

200.313 (Equipment) and 200.314 (Supplies) of 2 CFR part 200 each increase the thresholds, from \$5,000 to \$10,000, for the value of equipment and aggregate supplies a recipient may retain, sell, or dispose of at closeout. Consistent with 2 CFR 200.314, FTA also clarified throughout the circular that disposition requirements apply only to unused supplies.

- *De Minimis Rate*: 2 CFR part 200 increases the de minimis indirect cost rate from 10% to 15% of Modified Total Direct Costs (MTDC). FTA recipients and subrecipients may elect a lower de minimis rate at their discretion and modify the indirect cost rate of MTDC to permit inclusion of the first \$50,000 of any one subaward in the base.

- *Single Audit*: 2 CFR part 200 increases the direct Federal expenditure threshold requiring a recipient to conduct a single audit from \$750,000 to \$1 million. OMB also revised the definitions of “known questioned costs” and “likely questioned costs” while providing additional direction to recipients to identify such costs in an audit report.

#### Uniform Act Changes

Acting as Lead Agency, FHWA published a final rule on May 3, 2024, to amend and update 49 CFR part 24, which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act) for land acquisition and displacement activities by all Federal agencies and their financial assistance recipients (89 FR 36908). These regulations clarify existing requirements for implementing the Uniform Act, meet modern needs, and improve the agencies’ service to individuals and businesses affected by Federal or federally assisted projects. All references to these regulations were updated in C 5010.1F.

#### Disadvantaged Business Enterprise (DBE) Final Rule Changes

On April 9, 2024, the U.S. Department of Transportation published its final rule regarding Participation by Disadvantaged Business Enterprises (DBE) in Department of Transportation Financial Assistance Programs located at 49 CFR part 26 (89 FR 24898). Changes to the rule include a streamlined DBE certification process, adjustments to grant recipient reporting requirements, and other technical corrections. For FTA specifically, the rule creates two tiers of recipients: Tier I recipients who award more than \$670,000 in FTA funds annually in 3rd party contracts and are subject to all DBE program provisions and Tier II recipient who award \$670,000 or less in

FTA funds annually and are subject to a subset of provisions.

**Veronica Vanterpool,**  
*Deputy Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[Docket No. FTA–2024–0004]

#### Rural Areas Formula Grant Programs Guidance, Final Circular

**AGENCY:** Federal Transit Administration (FTA), Department of Transportation (DOT).

**ACTION:** Notice of availability of final circular and response to comments.

**SUMMARY:** The Federal Transit Administration (FTA) has finalized an updated circular, to assist recipients in their implementation of the Rural Areas Formula Program and the rural component of the Grants for Buses and Bus Facilities Program. The update and consolidation of the circulars incorporates provisions from the Fixing America’s Surface Transportation (FAST) Act; the Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL); the Uniform Administrative Requirements for Federal awards to non-Federal entities; and current FTA policies and procedures. This notice responds to the comments FTA received on the proposed circular, which was published in the **Federal Register** on April 4, 2024.

**DATES:** The applicable date of this circular is November 1, 2024.

**ADDRESSES:** One may view the comments at docket number FTA–2024–0004. For access to the docket, please visit <https://www.regulations.gov> or the Docket Operations office located in the West Building of the United States Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** For Rural Formula program questions, Matt Lange, Office of Transit Programs, Federal Transit Administration, US DOT Volpe Center, 220 Binney Street, Room-940, Cambridge, MA 02142, phone: (617) 494–6308, or email, [matthew.lange@dot.gov](mailto:matthew.lange@dot.gov). For Bus and Bus Facilities program questions, Kirsten Wiard-Bauer, Office of Transit Programs, Federal Transit Administration, 1200 New Jersey Ave. SE, Washington, DC 20590, phone: (202)

366–7052, or email, [Kirsten.Wiard-Bauer@dot.gov](mailto:Kirsten.Wiard-Bauer@dot.gov). For Tribal Transit Program questions, Elan Flippin, Office of Transit Programs, phone: (202) 366–3800, or email, [elan.flippin@dot.gov](mailto:elan.flippin@dot.gov). For legal questions, Bonnie Graves, Office of Chief Counsel, phone: (202) 366–0944, or email, [Bonnie.Graves@dot.gov](mailto:Bonnie.Graves@dot.gov).

#### SUPPLEMENTARY INFORMATION:

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#### I. Overview

The Federal Transit Administration’s (FTA) final circular, “Rural Areas Formula Grant Programs Guidance,” C 9040.1H, is a consolidation of guidance for Rural Areas Formula Grants Program under 49 U.S.C. 5311 (Circular 9040.1) and the rural area component of the Grants for Buses and Bus Facilities Program under 49 U.S.C. 5339(a) (Circular 5100.1). Additionally, this updated circular incorporates provisions of the FAST Act (Pub. L. 114–94), the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58), and other changes in law, and includes program-specific guidance for these formula programs. Additional requirements for all grant programs are identified in FTA’s Award Management Requirements (Circular 5010.1).

The update to Circular 9040.1 consolidates and summarizes programmatic information, streamlines pre-existing guidance from the two program circulars, and reduces duplication of information provided between the Rural Areas Formula Program circular and FTA’s other topic-specific circulars, including by moving certain text applicable to most or all FTA grant programs to Circular 5010.1. Furthermore, the circular incorporates statutory changes and clarifies policies as applied by FTA. Statutory changes for Section 5311 include additional sources of local share; in-kind match for intercity bus service; and fund allocations for tribes. Statutory changes for Section 5339(a) include the application of Section 5311 requirements to Section 5339 grants in rural areas; additional source for local share; additional eligible entities; and use of procurement tools authorized under Section 3019 of the FAST Act. Policy clarifications address topics in the existing program circulars, including consolidation of grants to

insular areas; eligible projects and activities for each program; operating assistance limitations and exceptions; capital cost of contracting; the role of transportation network companies in providing public transportation services; and period of availability to obligate funds flexed to FTA formula programs from the Federal Highway Administration (FHWA).

In addition to statutory and policy updates, the Office of Management and Budget (OMB) issued 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, also known as the Uniform Guidance, in December, 2013, which superseded the Common Grant Rule, formerly codified at 49 CFR parts 18 and 19. Due to the timing of the last circular update and the effective date of the Uniform Guidance, FTA Circular 9040.1G continued to reference 49 CFR parts 18 and 19. FTA has updated these references, including definitions, in Circular 9040.1H. Further, on April 22, 2024, OMB issued a final rule updating 2 CFR part 200 (89 FR 30046). Two of those updates resulted in changes to the draft C. 9040.1H, and those changes are discussed in this notice.

This notice provides a summary of comments received and FTA's response to those comments.

## II. Response to Public Comments

FTA published a notice for comment on this circular in the **Federal Register** on April 4, 2024 (89 FR 23618), describing the consolidation and updates and seeking public comment on the proposed circular. FTA received eighty-three (83) comments from sixteen (16) unique commenters. FTA reviewed the comments and addresses below the categories of comments for which no changes to the proposed circular were made, as well as the changes FTA made in the final circular in response to public comments.

### A. Categories of Comments for Which No Changes Were Made

*Comment:* Three commenters requested an extension of the sixty (60) day review period.

*FTA Response:* FTA determined, based on the agency's preexisting decision-making schedule; two other draft circulars published for public comment prior to proposed C. 9040.1H which included similar information; and the updates and consolidations to the existing circulars include limited statutory changes resulting from FAST Act and BIL, regulatory updates to 2 CFR part 200, and policy clarifications;

that an extension was not warranted. FTA considered all comments received.

*Comment:* Several commenters requested increasing the period of time during which governors can, without local consultation, transfer funds between the Section 5307 and 5311 programs from ninety (90) days to one (1) year.

*FTA Response:* The ninety (90) day period for transferring state apportionments of formula grants without local consultation is set statutorily under 49 U.S.C. 5336(f) and FTA does not have the authority to increase the time period for these transfers.

*Comment:* One commenter requested a change to allow direct recipients of FTA Section 5307 funds to serve as direct recipients of Section 5311 funds.

*FTA Response:* Under 49 U.S.C. 5311(a)(1) the only eligible recipients of formula funds for rural areas are States and Indian Tribes. Local government authorities are eligible subrecipients.

*Comment:* One commenter requested the addition of language specifying that Section 5311(f) funds may be used to build all parts of an urbanized area intercity bus terminal serving both rural and urban passengers regardless of the proportion of such service that would benefit rural users.

*FTA Response:* Rural transit program funds are intended to primarily benefit rural transit users; while urban users may also benefit from services funded by the rural transit programs, they should not be the primary beneficiaries. The use of rural transit program funds should be proportional to the benefits realized by rural users.

*Comment:* One commenter requested an increase to the Federal share of operating expenses for Section 5311 funds.

*FTA Response:* FTA does not have the authority to change the Federal share as it is set by statute—49 U.S.C. 5311(g)(2) provides the Federal share shall not exceed 50 percent of the net operating cost of the project.

*Comment:* One commenter requested the relaxation of, or provision of waivers for, the Buy America requirements in situations where the costs were onerous.

*FTA Response:* No changes to Buy America are possible as this is a statutory requirement. FTA encourages interested stakeholders to review 49 U.S.C. 5323(j) for a list of waivers permitted by statute, one of which is when including domestic material will increase the cost of the overall project by more than 25 percent. FTA's Buy America rule at 49 CFR part 661 describes how to request a waiver. Additionally, Buy America

requirements are discussed in depth in Circular 5010.1.

*Comment:* One commenter requested that up to ten percent (10%) of transferred flexible funds from FHWA may be used for State administration.

*FTA Response:* Flexed funds are only eligible for State administration to the extent that FHWA permits. Recipients should contact their FTA Regional Office for information on eligible activities when accepting transferred FHWA funds.

*Comment:* One commenter requested a "more streamlined process that all States must adhere to" related to State oversight of intercity bus service.

*FTA Response:* The guidance provided in this circular is intentionally broad to address a variety of circumstances, geographies, and types of recipients and subrecipients while allowing maximum flexibility to the States in administering Federal grants programs. Due to this dynamic and the reality that the provided guidance is based on existing statutes, policies, and regulations, FTA cannot provide a single process for all recipients; nor can FTA streamline the process by removing or waiving any requirements.

*Comment:* Two commenters requested formatting changes related to page numbering and removal of blank pages.

*FTA Response:* FTA appreciates these comments; however, the layout of the circular is deliberate and intended to make printed versions readable.

*Comment:* One commenter recommended that references to circulars and other documents be as broad as possible to make them easier to update, which FTA interpreted to mean that, for example, the Rural Areas circular would be referred to as "C 9040.1" and not as "C 9040.1H" and statutory provisions would be referred to as "49 U.S.C. 5311" instead of "49 U.S.C. 5311(b)."

*FTA Response:* Where appropriate, FTA already endeavors to make references in the broad fashion suggested here. In addition, FTA is able to update guidance documents with statutory or regulatory citation changes without undergoing further notice and comment.

*Comment:* One commenter requested that links be provided wherever possible throughout the document.

*FTA Response:* FTA has included links where appropriate and when the corresponding web address can be expected, with relative certainty, to remain the same into the future.

*Comment:* One commenter requested the inclusion of "contract" and "contractor" in the definitions list.

*FTA Response:* The terms “third-party contract” and “third-party contractor” are defined in Circular 5010.1 and FTA declines to include definitions of these terms in this circular.

*Comment:* One commenter requested that the term “urban areas” in the definition of “intercity bus” be more thoroughly defined or explained.

*FTA Response:* FTA includes the statutory definition of urbanized areas in the definitions section: “Urbanized Area (UZA). An area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an ‘urban area’ by the Secretary of Commerce (49 U.S.C. 5302).” FTA notes the Census now defines some areas with populations of less than 50,000 as “urban,” however, for purposes of FTA’s programs, areas with a population of less than 50,000 are defined as rural. For consistency we have changed “urban area” to “urbanized area” in the definition of intercity bus.

*Comment:* One commenter requested that the threshold at which recipients must revise their Program of Projects (POP) change, from a 20% increase in total funds reflected on the POP to a 25% increase in total funds reflected on the POP, in order to coincide with the commenter’s practices.

*FTA Response:* The threshold is set at 20% as a matter of policy and FTA declines to make this change.

*Comment:* One commenter requested that FTA remove the requirement to submit an annual POP Status Report. Another commenter requested that FTA add language stating that if the most recent POP in TrAMS is current, the annual POP Status Report may reference the date of the current POP in lieu of uploading a POP.

*FTA Response:* FTA considers the POP Status Report necessary to ensure the POPs are tracked at least annually. Annual reports for the POP provide the opportunity for comprehensive updates based on the progress of the award, in a holistic way than an individual FFR or MPR.

*Comment:* Several commenters expressed concern regarding the requirement that a Section 5311(f), intercity bus Governor’s Certification Letter be sent to the FTA Regional Administrator and not the FTA Administrator. Commenters asserted this was a change in policy reducing the level of oversight from FTA’s Administrator to a Regional Administrator.

*FTA Response:* The Governor’s Certification Letter has always been sent to the Regional Administrators for

approval. The additional language simply makes this review process more apparent to stakeholders.

*Comment:* One commenter asked FTA to remove any references to procedure when discussing State oversight in the context of the State Management Plan (SMP).

*FTA Response:* States are required to perform oversight activities in order to properly manage the Federal programs they are responsible for, and FTA is required to monitor how States manage these programs to ensure this oversight is taking place. As a result, discussions of State program management and State monitoring are necessary to ensure compliance with all relevant statutory and regulatory requirements.

*Comment:* One commenter requested new requirements be added to the State Management Plan (SMP), including a requirement that States address what their policies are toward “high-risk” subrecipients.

*FTA Response:* The guidance is written to provide maximum flexibility to the States. Monitoring is already addressed via the SMP, and a State is not prohibited from increased monitoring of any subrecipient they deem to be high-risk. As the recipient, it is up to the State to determine the best approach to ensure subrecipient compliance. FTA declines to add this proposed requirement to the circular.

*Comment:* One commenter requested additional language further emphasizing that intercity city bus services that cross state boundaries are eligible for Section 5311 funding.

*FTA Response:* The request for eligibility emphasis is not needed given the enabling language already present in the circular. Section 5311 eligibility language included under “General Program Information, Chapter III 1.c., states that for Section 5311 projects, “The service area may include destinations across a State line.” This applies to intercity bus service as well as Section 5311 public transit service. Further, the intercity bus language in Chapter IX provides, “FTA encourages the State to look at the intercity bus transportation needs of the entire State and to work with neighboring States to adopt a program that will support a network of intrastate services and provide connections with a national network of interstate service.” It is reasonable to expect service may need to cross State lines in order to provide access to neighboring State service as well as the national network of intercity bus service.

*Comment:* Several commenters asked FTA to provide additional examples, or lists of examples, to further illustrate

requirements and processes. For example, one commenter requested a complete list of other public transportation-related Federal programs that may provide support for Section 5311 and Section 5339 projects. One commenter requested that FTA clarify whether rural transit activities for RTAP assistance include Section 5310-funded activities in rural areas.

*FTA Response:* FTA declines to provide additional non-exhaustive lists of examples as the elements could vary from case to case and programs change over time such that a list could become out of date. For those seeking information on other Federal programs that provide funding for transportation, FTA invites interested stakeholders to review FTA’s web page on the Coordinating Council on Access and Mobility and view the “CCAM Program Inventory,” located at <https://www.transit.dot.gov/coordinating-council-access-and-mobility>. Finally, RTAP funds may be used to support Section 5310 projects in rural areas.

*Comment:* One commenter requested the addition of language to the definition of “Joint Development Activities,” emphasizing the role of intermodal transportation centers as hubs for intercity bus facilities.

*FTA Response:* FTA has included only a streamlined definition of joint development and referred readers to FTA’s Joint Development Circular 7050.1C. FTA notes that intercity bus is specifically included as an eligible joint development project on page IV–9 of circular. Thus, additional language about its eligibility is not needed.

*Comment:* One commenter noted that there are instances in the circular where projects are listed as eligible public transit projects when those projects are also eligible intercity bus projects. The commenter requested that FTA add “intercity bus” where such projects are also eligible.

*FTA Response:* FTA generally declines to accept this suggestion, as in some cases, intercity bus projects are not eligible for Section 5311 funds except for the Section 5311(f) set-aside. Under the statute, eligible activities are “public transportation capital projects; and operating costs of equipment and facilities for use in public transportation;” 49 U.S.C. 5311(b)(1). Given intercity bus is not considered public transportation under 49 U.S.C. 5302, intercity bus projects are not eligible except where they are considered “capital projects” under 49 U.S.C. 5302, including joint development projects that include intercity bus, and intermodal facilities. This discussion is included in Chapter

IX. As discussed below, FTA has added “intercity bus” to flex fund discussions, as intercity bus projects are eligible for some funds transferred to FTA from FHWA. FTA encourages intercity bus operators to work with the States and FTA Regional Offices if there are questions about eligible activities.

As stated in the **Federal Register** notice accompanying the proposed circular, FTA proposed moving cross-cutting requirements and guidance to Circular 5010.1, as an effort to streamline the program circulars. Three commenters asked FTA to retain some of that information in the updated C 9040.1.

*Comment:* Two commenters requested additional guidance on minimum useful life of vehicles and other capital assets, to include either examples or links to lists.

*FTA Response:* As this information is cross-cutting, it is included in the C 5010.1 Award Management Requirements Circular, to which the C 9040.1H refers users. Therefore, the inclusion of that same information here would be redundant.

*Comment:* One commenter requested additional information about the use of Transportation Development Credits (TDCs) for local match.

*FTA Response:* As this information is cross-cutting, it is included in the C 5010.1 Award Management Requirements Circular, to which the C 9040.1H refers users. Therefore, the inclusion of that same information here would be redundant.

*Comment:* Several commenters requested changes that are outside the purview of the circular update process. For example, two commenters requested changes to the ALI system in TrAMS. One commenter requested a consolidation of certain ALI codes within the existing ALI tree. Another requested that language be added stating that mobility management activities are eligible as administrative expenses in the ALI codes.

*FTA Response:* FTA is updating the ALI tree, but this is not related to the process of updating the circulars. However, the comments related to ALI trees and ALI codes have been shared with staff involved with that update. Mobility management is an eligible capital expense, not an administrative expense.

*Comments:* Several comments were of a general nature, such as those expressing support of rural transit funding or concern for potential impacts of requirements on small rural providers.

*FTA Response:* FTA appreciates these statements and, while no action or

change was requested, the comments have been read, recorded, and discussed.

*Comment:* One commenter noted that questions arose on whether FTA would use ‘smoothed’ UZA boundaries that have been adjusted from the raw 2020 UZA boundaries for FHWA roadway classification purposes to determine eligibility of UZA vs. rural FTA formula program funds. The commenter requested that FTA include guidance on this topic in the circular that has been provided through other FTA resources.

*FTA Response:* Post-delineation UZA smoothing adjustments made for FHWA roadway classification purposes do not have the effect of changing the geographic coverage of UZAs or any other UZA characteristics for any aspects of FTA program administration. Because such adjustments are administered by another Federal agency for purposes that are irrelevant to FTA programs, FTA does not feel it is necessary to include related guidance in the circular.

*Comment:* One commenter requested that language be added to say that intercity bus and related facilities are eligible under Section 5339(a).

*FTA Response:* FTA disagrees—per Section 5339, eligible recipients are designated recipients that allocate funds to fixed route bus operators or State or local governmental entities that operate fixed route bus service. Section 5339 further specifies that eligible subrecipients must be public agencies or private nonprofit organizations engaged in public transportation. Intercity bus projects are eligible under Section 5311(f).

*Comment:* One commenter requested more specific program/project management oversight activities required for States that award FTA Section 5311(f) funding to private intercity bus providers and the applicable requirements for private intercity bus service providers.

*FTA Response:* The requested information is provided in various places throughout Chapter IX. State certification requirements and procedures are discussed on page IX–1. The Intercity Bus Consultation Requirement is discussed on page V–3 and the consultation requirements are discussed in Section 4 of Chapter IX. Documentation requirements are discussed on page IX–5; the State’s role in reviewing and processing applications is discussed on page IX–6. Transportation Improvement Plan (TIP) and State Transportation Improvement Plan (STIP) inclusion requirements are discussed on page IX, State POP. Budgeting, labor protection, and

enforcement of compliance are discussed in Section 13.

*Comment:* One commenter requested that FTA “explicitly identify the cognizant agency for providers who receive Section 5307 and 5311 funding.”

*FTA Response:* The cognizant agency as it would apply to an indirect cost rate is determined by the largest amount of funding a recipient receives from a Federal agency. FTA encourages recipients with questions about cognizant agencies for indirect costs to contact their FTA Regional Office.

*Comment:* One commenter questioned the need to discuss Title VI civil rights requirements in both the State Management Plan (SMP) and the Title VI Plan.

*FTA Response:* This is a necessary element of the required state management review. Information is frequently required in multiple reports as the reports serve different functions and have different audiences. The information provided in the SMP may be identical to that in the Title VI Plan, so this requirement is not difficult to meet. This also ensures civil rights considerations are included at all stages of FTA-funded projects.

FTA received several comments requesting FTA provide outreach on circular changes, as well as requests for more targeted technical assistance. FTA will provide external training on changes made to this and the other circulars that FTA is revising and will go into effect at the same time (C 9040.1H, C 9070.1H, C 5010.1F) soon after publication of the final circulars.

*Comment:* One commenter offered an alternative example for calculating the allowable in-kind match cost of the private operator as they felt the provided example was confusing.

*FTA Response:* FTA declines to replace the existing example with the one provided by the commenter and will further providing training to assist with any confusion on the topic.

#### *B. Changes to the Final Circular as a Result of Public Comments*

A portion of the comments that FTA received were requests for clarification or more specificity on various requirements. FTA revised language in the circular to address these comments, as explained below.

*Use of the terms “grant” and “award.”* FTA ensured that the terms “award” and “grant” are used in a consistent and understandable way throughout the document.

*Incidental Use.* In Chapter I, FTA updated the definition for Shared Use to match the definition in Circular 5010.1

and other program circulars to better differentiate between “shared use” and “incidental use.” In addition, in the discussion of incidental use in Chapter III, FTA included a sentence directing readers to Circular 5010.1 for additional information. FTA amended the section on incidental use to clarify that FTA-funded public transportation service should be coordinated with other rural transportation services, including intercity bus service. The purpose of a public transit bus stop or station may be for public transportation and an intercity operator using the stop or station a few times a day would be incidental to the public transportation purpose. Consistent with 49 U.S.C. 5323(r), FTA expects recipients to grant reasonable access to such stops or stations to intercity bus operators. An intercity bus operator using a stop or station that is part of a joint development or other intermodal project would not be incidental, as such use would meet the purpose of the project.

*Program of Projects (POP).* In Chapter I, FTA removed the word “annual” from the definition of Program of Projects (POP) and in Chapter II removed “annually” from the POP reporting procedures; the POP is not required to be submitted every year if a State is not receiving an award in a given year. It must be submitted for any year in which the State requests FTA funds.

*The Role of the State Agency.* In Chapter II, FTA added “Ensure an accurate and complete list of projects are included in the Statewide Transportation Improvement Program (STIP)” to the list of roles of a State agency in administering the Section 5311 and 5339 programs.

*Conducting State Management Reviews (SMRs).* In Chapter II, FTA added language that FTA conducts SMRs in accordance with the most recent Comprehensive Oversight Review and Technical Assistance Program (CORTAP) Manual. FTA also added language to make it clear that FTA may perform SMRs in addition to, or in lieu of, Triennial Reviews where appropriate.

*Transfer of FHWA Flexible Funds.* In Chapter III, FTA added language stating a State may transfer certain funds from FHWA to FTA to use for transportation planning or intercity bus projects (in addition to transit projects, which were already noted as eligible).

*Eligibility of Regional Development Organizations (RDOs) as Section 5311 Subrecipients.* In Chapter III, FTA added language that regional development organizations (RDOs) may be eligible subrecipients as local governmental authorities.

*Intercity bus terminals in urban areas using Section 5311(f) funds.* Intercity bus terminals or the intercity bus portions of intermodal terminals in urbanized areas that serve both rural and non-rural passengers may be built with Section 5311(f) funds. The Section 5311 program is primarily intended to benefit rural transportation needs. While Section 5311(f) funds can sometimes be applied to projects and services that collocate in urbanized areas, the funds must be used in proportion to the benefit to rural transportation needs. FTA does not specify the exact methodology to be used, to allow flexibility to the States and designated recipients in urbanized areas. A reasonable method must be used to ensure the funds are spent proportionally to the benefits to rural transportation needs. FTA has added language on page III–9 to clarify this policy.

*Employee Training Expenses.* In Chapter IV, FTA added language clarifying the 0.5% cap on FTA funds used for employee training expenses applies only to Section 5339 funding, as employee training expenses are eligible under Section 5311.

*Eligibility of oil as a preventive maintenance expense.* In Chapter IV and Chapter XI, FTA removed “oil” from the list of operating expenses eligible under Section 5311; oil is an eligible preventive maintenance expense. Please note operating and preventative maintenance are not eligible under Section 5339.

*Eligibility of 5339(a) funded projects that do not support fixed route only.* FTA added language in Chapter IV clarifying that Section 5339(a) funds are not limited to projects that only support fixed route. This language addressed a commenter’s concern about the statement, “Eligible recipients for Section 5339 funds include designated recipients that allocate funds to fixed route bus operators, and States and local governmental authorities that operate fixed route service.” While the statute provides funds are allocated only to fixed route operators, the funds may be used to support demand-response vehicles and facilities.

*ADA Complementary Paratransit.* In Chapter IV, FTA added language and made changes to existing language to clarify the requirements for using formula funds at an 80 percent Federal share for ADA complementary paratransit: the percentage caps are applied at the State, not the subrecipient level, and there are additional requirements for applying the higher twenty percent (20%) cap of the apportionment. Additionally, FTA

corrected the spelling of “complimentary” to “complementary.”

*Metropolitan, Statewide, and Non-Metropolitan Planning Requirements.* In Chapter V, FTA added language regarding projects receiving rural funding and located within Metropolitan Planning Area (MPA) boundaries but not within a UZA boundary to state that they may or may not need to be included in the Metropolitan Transportation Plan and TIP for the respective MPO. Also in Chapter V, FTA added language specifying that rural areas outside MPAs (and therefore not included in a metropolitan STIP) may receive FHWA flex funds.

*Recordkeeping Requirements.* In Chapter VI, FTA added language that States are not required to keep all supporting documentation received from subrecipients on file, but this documentation must be maintained by each subrecipient.

*State Management Plans (SMPs).* In Chapter VII, FTA added a reference to the planning statute at 49 U.S.C. 5304 to differentiate between the SMP and the long-range statewide transportation plan. FTA also added language to Chapter VII stating that the SMP must be approved by and filed with the FTA Regional Office. FTA added language which reflects statutory amendments to 49 U.S.C. 5304 resulting from the FAST Act, which require States to describe their processes for developing and integrating intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities, and for consideration of the role that intercity buses may play in reducing congestion, pollution, and energy consumption in a cost-effective manner and strategies and investments that preserve and enhance intercity bus systems, including systems that are privately owned and operated.

*Reasonable Access to Federally Funded Transportation Facilities for Intercity Bus Providers.* In Chapter IX, FTA added language specifying that recipients of FTA funds may not deny reasonable access for a private intercity or charter transportation operator to federally funded public transportation facilities. FTA also provided guidance for determining when access is reasonable.

*Meaningful Connections to the Intercity Bus Network.* In Chapter IX, FTA added examples of factors that determine whether connections between services funded by Section 5311(f) and the intercity bus network are “meaningful.” However, we declined to add the word “scheduled” as requested by a commenter, as the word is already

included in the discussion of meaningful connections.

**Eligibility of New Intercity Bus Facilities.** In Chapter IX, FTA specified that constructing new intercity terminal facilities for rural passengers is an eligible activity under Section 5311(f), in addition to improvements for existing facilities.

**Eligible Subrecipients of Section 5311 funds.** FTA amended language in Chapter IX regarding when an intercity bus operator elects to be a contractor or a subrecipient. A “contract” is a legal instrument by which a recipient or subrecipient purchases property or services needed to carry out its project or program under a Federal award. In contrast, a “subaward” is an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. The requirements for each are similar but the terms and conditions, including oversight and enforcement, may be different.

**ADA Regulations for Intercity Bus Service Operated by Private Entities Using Over-the-Road Buses (OTRBs).** In Chapter IX, FTA added language clarifying that vehicles used by intercity bus services provided by a public entity or under contract or other arrangement or relationship to a public entity must be compliant with both 49 CFR 38.23 and subpart G of 49 CFR part 38, as well as 49 CFR part 37.

**Update to the Capitalization Threshold for Equipment.** FTA received several comments inquiring about the \$5,000 capitalization threshold for equipment, with some commenters requesting the threshold be raised. In its recent final rule, codified at 2 CFR 200.1, OMB increased the threshold for the definition of equipment to \$10,000, and FTA has made this change in the final circular.

**State Planning Requirement for Intercity Bus.** FTA received three comments from one commenter requesting language reflecting new State planning requirements as updated in FAST Act. FTA added a section to Chapter IX, Intercity Bus, emphasizing that transportation plans and transportation improvement programs must provide for intermodal facilities that support intercity transportation, including intercity buses and intercity bus facilities. Chapter V, Planning & Program Development, subsection 2 (“Metropolitan, Statewide, and Non-Metropolitan Planning”) already specifies that States requesting Section 5311 or Section 5339(a) assistance must comply with the planning requirements of 49 U.S.C. 5303, 5304 and 5306.

**Tribal Transit Matching Funds.** Consistent with a recent Tribal consultation (89 FR 48593, June 10, 2024), no local match is required for the Tribal Transit Competitive Program. FTA has updated Chapter XI to reflect this change.

### C. 2 CFR Part 200 Updates

As stated above, OMB’s 2024 update to 2 CFR part 200 increased the threshold, from \$5,000 to \$10,000, for the value of equipment, which impacts how a recipient may retain, sell, or dispose of the equipment at closeout. Items under \$10,000 are considered supplies. In addition, the threshold for expenditures at which recipients of Federal awards are required to have independent audits conducted annually increased from \$750,000 to \$1,000,000. FTA has updated the final circular to reflect these changes.

**Veronica Vanterpool,**  
Deputy Administrator.

[FR Doc. 2024–22163 Filed 9–26–24; 8:45 am]

**BILLING CODE 4910–57–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[Docket No. FTA–2023–0009]

### Urbanized Areas Formula Grant Programs Guidance, Final Circular

**AGENCY:** Federal Transit Administration (FTA), Department of Transportation (DOT).

**ACTION:** Notice of availability of final circular and response to comments.

**SUMMARY:** The Federal Transit Administration (FTA) has finalized a new circular entitled, “Urbanized Areas Formula Grant Programs Guidance,” which consolidates and replaces the circulars for the Urbanized Area Formula Grants Program (FTA Circular C 9030.1), the State of Good Repair Grants Program (FTA Circular C 5300.1), and the Urbanized Area formula component of the Grants for Buses and Bus Facilities Program (FTA Circular C 5100.1). The update and consolidation of the circulars incorporate provisions from the Fixing America’s Surface Transportation (FAST) Act; the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act; the Uniform Administrative Requirements for Federal awards to non-Federal entities; and current FTA policies and procedures. This notice responds to the comments FTA received on the proposed circular, which was published in the **Federal Register** on July 12, 2023.

**DATES:** The applicable date of this circular is November 1, 2024.

**ADDRESSES:** One may view the comments at docket number FTA–2023–0009. For access to the docket, please visit <https://www.regulations.gov> or the Docket Operations office located in the West Building of the United States Department of Transportation, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** For State of Good Repair Grant program questions, Ciara Williams, Office of Transit Programs, Federal Transit Administration, 1200 New Jersey Ave. SE, Room E44–412, Washington, DC 20590, phone: (202) 366–8954, or email, [ciara.williams@dot.gov](mailto:ciara.williams@dot.gov). For Urbanized Area Formula Grant program questions, Nichole Neal, Office of Transit Programs, Federal Transit Administration, 1200 New Jersey Ave. SE, Room E44–451, Washington, DC 20590, phone: (202) 366–7865, or email, [nichole.neal@dot.gov](mailto:nichole.neal@dot.gov). For Buses and Bus Facilities program questions, Kirsten Wiard-Bauer, Office of Transit Programs, Federal Transit Administration, 1200 New Jersey Ave. SE, Washington, DC 20590, phone: (202) 366–7052, or email, [kirsten.wiard-bauer@dot.gov](mailto:kirsten.wiard-bauer@dot.gov). For legal questions, Jerry Stenquist, Office of Chief Counsel, same address, Room E56–314, phone: (202) 493–8020, or email, [Jerry.Stenquist@dot.gov](mailto:Jerry.Stenquist@dot.gov).

### SUPPLEMENTARY INFORMATION:

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- I. Introduction
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#### I. Introduction

This notice announces the availability of FTA Circular C 9050.1A, “Urbanized Areas Formula Grant Programs Guidance,” which is a consolidation of guidance for the administration of grants for the Urbanized Area Formula Grants Program under 49 U.S.C. 5307 (FTA Circular C 9030.1), State of Good Repair Grants Program under 49 U.S.C. 5337 (FTA Circular C 5300.1), and the urbanized area formula component of the Grants for Buses and Bus Facilities Program under 49 U.S.C. 5339(a) (FTA Circular C 5100.1). The C 9050.1A circular replaces these three circulars. Additionally, this circular incorporates provisions of the FAST Act (Pub. L. 114–94) and the Infrastructure Investment and Jobs Act (Pub. L. 117–58) and includes program-specific