# Federal Transit Administration
# 49 U.S.C.
# SECTION 5317

**(CFDA 20.521)**

# New Freedom Application

Multimodal Operations Division
Transit Section
Missouri Department of Transportation (MoDOT)
Revised February 24, 2012

**Section 5317 – New Freedom Application**
**Federal Fiscal Year 2010 Funds**

**Section A:**

The following information is required:

| | |
|---|---|
| Organization/Agency | Name of eligible applicant |
| Non-Profit Corporation Number, if applicable | N000- (from MO Secretary of State) |
| Federal Employer Identification Number (FEIN) | |
| DUNS Number | |
| U. S. Congressional District Number | |
| Project contact: | Person responsible for submitted material |
| Title: | Contact person's position |
| Address: | Mailing address, city, state and zip code+**4** |
| Phone: | Phone number of contact person |
| Fax: | Fax number for contact person |
| Email address: | Email address of contact person |
| Applicant Type: | Private not-for-profit, local public body , public transportation provider, or a private operator |
| Project Name | What is the project |
| Project Type | Operating, Capital or both |
| Project Start Date | Date project was started/will be started |
| Primary Service Area **Population (Place)** | Small urban (50,000-199,999) or non-urban (<50,000) |
| List Specific Areas Served | Where will you be operating |

**Section B – Demonstration of Need and Projects Benefit**

- Describe all activities included in the project:
  - For operating – include information on hours, miles, days per week, number of clients
  - For capital – how will this be utilized
- Identify the unmet transportation need addressed by the project
  - Identify local plan and strategy that is being addressed
- Explain how the project will overcome current transportation barriers and improve access
  - Breakdown by percentage of individuals with disabilities being served
  - Provide determination for figures
- Describe specific outcomes and benefits for your project
- Describe how your project will be coordinated with other service providers in your region

**Section C – Budget and Financial Capacity**

- Describe your organization's ability to provide and manage the project.
- Demonstrate your ability to continue the project past the funding constraints
  - Attach a copy of your project's budget, listing sources of funding

**Section D – Attachments**

- Sign and submit the following attached FTA assurances
- Letter of financial commitment from your board/organization
- Letters of support from the community
- Letters to local area providers, stating your intent to apply for this grant through MoDOT
- Newspaper advertisement, allowing for a 30 day comment period, need Affidavit of publication signed by newspaper

## 1.GENERAL INFORMATION

***1.1 Program Goals and Objectives*** - The New Freedom Program, also known as Section 5317, was created to support new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990. This program is codified at 49 U.S.C. 5317.

As much as possible, activities must be coordinated with other transportation activities offered by public transportation providers or social service agencies. This coordination is assured by the development of locally developed, coordinated public transit-human services transportation plan (the Local Plan). All projects funded under the Section 5317 program must be derived from one of these plans. Appendix A provides a listing of example activities under the Section 5317 program.

The Section 5317 program grew out of the New Freedom Initiative introduced by the Administration under Executive Order 13217, "Community Based Alternative for Individuals with Disabilities," on June 18, 2001.

The New Freedom Program is intended to fill the gaps between human service and public transportation services previously available and to facilitate the integration of individuals with disabilities into the workforce and full participation of the community.

***1.2 Roles and Responsibilities*** - The Governor of the State of Missouri has designated the Missouri Department of Transportation (MoDOT) as the agency responsible for administering funds made available through Federal Transit Administration programs. The Transit Section of the Multimodal Operations Division is responsible for administering the New Freedom program for small-urbanized (50,000-199,999 population) areas and non-urbanized (less than 50,000) rural areas of Missouri.

The department also administers the state transit operating assistance and the state funded Missouri Elderly and Handicapped Transportation Assistance Program.

Additional support is provided by the Chief Counsel's office and General Services (Purchasing).

This State Management Plan (SMP) describes the State's policies and procedures for administering the Section 5317 program. The SMP further clarifies the requirements from the New Freedom circular and allows the State to tailor the program to their subrecipients needs. The 5317 SMP is available for review on MoDOT's web site.

MoDOT completed a long-range plan (released April 11, 2007) that included transit issues. The plan was developed from stakeholder committees that met four times during the planning process. Transit issues discussed were the need for capital investment and continued operating support for the transit systems.

MoDOT works with local public officials through the regional planning commission and metropolitan planning organizations whose board members are local officials. Member of the Long-Range planning team attend both policy and technical committee meetings.

***1.3. Designated Recipient*** - The Missouri Department of Transportation (MoDOT) has been named the designated recipient for this program for the small urbanized and non-urbanized areas. Large urbanized areas have local designated recipients that administer their own funds. The responsibilities of the designated recipient are included in Section 4.

The Interagency Committee on Special Transportation acted as MoDOT's review committee for the development of the workshop training materials (see Section 4.2). The committee includes representatives from the departments of Elementary and Secondary Education, Social Services-Family Support (Medicaid), Mental Health, and Social Services, and the Governor's Council on Disability

### *1.4 Other Information*

***1.4.1 Definitions*** - The following definitions will apply to the 5317 program:

New Freedom Circular: Circular 9045.1 issued by the Federal Transit Administration containing program guidance and application instructions.

Metropolitan Planning Organization (MPO): an organization located in a small or large urbanized area that is responsible for highway and transit planning.

Non-urbanized area: Any area not included in a small or large urbanized area of 50,000 persons or more that meets the density requirements of the last decennial census.

Public Transportation Services -

Regional Planning Commission (RPC): one of 19 quasi-public entities that conducts planning and grant administration for its member municipalities and counties.

Small urbanized area: an area with a population of 50,000-199,999 persons and that meets the density requirement of the last decennial census.

Subrecipient: an entity that receives a New Freedom grant through MoDOT. An "applicant" becomes a subrecipient upon being awarded funds.

***1.4.2 Transfer of Funds*** - The State may transfer New Freedom funds to the small urbanized (Section 5307) or non-urbanized (Section 5311) programs. However, the funds must be used for New Freedom eligible activities.

***1.4.3 Private Sector Participation*** - Private for-profit entities are not eligible to apply for New Freedom funding unless they are operators of public transportation services. However, subrecipients may contract with the private sector for service. All applicants should have procedures for providing for the maximum feasible participation by private providers..

***1.4.4 Conflict of Interest*** - All subrecipients are required to develop and implement policies that ensure proper use of project funds, facilities, and equipment including policies on personal gain by staff or board members, employment of relatives, or preferential operation of project services.

## 2. PLANNING REQUIREMENTS - COORDINATION

All projects must be derived from a locally developed, coordinated public transit-human services plan (the Local Plan). MoDOT will assist local planning agencies in developing the plan (see MoDOT's activities in Section 4). This scope of the plan must address the needs of individual with disabilities.

***2.1 Local Plan Criteria*** - For the New Freedom program, the Local Plan must meet the following criteria:

**2.1.1** An assessment of available services that identifies current transportation providers - public, private, and not-for-profit. The assessment should include the number of vehicles (both accessible and non-accessible), service area, and days and times of operation.

**2.1.2** An assessment of the transportation needs of people with low incomes. The assessment can be based on the experiences and perceptions of the planning partners or on more sophisticated data collection efforts. Gaps in service should be identified.

**2.1.3** Strategies and activities that would address the identified gaps in service. Applicants are urged to not include specific projects in the plan, as the plan should be based on a higher level of need. Including only strategies and activities will allow the subrecipients to have more flexibility to meet the changing transportation needs of their riders.

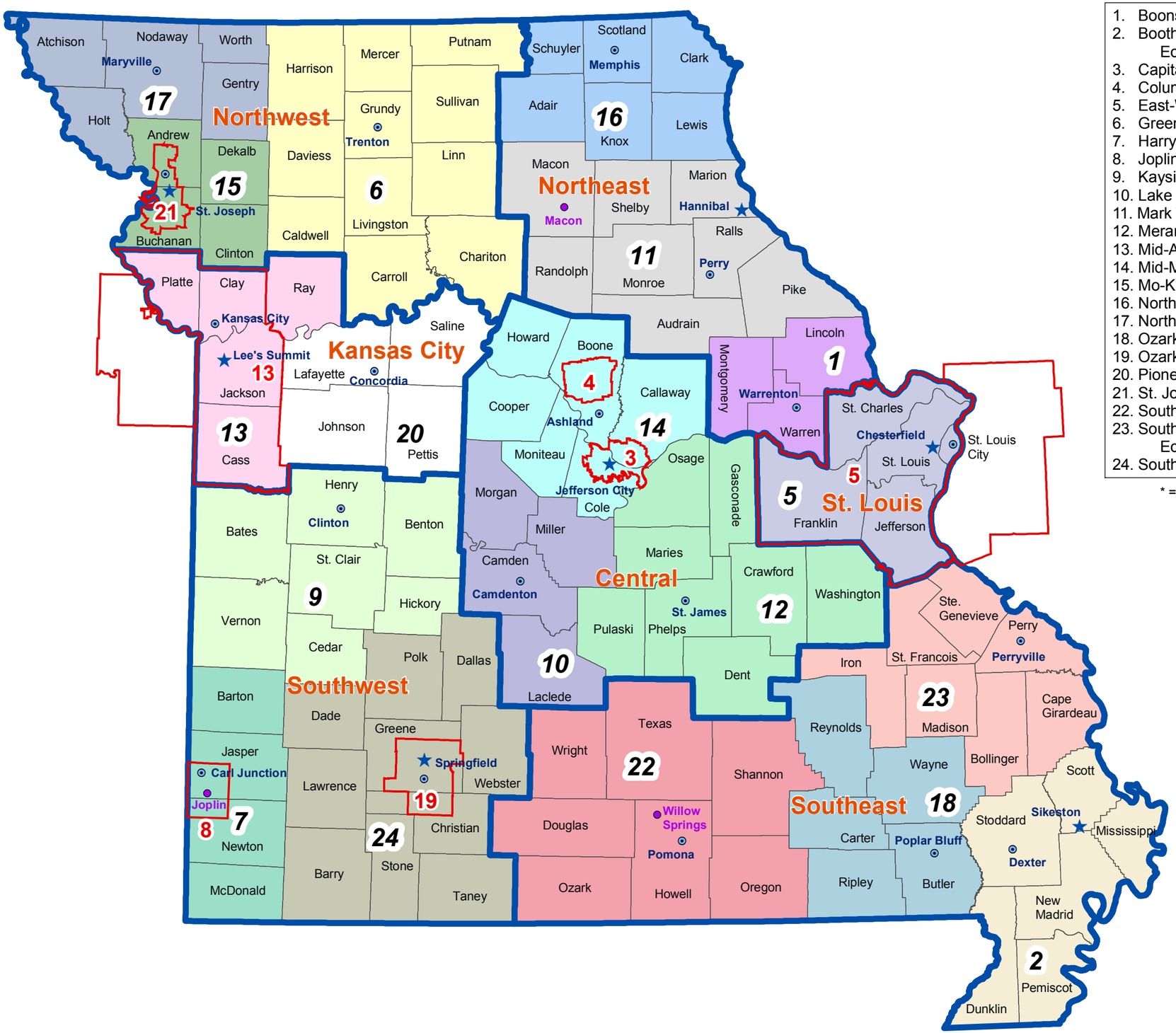
**2.1.4** Priorities of implementation based on resources. Prioritizing strategies will allow the subrecipients to select the most important projects as funding becomes available. MoDOT recognizes that the highest priority activities may not be the projects that are implemented due to the small amount of federal funding available and/or the availability of local match.

***2.2 Lead Agency -*** The lead agency in the planning process (in Missouri, this will be the MPOs and the RPCs) must develop a process for adoption of the plan. All MPO and RPC plans must be submitted to and approved by MoDOT's Transit Section before any funding will be allocated.

***2.3 Public Participation*** - Development of the plan must include an opportunity for all interested parties to participate. The planning process should include human service agencies, local governments, private and public transit providers, and potential riders as well as members of the general public. There should be specific methods for outreach to those individuals with disabilities who are not part of the human services delivery system. The Local Plan should document how public participation was solicited, i.e. newspaper ads, public service announcements, direct mail, etc. A lack of public interest in the project will not count against the project if adequate outreach was conducted.

***2.4 Inclusion in MPO Plans and TIPs*** – All projects in small-urbanized areas or nonurban areas that lie within the planning area of an adjacent Metropolitan Planning Organization (MPO) must be included in the MPO's plan. All non-urban projects will be described at the program level in the Statewide Transportation Improvement Program (STIP).

# Missouri Regional Planning Commissions and Metropolitan Planning Organizations




| | | |
|---|---|---|
| 1. | Boonslick Regional Planning Commission | 636-456-3473 |
| 2. | Bootheel Regional Planning & Economic Development Commission | 573-614-5178 |
| 3. | Capital Area Metropolitan Planning Organization | 573-634-6410 |
| 4. | Columbia Area Transportation Study Organization | 573-874-7239 |
| 5. | East-West Gateway Council of Governments* | 314-421-4220 |
| 6. | Green Hills Regional Planning Commission | 660-359-5636 |
| 7. | Harry S Truman Coordinating Council | 417-782-3515 |
| 8. | Joplin Area Transportation Study Organization | 417-624-0820 |
| 9. | Kaysinger Basin Regional Planning Commission | 660-885-3393 |
| 10. | Lake of the Ozarks Council of Local Governments | 573-346-5692 |
| 11. | Mark Twain Regional Council of Governments | 573-565-2203 |
| 12. | Meramec Regional Planning Commission | 573-265-2993 |
| 13. | Mid-America Regional Council* | 816-474-4240 |
| 14. | Mid-Missouri Regional Planning Commission | 573-657-9779 |
| 15. | Mo-Kan Regional Council | 816-233-3144 |
| 16. | Northeast Missouri Regional Planning Commission | 660-465-7281 |
| 17. | Northwest Missouri Regional Council of Governments | 660-582-5121 |
| 18. | Ozark Foothills Regional Planning Commission | 573-785-6402 |
| 19. | Ozarks Transportation Organization | 417-864-5442 |
| 20. | Pioneer Trails Regional Planning Commission | 660-463-7934 |
| 21. | St. Joseph Area Transportation Study Organization | 816-271-4653 |
| 22. | South Central Ozark Council of Governments | 417-256-4226 |
| 23. | Southeast Missouri Regional Planning & Economic Development Commission | 573-547-8357 |
| 24. | Southwest Missouri Council of Governments | 417-836-6900 |

* = Organizations functioning as both RPC and MPO
(Boundaries for the Mid-America Regional Council RPC and MPO vary)

- MoDOT District
- 19 Regional Planning Commission
- 7 Metropolitan Planning Organization
- ★ MoDOT District Office
- ● Regional Office
- ⊙ RPC Office

**MoDOT Districts 1-888-ASK-MODOT (275-6636)**


Prepared by
Missouri Department of Transportation
Transportation Planning
2217 St. Marys Blvd.
Jefferson City, MO 65109
Phone (573) 526-8058 Fax (573) 526-8052


June 27, 2011

MoDOT

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## 3. PROJECT REQUIREMENTS

Projects will be awarding funding on a competitive basis. For evaluation purposes, the applicants must submit information that can be evaluated on a quantitative basis as well as general information about the project itself.

***3.1 Local Plan Requirement -*** The project must be derived from a submitted and adopted Local Public Transit – Human Service Transportation Coordination Plan as discussed in Section 2.

***3.2 Service Area*** - The area served by each project must be defined. No more than one project will be funded in any given service area except under special circumstances as determined by MoDOT. If multiple applications are received for the same service area, the applicants will be permitted to combine their applications and coordinate the planned services.

The New Freedom funding administered by MoDOT has two categories, small urbanized and nonurban.

**3.2.1** Funding for small-urbanized areas is very limited, and will be used to fund the project that MoDOT determines will utilize the money the most. For FFY 2007 the amount was $169,381; for FFY 2008 the amount was $182,973, the amount for FFY 2009 was $210,910 and the amount for FFY 2010 is $208,064.

**3.2.2 Funding** for nonurban areas is very limited, and will be used to fund the project(s) that MoDOT determines will utilize the money the most. For FFY 2007 the amount was $453,812; for FFY 2008 the amount was $490,229, the amount for FFY 2009 was $565,078 and the amount for FFY 2010 is $554,590.

***3.3 Eligible Subrecipients*** - Eligible subrecipients are local public bodies and their agencies, private not-for-profit organizations, and operators of public transportation services. Private for-profit operators may participate under contract with an eligible recipient with the approval of MoDOT.

***3.4 Eligible Activities*** – New Freedom Program funds are available for capital and operating expenses that support new public transportation services beyond those required by the ADA of 1990, and new public transportation alternatives beyond those required by the ADA. For "new" services, the definition of new is those services/activities that were not operational on August 10, 2005, that date that SAFETEA-LU legislation was signed into law. See Appendix A for a more detailed list of eligible activities.

***3.5 Local Share Requirements -*** Local share can come from a variety of sources. The only funding sources that cannot be used as match are passenger service fares as well as funding received through another U. S. Department of Transportation program. For local share, MoDOT will NOT allow bank liens for capital purchases .

**3.5.1 Operating Grants** – New Freedom funding for an operating project cannot exceed 50% of the total eligible project cost. Total project cost is determined by calculating the total operating costs of the project including any in-kind expenses (salaries paid by another entity or office space provided at no cost) and subtracting any fares paid by the riders.

**3.5.2 Capital Grants** – New Freedom funding for capital acquisitions cannot exceed 80% of the total cost of vehicles and/or equipment. ADA related improvements and bicycle access improvements can be funded at a 90/10 rations if funding permits. The applicant must verify that sufficient funds from non-operating sources are available ***at the time of application***. Capital funding will take precedence in project selection over operating funding.

**3.5.3 In-kind and Volunteer Contributions -** Volunteer and contributed services may be included in a project budget as an expense and as a part of the local share in the calculation of projects costs. Volunteer and contributed services may not, however, replace any contract revenue, passenger revenue, payment for services or

unrestricted donations earned by the subrecipient during the project period. MoDOT must approve all volunteer services and the value assigned to them in advance. Time sheets and other documentation must be kept to substantiate the value of any volunteer or contributed services.

***3.6 Project Selection Criteria* -** If funding requests exceed the amount of funding available, the application will be evaluated based on the following criteria:

**3.6.1** Is the project a capital project? - 50 points

**3.6.2** What is the percentage of individuals with disabilities in the service area as compared to the State of Missouri as a whole? - 15 points

**3.6.3** Has local funding for the project been secured at the time of application? - 10 points

**3.6.4** Will be project be integrated with existing transportation? - 10 points

**3.6.5** Is the strategy for the project listed as a high priority in the Local Plan? - 10 points

**3.6.6** Estimated number of persons to be served (methodology must be submitted with the application) - 5 points

***3.7 Supporting documentation* -** Documentation must be submitted to address the project requirements listed on page 1, Sections A through C. Section D of your application is the FTA assurances that must be signed by the Board President. In addition to the FTA assurances, application Section D needs to include the following:

- Letter of financial commitment from your organization
- Letters of support from the community
- Letters to local area providers, stating your intent to apply for this grant through MoDOT
- Affidavit of publication signed by the local newspaper where your advertisement appeared

***3.8 Fair and Equitable Distribution*** – Before grant awards are made based on the above criteria, MoDOT will review the geographic and demographic distribution of the grants. While some areas may not receive funding in any one-grant cycle, MoDOT will distribute the grants as evenly as possible. As historical data is made available, the selection criteria may be revised to address this issue.

***3.9 Grant Cycle* -** The funding cycle will be based on the State fiscal year, July 1 to June 30. Applications may be submitted for multiple years.

**3.9.1 Special funding cycles for awards made under SAFETEA-LU. -** Funding for Federal Fiscal Years 2010 and 2011 will be awarded up to 24 months in duration.

***3.10 Application Process* -** Biannually, MoDOT will notify current subrecipients, the RPCs, transit systems, MPOs in small-urbanized areas, and boards and/or organizations formed to develop the Local Plan of the availability of funds.

**3.10.1 Applications** - The application will be available on MoDOT's website or interested parties may contact MoDOT's Transit Section for applications. MoDOT plans to allocate funds in one two-year cycles. In a funding year, all applications will be due March 1 of that year for the fiscal year beginning July 1. Grants will be awarded on or before May 15.

All awards are dependent on the funding being allocated by the FTA and published in the Federal Register and the Local Coordination Plans having been submitted to and approved by MoDOT

**3.10.2 Technical Assistance -** Technical assistance will be available for the development and evaluation of projects. First time applicants are urged to contract MoDOT's Transit Section as early in the project development phase as possible**. See Appendix A for contact information.**

***3.11 Grant Management*** – Subrecipients must have the financial resources available to manage the project. The New Freedom grant program, if an operating grant, is a "reimbursement" program, i.e. funds can be requested only after the expenses have been paid. Requests may be made monthly or quarterly.

If the subrecipient provides services other than transportation, the accounting system must be capable of identifying the New Freedom expenses and revenues separately from other operations.

In-kind donations such as a portion of an employee's salary being charged to the grant must be documented by timesheets. For other in-kind donations such as rent, the fair market value of the space must be established before the donation can be included in the expense.

**3.11.1 Requests for Reimbursement** – All subrecipients will be issued reimbursement forms to be used when requesting grant funds. The following information must be submitted:

Number of Rides Provided during the time period
Number of Individuals Served
Mileage
Detail of Expense
Detail of Fares, Local Match and Other Revenues

The request for reimbursement must include an original signature of an officer or director of the subrecipient. Faxed requests will not be honored except under special circumstances.

The number of rides provided is one of the performance measures that will be reported to the FTA. Recipients will be expected to send in requests for reimbursement in a timely manner so this information can be forwarded to the FTA annually.

**3.11.2 Audit** – All subrecipients whose total transportation budget exceeds $50,000, must have an independent audit annually. Entities who receive more than $500,000 annually in federal funds from all sources are subject to an OMB A-133 audit. A copy of the audit must be submitted to MoDOT for review within nine (9) months of the end of the agency's fiscal year. For those subrecipients with a transportation budget less than $50,000 annually, the Section 5317 program manager will conduct a field audit each year.

## 4. STATE'S ROLE AND RESPONSIBILITIES

As the state agency designated by the Governor to administer New Freedom funding, MoDOT will provide planning and technical assistance to all applicants.

***4.1 State Administrative Costs -*** The State is permitted to reserve up to 10% of New Freedom funding for costs incurred administering the grant. These funds will be used to assist the RPCs in completing the Local Plans and to provide continuing assistance to the RPCs and subrecipients.

***4.2 Planning Workshops -*** With the inception of the planning requirements outlined in Section 2, MoDOT conducted 11 workshops (in 2007) statewide to familiarize the RPCs and other interested parties in the planning process. A CD was also distributed with the workshop presentation and other information to all attendees. MoDOT will continue to work with the RPCs in updating the Local Plans required and conducting other workshops, as needed. These workshops were conducted using planning funds made available through the FTA.

***4.3 Compliance with FTA Requirements -*** MoDOT will comply with all federal requirements as contained in the FTA Master Agreement. These requirements are outlined in Section 6.

***4.4 TEAM Grant Management*** – The Section 5317 Program Manager will apply for federal funds though FTA's TEAM software system. A program of projects will be developed that includes the following information for each subrecipient:

Location
Service Area
Status as Public or Non-Profit Agency
Status of Small Urbanized Area or Nonurban Area
Federal Share
Total Cost
Congressional District
Description of Project

***4.5 SAM II Accounting System*** – MoDOT uses the State Office of Administration's SAM II accounting system to track grant payments. The Multimodal Operations division has two full-time employees who enter all transactions in the system.

## 5.0 – CIVIL RIGHTS - TITLE VI

All applicants are required to execute the standard Civil Rights Assurances that is referenced in the Section 5317 Application Guideline Booklet. The required Local Civil Rights Assurance is submitted to the department in the application and kept on file in the recipient's folder. Recipients of Section 5317 assistance are monitored for civil rights compliance during onsite reviews. Civil rights complaints must be submitted in writing, with copies sent to the Section 5317 program manager. Complaints must be signed by the complainant and shall state the facts and circumstances surrounding the alleged discrimination. Complaints that are not resolved at the local level will be referred to MoDOT within 30 days. MoDOT will investigate the complaint and, with FTA's concurrence, may deny funding or repossess equipment from any grantee whose policies and actions are deemed to be in non-compliance. Any legal action filed against the grantee must be reported to MoDOT within 30 days.

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 5317 program recipients must meet these requirements.

All programs conducted by MoDOT and the Section 5317 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 it 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 5317 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 5317 program recipient or its agent/contractor should first contact the Section 5317 recipient in writing. MoDOT should also be notified of the complaint within 5 working days.
MoDOT and the Section 5317 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:

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

*SAMPLE LETTER TO PROVIDERS*

Mr. George Brown
Brown Cab Company
Newcomb, MO 65302

Dear Mr. Brown:

The Senior Citizens of Newcomb, Inc., intend to make application to the Missouri Department of Transportation for an operating and/or capital assistance New Freedom grant which will provide up to 50% federal operating assistance and/or up to 90% federal capital funding for equipment used in transporting the persons with disabilities. We are applying for funds to purchase and operate two vans to provide door-to-door transportation for persons with disabilities of Quinton County, including Newcomb. We ask for your comments on our proposal, also letting us know if you could provide the service directly.

The Missouri Department of Transportation gives you 30 days to respond to our request. Please send your comments to me with a copy to the Missouri Department of Transportation, P.O. Box 270, Jefferson City, Missouri 65102.

Sincerely,

Alice Weiss, Executive Director
Senior Citizens of Newcomb, Inc.
603 Greene
Newcomb, MO 65302

SAMPLE PUBLIC NOTICE

TO: Public and Private Transportation Providers

The Senior Citizens of Newcomb, Inc., 503 Greene, Newcomb, MO 65302, provides notice that it intends to apply to the Missouri Department of Transportation for a federal operating and/or equipment New Freedom grant to serve the transportation needs of persons with disabilities in Quinton County, including Newcomb. The Senior Citizens of Newcomb, Inc. does not discriminate on the basis of race, color, creed, national origin, sex or age in employment or the provision of services. Persons wishing to comment on this proposed service are requested to do so within 30 days by writing our agency and the Missouri Department of Transportation, P.O. Box 270, Jefferson City, MO 65102.

# RESPONDING TO NEGATIVE COMMENTS FROM EXISTING OPERATORS

If negative comments are received by public or private transit or paratransit operators on projects requesting funding under Section 5317 program, the applicant must meet with the complainant to determine how their differences may be resolved and how their services may be coordinated and/or consolidated. Means by which this coordination or consolidation of service may take place are:

1. A contract-for-service or fare-subsidy arrangement between the applicant and the existing operator; or

2. A memorandum of understanding or other agreement between the parties stating how the specialized transportation service market will be divided and how their services will be coordinated.

It is the applicant's responsibility to give existing operators an opportunity to provide the needed service.

In case that no agreement can be reached, the applicant must document his efforts to coordinate with the complainant. The applicant must provide documentation to the Missouri Department of Transportation that the service provided or offered to be provided by the complainant is insufficient or inappropriate in terms of type of service, quantity or quality of service, or cost of service. The complainant will then be given an opportunity to respond to the argument presented by the applicant.

The final decision will be made by the Missouri Department of Transportation whether the proposed 5317 project or part of the proposed project will be considered for funding. The state's decision will be based on:

1. The degree to which the service provided or offered to be provided by the complainant is insufficient or inappropriate to meet the existing need;

2. The degree to which a good-faith effort was made to involve the complainant to the maximum extent feasible in the planning and provision of service.

## APPENDIX A – ELIGIBLE 5317 ACTIVITIES

**New Public Transportation Alternatives Beyond the ADA**

1). Supporting mobility management & coordination programs among public transportation providers and other human service agencies that provide transportation; activities include:

a. Promotion, enhancement and facilitation of access to transportation services
b. Support for short-term management activities to plan/implement coordinated services
c. Operation of transportation brokerages to coordinate providers, funding agencies and clients
d. Development and operation of one-stop transportation call centers
e. Acquisition of technology that enhances service to clients in support of mobility

2). Purchasing vehicles to support new accessible taxi, ride sharing and/or vanpooling programs

3). Supporting the administration and expenses related to new voucher programs for transportation services offered by human service providers.

**New Public Transportation Services Beyond the ADA**

1). Travel training – to provide individual users an awareness, knowledge and skills of public and alternative transportation options available.

2). Expanding paratransit routes beyond ADA minimum requirements
Going beyond the ¾ mile required by ADA
Expanding hours of service for ADA paratransit services
Acquisition of vehicles to accommodate mobility aids that exceed the "common" wheelchair under ADA

3). Establishing new feeder services

# 5317 Federal Assurances to be signed

# Return with application packet

# Must be signed by the Board President

**For information call or write:**

Bryan Heckman
Multimodal Operations, Transit
Missouri Department of Transportation
P.O. Box 270
Jefferson City, Missouri 65102

**Phone No. (573) 751-7481 Fax No. (573) 526-4709**

Bryan.Heckman@modot.mo.gov

**SECTION 5317**

**AUTHORIZING RESOLUTION FOR NONPROFIT CORPORATIONS**

Whereas, the Missouri Department of Transportation is authorized to make grants for New Freedom transportation projects; and,

WHEREAS, the contract for capital 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 project that can be provided with the funds available.

NOW THEREFORE, be it resolved by _____
(legal name of organization)
_____ as follows:

That the President or Chairperson is authorized to execute grant contract agreements with the Missouri Department of Transportation for aid in financing of a Section 5317 assistance project.

Adopted this _____ day of _____, 20_____.

Date _____

**SIGNATURE** _____
(President or chairperson)

Type Name _____

**TITLE** _____

***Attest:***_____
(Secretary to board)

Typed Name _____

**MISSOURI DEPARTMENT OF TRANSPORTATION**
**FTA 49 U.S.C. SECTION 5317**
**STANDARD ASSURANCES**

Legal Name of Organization: _____

The applicant organization hereby agrees to the following Standard Assurances pursuant to the Section 5317 program:

1. It has legal authority to apply and receive a capital and operating assistance grant.

2. It will comply with all applicable requirements of FTA Circular 4704.1, Equal Employment Opportunity Policy and Requirements for grant recipients.

3. It will comply with all requirements of Title VI, Civil Rights Act of 1964, with FTA Circular 4702.1, Interim Guidelines for Title VI - Information Specific to FTA Programs, and with 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.

4. Its programs will be conducted or its facilities operated in compliance with all requirements imposed by or pursuant to 49 CFR Parts 27, 37 and 38, Transportation for Individuals with Disabilities: Final Rule.

5. It will comply with all applicable provisions with the Missouri Property Management Standards for Section 5317.

6. It will give FTA and the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the grant.

7. It will operate and maintain any facility or equipment constructed or purchased as part of a Federal grant in accordance with the minimum standards as may be required or prescribed by the applicable Federal, State and Local agencies for the maintenance and operation of such facilities.

8. It recognizes FTA's and MoDOT's authority to conduct audits for the purpose of verifying compliance with the requirements and stipulations stated above.

9. Based on information submitted in the applicant organization's application, the service provided or offered to be provided by existing public or private transit operators are unavailable, insufficient or inappropriate to meet the special needs individuals with disabilities with the service area.

10. Private transit and paratransit operators have been offered a fair and timely opportunity to participate to the maximum extent feasible in the provisions of the proposed special transportation services for individuals with disabilities.

11. Projects in urbanized areas are included in the Annual Element of the local Transportation Improvement Program.

12. The applicant organization possesses the necessary fiscal and managerial capabilities to implement and manage its proposed project.

13. The applicant organization has or will have the required non-federal cash match for the project or such match will be provided in whole or in part from other non-USDOT, state, local or private sources.

14. The applicant organization is considered under state law as a private nonprofit organization or public entity and has the legal capacity to contract with the state to carry out the proposed project.

15. The applicant organization has or will have by the time of delivery sufficient funds to operate the vehicles and equipment to be purchased under this project.

Date _____

**SIGNATURE** _____
(President or chairperson)

Type Name _____

**TITLE** _____

***Attest:***_____
(Secretary to board)

***Typed Name*** _____

## CHARTER BUS REQUIREMENTS
**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 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 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.

Date _____

**SIGNATURE** _____
(President or chairperson)

Type Name _____

**TITLE** _____

***Attest:***_____
(Secretary to board)

Typed Name _____

## SCHOOL BUS REQUIREMENTS
**49 U.S.C. 5323(F) 49 CFR Part 605**

**School Bus Operations -** Pursuant to 69 U.S.C. 5323(f) and 49 CFR Part 605, 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.

Date _____

**SIGNATURE** _____
(President or chairperson)

Type Name _____

**TITLE** _____

***Attest:***_____
(Secretary to board)

Typed Name _____

## ENERGY CONSERVATION REQUIREMENTS
**42 U.S.C. 6321 et seq. 49 CFR Part 18**

**Energy Conservation** - The Applicant agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

Date _____

**SIGNATURE** _____
(President or chairperson)

Type Name _____

**TITLE** _____

***Attest:***_____
(Secretary to board)

Typed Name _____

## 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.

Date _____

**SIGNATURE** _____
(President or chairperson)

Type Name _____

**TITLE** _____

***Attest:***_____
(Secretary to board)

Typed Name _____

**LOBBYING**
**31 U.S.C. 135249 CFR Part 1949 CFR Part 20**

**Modifications** have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq. ]

- Lobbying Certification and Disclosure of Lobbying Activities for third party Applicants are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

- Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that Applicants file the certification required by 49 CFR Part 20, Appendix A.

Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.

- Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

**Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]** - Applicants who apply or bid for an award of $100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding $100,000)

The undersigned [Applicant] certifies, to the best of his or her knowledge and belief, that:

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

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

in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]

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

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

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

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

Date _____

**SIGNATURE _____**
(President or chairperson)

Type Name _____

**TITLE _____**

***Attest:*_____**
(Secretary to board)

Typed Name _____

## FEDERAL CHANGES
**49 CFR Part 18**

**Federal Changes -** 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 (18) dated October, 2011) between Applicant 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.

Date _____

**SIGNATURE** _____
(President or chairperson)

Type Name _____

**TITLE** _____

***Attest:***_____
(Secretary to board)

Typed Name _____

## 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 Applicant and understands and agrees that the Applicant 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.

Date _____

**SIGNATURE** _____
(President or chairperson)

Type Name _____

**TITLE** _____

***Attest:***_____
(Secretary to board)

Typed Name _____

## NO GOVERNMENT OBLIGATION TO THIRD PARTIES

**No Obligation by the Federal Government.**
(1) 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.

(2) 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 sub-Applicant who will be subject to its provisions.

Date _____

**SIGNATURE** _____
(President or chairperson)

Type Name _____

**TITLE** _____

***Attest:***_____
(Secretary to board)

Typed Name _____

**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 sub-Applicant who will be subject to the provisions.

Date _____

**SIGNATURE** _____
(President or chairperson)

Type Name _____

**TITLE** _____

***Attest:***_____
(Secretary to board)

Typed Name _____

**TERMINATION**
**49 U.S.C. Part 18 FTA Circular 4220.1**F

**a. Termination for Convenience (General Provision)** The Missouri Department of Transportation (MoDOT) 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 MoDOT for payment. If the Applicant has any property in its possession belonging to MoDOT, the Applicant will account for the same, and dispose of it in the manner MoDOT 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, MoDOT 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 MoDOT 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, MoDOT, 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)** MoDOT in its sole discretion may, in the case of a termination for breach or default, allow the Applicant [thirty (30) to sixty (60) days, depending on severity] 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 Applicant fails to remedy to MoDOT'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 MoDOT setting forth the nature of said breach or default, MoDOT 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 MoDOT 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 MoDOT elects to waive its remedies for any breach by Applicant of any covenant, term or condition of this Contract, such waiver by MoDOT shall not limit MoDOT's remedies for any succeeding breach of that or of any other
term, covenant, or condition of this Contract.

Date _____

**SIGNATURE** _____
(President or chairperson)

Type Name _____

**TITLE** _____

***Attest:***_____
(Secretary to board)

Typed Name _____

**GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)**
**49 CFR Part 29 Executive Order 12549**

**Instructions for Certification**

1. **By signing and submitting this application, the prospective lower tier participant is providing the signed certification set out below**.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, (Recipient) may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to (Recipient) if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact (Recipient) for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by (Recipient).

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.

8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, (Recipient) may pursue available remedies including suspension and/or debarment.

**"Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction"**

(1) The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its "principals" [as defined at 49 C.F.R. § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Date _____

**SIGNATURE** _____
(President or chairperson)

Type Name _____

**TITLE** _____

***Attest:***_____
(Secretary to board)

Typed Name _____

## CIVIL RIGHTS REQUIREMENTS

**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 agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the 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 extend 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.

(6) 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.

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

Date _____

**SIGNATURE _____**
(President or chairperson)

Type Name _____

**TITLE _____**

***Attest:*_____**
(Secretary to board)

Typed Name _____

**BREACHES AND DISPUTE RESOLUTION**
**49 CFR Part 18FTA Circular 4220.1F**

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

**Performance During Dispute** - Unless otherwise directed by MoDOT, Applicant 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 therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

**Remedies** - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between MoDOT and the Applicant 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 MoDOT 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 MoDOT or Applicant 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.

Date _____

**SIGNATURE** _____
(President or chairperson)

Type Name _____

**TITLE** _____

***Attest:***_____
(Secretary to board)

Typed Name _____

## STATE AND LOCAL LAW DISCLAIMER

**State and Local Law Disclaimer -** The use of many of the suggested clauses are not governed by Federal law, but are significantly affected by State law. The language of the suggested clauses may need to be modified depending on state law, and that before the suggested clauses are used in the grantees procurement documents, the grantees should consult with their local attorney.

Date _____

**SIGNATURE** _____
(President or chairperson)

Type Name _____

**TITLE** _____

***Attest:***_____
(Secretary to board)

Typed Name _____

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

**Incorporation of Federal Transit Administration (FTA) Terms** - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, 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 (name of grantee) requests, which would cause (grantee) to be in violation of the FTA terms and conditions.

Date _____

**SIGNATURE** _____
(President or chairperson)

Type Name _____

**TITLE** _____

***Attest:***_____
(Secretary to board)

Typed Name _____

**ADA CERTIFICATION FOR NOT-FOR-PROFIT**

Certification of Equivalent Service

_____ certifies that in absence of any provided fixed route service, 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 that 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

**ADA CERTIFICATION FOR PUBLIC ENTITIES**

Certification of Equivalent Service

_____ certifies that in absence of any provided fixed route service, 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

**Appendix B - WORKER ELIGIBILITY VERIFICATION AFFIDAVIT (sample)**

STATE OF _____ )
) ss
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
title business name
empowered to act officially and properly on behalf of this business entity.

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, and the aforementioned business entity shall participate in said program to verify information (employment eligibility) of newly hired 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 though 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 Homeland Security – Verification Division.]***