missouri Department of Transportation, assumes no obligation under the terms of the Special Warranty which are not otherwise part of its normal obligation as a grant administering agency.

The recipient hereby authorizes the presentation of this acceptance by the state of Missouri to the U.S. Department of Labor as evidence of the Recipient's commitments above described.

Recipient: _____

Signature: _____

Title: _____

Date: _____

EXHIBIT B-2

LISTING OF RECIPIENTS, ELIGIBLE SURFACE TRANSPORTATION PROVIDERS AND LABOR REPRESENTATION

(1) Project	(2) Recipient	(3) Other Surface Public Transportation Providers	(4) Union Representation of Employees, if any
Cite project by name, description	Identify recipient of transportation assistance	Identify other eligible surface public transportation providers	Key to employees of providers in Columns 1 and 3

Column 1- the business name under which you operate (such as CTA for the Cape Girardeau County Transit Authority).
 Column 2 - the legal name under which the agreement will be issued (City of ___/not-for-profit).
 Column 3 – you must identify other public transportation providers in your geographic area including intercity bus such as Greyhound, Jefferson Lines, or Burlington Trailways..
 Column 4 – list any union representation for your program or any of the providers listed in Column 3.

PUBLIC HEARING REQUIREMENT

All applicants for Section 5311 Assistance are required to schedule a public hearing on the proposed Section 5311 project. The intent of the public hearing is to notify the public of the transportation activities the applicant wishes to carry out under the Section 5311 project. The public hearing process should begin four months prior to the start of the proposed project and involves the posting of **two notices** regarding the hearing in a local general circulation newspaper.

Applicants must post the **first notice** regarding a public hearing no less than 30 days before the scheduled date of the public hearing.

The **second notice** of a public hearing must appear no less than 7 days before the hearing date.

A copy of the publisher's affidavit and a transcript of the public hearing (if applicable) is required in your application.

NOTE: If no person(s) request to appear or submit written or oral testimony **three** days before the scheduled date of the public hearing, the applicant is not required to hold the public hearing but must complete the certification on page 24 and submit it and the publishers' affidavit with your Section 5311 application.

You may submit your application before the date of the public hearing. However, you must submit a copy of the public hearing advertisement you sent to the newspaper(s) with the application. After the hearing date, you then submit 1) either the certification that no one requested to give input or a copy of the minutes of the hearing, AND 2) the publisher's affidavit.

**SAMPLE
NOTICE OF PUBLIC HEARING**

Notice is hereby given that a public hearing will be held by _____, on April 15, 2011, at 7:00 p.m. to consider a project partially funded by the Missouri Department of Transportation, pursuant to Section 5311 of Title 49, United States Code.

1. Purchase of four (4) buses. The vehicles will all be lift equipped and will have two-way radios. (LIST ALL CAPITAL PURCHASES, NOT JUST VEHICLES, USE GENERIC TERMS, i.e. vehicles, not “minivan, minibus”, office equipment, not “copier”, “scanner”. This will give you more flexibility if your needs change.)

2. Request financial assistance in an amount necessary to complete funding and operate the city's public transit system.

3. The location of the project will be 50 N. Torrence to serve _____ (city, county) _____ , Missouri.

4.	The total estimated cost of the project is	\$493,800 (capital and operating)
	Federal Funds	320,500
	Local Funds	173,300

5. The source of the local match will be from _____ (city general funds/or other source).

6. At the hearing, the _____ will afford an opportunity for interested persons or agencies to be heard regarding the project. Interested persons may submit orally, or in writing, evidence and recommendations with respect to said project. If no person(s) request to give either oral or written evidence and recommendations three days prior to the public hearing, the applicant is not required to hold the public hearing.

7. Organizations interested in the proposed service may request information concerning the project from the applicant.

8. _____ does not discriminate on the basis or race, color, creed, national origin, sex, or age in employment or provision of services.

9. Any person requesting information or requiring special accommodations to attend the hearing may contact : (name, address, and telephone number of contact person).

**THE FOLLOWING CERTIFICATION IS REQUIRED BY APPLICANT IF NO PERSON(S)
REQUEST TO APPEAR BEFORE THE PUBLIC HEARING**

Date _____

I, _____, certify that an opportunity to hold a public hearing was afforded and that no person(s) requested to appear before or submit written testimony on this grant application.

Authorized Official

**CERTIFICATION OF COMPLIANCE WITH
DRUG AND ALCOHOL MISUSE
RULE FOR FTA RECIPIENTS**

49 CFR Part 655 Amended Part 40

DATE: _____

Missouri Department of Transportation
Attention: Transit
P. O. Box 270
Jefferson City, MO 65102

I, _____, _____, certify that
(Name) (Title)
_____ has established and implemented an anti drug and alcohol program and
have conducted employee training complying with the requirements of 49 CFR Part 655 and
Amended CFR Part 40; and that we have no employees regulated by the U.S. Federal
Railroad Administration (FRA).

Signature of Authorized Official

Name and Title of Authorized Official

Date

CERTIFICATION OF PRIMARY AND LOWER-TIER PARTICIPANTS REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION

49 CFR Part 29
Executive Order 12549

Executive Order 12549, as implemented by 49 CFR, prohibits FTA recipients and subrecipients from contracting for goods and services from organizations that have been suspended or debarred from receiving Federally-assisted contracts. As part of their applications each year, recipients are required to submit a certification to the effect that they will not enter into contracts over \$25,000 with suspended or debarred contractors and that they will require their contractors (and their subcontractors) to make the same certification to them.

The Primary Participant submitting this application under an FTA assistance, Missouri Highways and Transportation Commission, certifies, by admission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

The Lower-Tier Participant under contract with the primary participant _____, certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certifies certification and understands that the provisions of 31 U.S.C. Sections 3801 et seq. are applicable thereto.

Signature of Lower-Tier Participant

The undersigned chief legal counsel for _____ hereby certifies _____ has authority under State and Local law to comply with the subject assurances and that the certification above has been legally made.

Signature of Lower-Tier Participant's Attorney

Date

ADA CERTIFICATION FOR PUBLIC ENTITIES

Certification of Equivalent Service

_____ certifies that its demand responsive service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. Such service, when viewed in its entirety, is provided in the most integrated setting feasible and is equivalent with respect to:

1. Response time
2. Fares
3. Geographic service areas
4. Hours and days of service
5. Restrictions on trip purpose
6. Availability of information and reservation capability and
7. Constraints on capacity or service availability.

In accordance with 49 CFR 37.77, public entities operating demand responsive systems for the general public which receive financial assistance under Chapter 53 of Title 49, United States Code must file this Certification with the appropriate state program office before procuring any inaccessible vehicle. Such public entities not receiving any Federal Transit Administration (FTA) funds shall also file the certification with the appropriate state program office. Such public entities receiving FTA funds under Chapter 53 of Title 49, United States Code must file the certification with the appropriate FTA regional office. **This certification is valid for no longer than one year from its date of filing.**

Name of Official

Signature

Title

Date

ADA CERTIFICATION FOR NOT-FOR-PROFIT

Certification of Equivalent Service

_____ certifies that its demand responsive service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. Such service, when viewed in its entirety, is provided in the most integrated setting feasible and is equivalent with respect to:

- 1. Response time
- 2. Fares
- 3. Geographic service areas
- 4. Hours and days of service
- 5. Restrictions on trip purpose
- 6. Availability of information and reservation capability and
- 7. Constraints on capacity or service availability.

In accordance with 49 CFR 37.103 not-for-profit organizations operating demand responsive systems for the general public which receive financial assistance under Chapter 53 of Title 49, United States Code must file this Certification with the appropriate state program office. **This certification is valid for no longer than one year from its date of filing.**

Name of Official

Signature

Title

Date

**WORKER ELIGIBILITY VERIFICATION AFFIDAVIT FOR ALL
MHTC/MODOT CONTRACT AGREEMENTS IN EXCESS OF \$5,000**
(for joint ventures, a separate affidavit is required for each business entity)
(required for not-for-profit and for-profit entities who receive more than \$5,000 in state funds)

STATE OF _____

COUNTY OF _____

On this _____ day of _____, 20____, before me appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be a person whose name is subscribed to this affidavit, who being by me duly sworn, deposed as follows:

My name is _____, and I am of sound mind, capable of making this affidavit, and personally certify the facts herein stated, as required by Section 285.530, RSMo, to enter into any contract agreement with the state to perform any job, task, employment, labor, personal services, or any other activity for which compensation is provided, expected, or due, including but not limited to all activities conducted by business entities:

I am the _____ of _____, and I am duly authorized, directed, and/or empowered to act officially and properly on behalf of this business entity.
title business name

I hereby affirm and warrant that the aforementioned business entity is enrolled in a federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, and the aforementioned business entity shall participate in said program with respect to all employees working in connection to work under the within state contract agreement with the Missouri Highways and Transportation Commission (MHTC). I have attached documentation to this affidavit to evidence enrollment/participation by the aforementioned business entity in a federal work authorization program, as required by Section 285.530, RSMo.

In addition, I hereby affirm and warrant that the aforementioned business entity does not and shall not knowingly employ, in connection to work under the within state contract agreement with MHTC, any alien who does not have the legal right or authorization under federal law to work in the United States, as defined in 8 U.S.C. § 1324a(h)(3).

I am aware and recognize that, unless certain contract and affidavit conditions are satisfied pursuant to Section 285.530, RSMo, the aforementioned business entity may be held liable under Sections 285.525 through 285.550, RSMo, for subcontractors that knowingly employ or continue to employ any unauthorized alien to work within the state of Missouri.

I acknowledge that I am signing this affidavit as a free act and deed of the aforementioned business entity and not under duress.

Affiant Signature

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public

My commission expires:

[Documentation of enrollment/participation in a federal work authorization program is attached. Acceptable enrollment and participation documentation consists of the following two pages of the E-Verify Memorandum of Understanding: (1) A valid, completed copy of the first page identifying the business entity; and (2) A valid copy of the signature page completed and signed by the business entity, the Social Security Administration, and the Department of

**FEDERAL TRANSIT ADMINISTRATION
CERTIFICATIONS AND ASSURANCES**
(Signature page alternative to signing individual certifications and assurances)

Name of Applicant: _____

**The Applicant agrees to comply with applicable requirements it has selected
as shown in Exhibits H-V on the following pages:**

check all that apply

- | | | |
|-----------|---|-------|
| Exhibit H | Assurance of Charter and School Bus | _____ |
| Exhibit I | Program Fraud and False/Fraudulent Statements | _____ |
| Exhibit J | Breaches and Dispute Resolution | _____ |
| Exhibit K | Clean Water Requirements | _____ |
| Exhibit L | Federal Changes | _____ |
| Exhibit M | Energy Conservation Requirements | _____ |
| Exhibit N | Disadvantaged Business Enterprises Requirements | _____ |
| Exhibit O | Procurement Provisions of FTA Circular 4220.1F | _____ |
| Exhibit P | Termination Provision | _____ |
| Exhibit Q | Clean Air Requirements | _____ |
| Exhibit R | Privacy Act Requirements | _____ |
| Exhibit S | No Government Obligation to Third Parties | _____ |
| Exhibit T | Certification of Section 5323(a)(1) Requirements (public entities only) | _____ |
| Exhibit U | Certification of Compliance with FTA ITS Architecture Policy | _____ |
| Exhibit V | Certification of Compliance with FTA Terms | _____ |

By signing below, I declare the applicant has duly authorized me to make these certifications and assurances and bind the Applicant's compliance.

Signature

Title

Date

CERTIFICATION OF COMPLIANCE
CHARTER SERVICE AND SCHOOL BUS REGULATIONS
49 CFR Part 605

School Bus Operations – the Applicant agrees to comply with 69 U.S.C. 5323(f) and 49 CFR Part 605, which provides that recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

49 U.S.C. 5323(d)
49 CFR Part 604

Charter Service Operations - The Applicant agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604 and any Charter Service regulations or FTA directives that may be issued, except to the extent FTA determines otherwise in writing. The Applicant understands and agrees that: (1) the requirements of FTA's Charter Service regulations and any amendments thereto will apply to any charter service it, or its subrecipients, lessees, third party contractors, or other participants in the Project provide; (2) the definitions of FTA's Charter Service regulations will apply to the Applicant's charter operations, and (3) a pattern of violations of FTA's Charter Service regulations may require corrective measures and imposition of remedies, including barring the Applicant, subrecipient, lessee, third party contractor, or other participant in the Project from receiving Federal financial assistance from FTA, or withholding an amount of Federal assistance as set forth in Appendix D of FTA's Charter Service regulations.

EXHIBIT I

CERTIFICATION OF COMPLIANCE
PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS
AND RELATED ACTS
31 U.S.C. 3801 et seq. 49 CFR Part 31 18 U.S.C. 1001 49 U.S.C. 5307

Program Fraud and False or Fraudulent Statements or Related Acts.

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

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

(3) The Applicant agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

CERTIFICATION OF COMPLIANCE
BREACHES AND DISPUTE RESOLUTION
49 CFR Part 18
FTA Circular 4220.1F

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

Performance During Dispute - Unless otherwise directed by the applicant, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

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

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the applicant and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the applicant is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by Applicant, Architect or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

CERTIFICATION OF COMPLIANCE WITH CLEAN WATER REQUIREMENTS
33 U.S.C. 1251

Clean Water - (1) The applicant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Applicant agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

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

CERTIFICATION OF COMPLIANCE WITH FEDERAL CHANGES
49 CFR Part 18

Federal Changes - The applicant shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement (Form FTA MA (20) dated October, 2013) between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Applicant's failure to so comply shall constitute a material breach of this contract.

EXHIBIT M

CERTIFICATION OF COMPLIANCE
ENERGY CONSERVATION REQUIREMENTS
49 CFR Part 18, 42 U.S.C. 6321 et seq.

The applicant agrees to comply with mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

EXHIBIT N

CERTIFICATION OF COMPLIANCE
DISADVANTAGED BUSINESS ENTERPRISE (DBE)
49 CFR Part 26

To the extent authorized by Federal law, the Recipient (the "applicant") agrees to facilitate participation by Disadvantaged Business Enterprises (DBE) in the Project and assures that each subrecipient, lessee, and third party contractor at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable. Therefore:

(1) The Recipient agrees and assures that it will comply with section 1101(b) of SAFETEA LU, 23 U.S.C. § 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26.

(2) The Recipient agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any third party contract, or subagreement supported with Federal assistance derived from U.S. DOT in the administration of its DBE program and will comply with the requirements of 49 C.F.R. Part 26. The Recipient agrees to take all necessary and reasonable steps set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all third party contracts and subagreements supported with Federal assistance derived from U.S. DOT. As required by 49 C.F.R. Part 26 and approved by U.S. DOT, the Recipient's DBE program, if any, is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The Recipient agrees that implementation of this DBE program is a legal obligation, and that failure to carry out that DBE program shall be treated as a violation of the Grant Agreement or Cooperative Agreement for the Project and the Master Agreement. Upon notification by U.S. DOT to the Recipient of its failure to implement its approved DBE program, U.S. DOT may impose sanctions as provided for under 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 et seq.

COMPLIANCE WITH PROCUREMENT PROVISIONS OF
FTA CIRCULAR 4220.1 F

The applicant certifies that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA circular 4220.1F, "Third Party Contracting Requirements," and other implementing requirements FTA may issue. The Applicant certifies that it will include in its contracts financed in whole or in part with FTA assistance all clauses required by Federal laws, executive orders, or regulations, and will ensure that each subrecipient and each applicant will also include in its subagreements and contracts financed in whole or in part with FTA assistance all applicable clauses required by Federal laws, executive orders, or regulations.

COMPLIANCE WITH TERMINATION PROVISION
49 U.S.C. Part 18 FTA Circular 4220.1F

a. Termination for Convenience (General Provision) The Missouri Highways and Transportation Commission (the "Commission") may terminate this contract, in whole or in part, at any time by written notice to the Applicant when it is in the Government's best interest. The Applicant shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The Applicant shall promptly submit its termination claim to the Commission to be paid the Applicant. If the Applicant has any property in its possession belonging to the Commission, the Applicant will account for the same, and dispose of it in the manner the Commission directs.

b. Termination for Default [Breach or Cause] (General Provision) If the Applicant does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Applicant fails to perform in the manner called for in the contract, or if the Applicant fails to comply with any other provisions of the contract, the Commission may terminate this contract for default. Termination shall be effected by serving a notice of termination on the applicant setting forth the manner in which the Applicant is in default. The applicant will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the Commission that the Applicant had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Applicant, the Commission, after setting up a new delivery of performance schedule, may allow the Applicant to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) The Commission in its sole discretion may, in the case of a termination for breach or default, allow the Applicant 60 calendar days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If the Applicant fails to remedy to Commission's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Applicant or written notice from Commission setting forth the nature of said breach or default, Commission shall have the right to terminate the Contract without any further obligation to Applicant. Any such termination for default shall not in any way operate to preclude Commission from also pursuing all available remedies against Applicant and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that Commission elects to waive its remedies for any breach by Applicant of any covenant, term or condition of this Contract, such waiver by Commission shall not limit Commission's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

CERTIFICATION OF COMPLIANCE WITH CLEAN AIR
42 U.S.C. 7401 et seq 40 CFR 15.61 49 CFR Part 18

Clean Air - (1) The Applicant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Applicant agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

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

CERTIFICATION OF COMPLIANCE WITH FEDERAL PRIVACY ACT REQUIREMENTS
5 U.S.C. 552

Contracts Involving Federal Privacy Act Requirements – Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections.

The applicant agrees to comply with the confidentiality and other civil rights provisions of the Drug Abuse Office and Treatment Act of 1972, Pub. L. 92-255, March 21, 1972, as amended, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Pub. L. 91-616, Dec. 31, 1970, as amended, and the Public Health Service Act of 1912, amended, 49 U.S.C. 290dd-3 and 2390ee-3, and any subsequent amendments to these acts.

CERTIFICATION OF NO GOVERNMENT OBLIGATION TO THIRD PARTIES

No Obligation by the Federal Government.

The Purchaser and Applicant acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Applicant, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

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

CERTIFICATION OF SECTION 5323(a)(1) REQUIREMENTS
(FOR PUBLIC ENTITIES ONLY)

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

A. Found that the assistance is essential to carrying out a program of projects as determined by the plans and programs of the metropolitan planning organization;

B. Provided for the participation of private mass transportation companies to the maximum extent feasible;

C. Paid just compensation under State or local law to a private mass transportation company for its franchises or property acquired and;

D. Acknowledged that the assistance falls within the labor standards compliance requirements of 49 U.S.C. 5333(a) and 5333(b).

Certification of Compliance with FTA ITS Architecture Policy

In compliance with Section VII of "FTA National ITS Architecture Policy on Transit Projects" at 66 FR 1459, January 8, 2001, in the course of implementing an ITS project, the Grantee assures it will comply, and require any third party contractor to comply, with all applicable requirements imposed by Section V and Section VI of that notice.

CERTIFICATION OF COMPLIANCE
INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS
FTA Circular 4220.1F

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by the Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F dated November 1, 2008 and revised March 13, 2013, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Applicant shall not perform any act, fail to perform any act, or refuse to comply with any requests that would cause the applicant to be in violation of the FTA terms and conditions.