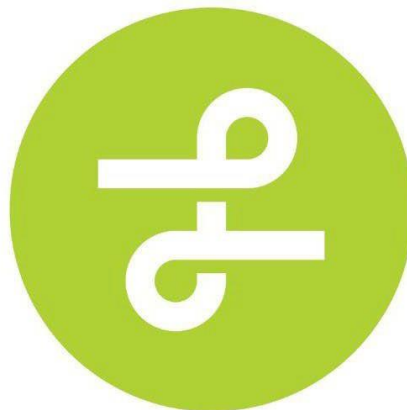




# FISCAL YEAR 2024 PROGRAM MANAGEMENT PLAN

## ENHANCED MOBILITY FOR SENIORS AND INDIVIDUALS WITH DISABILITIES FUNDING PROGRAM (SECTION 5310)



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## OVERVIEW

This Program Management Plan (PMP) describes the policies and procedures for administering the Federal Transit Administration (FTA) Section 5310 Enhanced Mobility for Seniors and Individuals with Disabilities Program by the Transit Authority of Lexington-Fayette Urban County Government (Lextran). Lextran developed this PMP in accordance with current FTA laws and regulations as well as FTA Circular C 9070.1G. This 5310 PMP outlines the requirements for the Lexington-Fayette Urban County area.

## GOALS AND OBJECTIVES

The goal of the PMP is to explain how Lextran plans to manage the FTA 5310 program within the Lexington-Fayette Urban County area. FTA provides financial assistance for transportation services planned, designed, and carried out to meet the special transportation needs of seniors and individuals with disabilities. As part of this process, the following objectives will be completed:

- Ensure the Plan meets Fixing America's Surface Transportation (FAST) Act requirements and meets the intent of the Section 5310 program;
- Establish a framework by which proposed projects requesting Section 5310 funding can be solicited and selected through a fair and equitable process;
- Identify, contact, and inform public agencies, community organizations, non-profits, and eligible private for-profit organizations providing service for seniors and individuals with disabilities of the availability of 5310 program grant funds;
- Establish, promote, and outline a process for evaluating 5310 program funding proposals;
- Assure that proposals selected for funding are responsive to one or more of the needs identified in the Coordinated Public Transit-Human Services Plan (Coordinated Plan);
- Establish the requirements for the selected projects to enter into grant agreements; and
- Summarize the requirements for managing and reporting the progress for implementing the funded projects.

This is a living document. It will be updated, as needed, in order to incorporate any expansions and enhancements of the Section 5310 program, as well as any revisions to the management,

requirements, or guidelines of the program.

## FUNDING PROGRAMS

Under the Fixing America's Surface Transportation (FAST) Act, Section 5310 program funds are allocated directly to designated recipients in urbanized areas with populations greater than 200,000. In the Lexington-Fayette Urban County area, a portion (45%) of Section 5310 program funds are directed to Lextran. Funds passed through Lextran to other agencies or organizations will be done through a competitive selection process, therefore the awardees will be subrecipients of Lextran. Lextran is responsible for developing this PMP, putting together an outside committee to award the funding, and managing subrecipients who are awarded the funding.

- Under the FAST Act, the Transportation for Seniors and Individuals with Disabilities Program (Section 5310) and the New Freedom Program (Section 5317) were consolidated resulting in the new program Enhanced Mobility for Seniors and Individuals with Disabilities (Section 5310). The new program is a continuation of the goals of the prior programs, however the funds that were available under the New Freedom Program (Section 5317) are now available under Section 5310.
- Funds apportioned specifically to Urbanized Areas with a population over 200,000.
- Section 5310 funds apportioned to large urban areas are now allocated using the American Community Survey (ACS) 5-year data based on each area's senior population (per the ACS a senior is an individual 65 years and older) and individuals with disabilities.

## PURPOSE

The designated recipient is required to have an approved PMP on file with the appropriate FTA regional office and update it regularly to incorporate any changes in program management or new requirements. The purpose of the PMP is to aid with recipient management and FTA oversight by documenting the designated recipient's policies and procedures for administering the Section 5310 program. The PMP can be used as tool for the state, designated recipient, and subrecipients, as well as FTA. This PMP provides information explaining the implementation of the FTA Section 5310 grant program managed and administered by Lextran. This PMP serves as a local companion to Circular FTA C 9070.1G, describing the roles and mechanisms for carrying out policies and

procedures in the urbanized area, satisfying the FTA requirement for a Program Management Plan. The FTA will review and approve the PMP. The PMP will also be reviewed by the FTA as part of its triennial review of Lextran.

### **Roles and Responsibilities**

As the designated recipient of 5310 funds, Lextran, per FTA Section 5310 regulations, is required to develop a Coordinated Plan. The Coordinated Plan is a comprehensive document which identifies and prioritizes strategies for enhancing mobility for seniors and individuals with disabilities and other populations who could possibly benefit from the programs and projects detailed within the Coordinated Plan. Providing adequate transportation to the targeted populations promotes equity in mobility and opportunity. The Coordinated Plan also aims to foster cooperation among agencies and organizations in order to efficiently manage resources. This benefits stakeholders on both sides by identifying and addressing gaps in transportation and maximizing funding for transportation providers.

## **COORDINATION**

Proposals for 5310 program funding must meet a need or fill a gap in service identified in the local Coordinated Plan. The Coordinated Plan is available on the Lextran website. The plan identifies current transportation needs for targeted populations and is put together in coordination with various community partners. The plan development includes public meetings marketed to transportation providers, non-profit groups, and transit customers as well as seniors and citizens with disabilities, their advocates, and various public agencies that service them.

The following measures are targeted to capture pertinent program information as part of the annual report that each state and designated recipient submits to FTA. The designated recipient should submit both quantitative and qualitative information as available on each of the following measures:

- Increase or enhance as related to geographic coverage, service quality, and/or service times that impact availability of transportation services for seniors and individuals with disabilities as a result of other Section 5310 projects implemented in the current reporting year.
- Additions or changes to physical infrastructure (e.g., transportation facilities, sidewalks, etc.), technology, and vehicles that impact availability of transportation services for seniors and individuals with disabilities as a result of other Section 5310 projects implemented in the

current reporting year.

- Actual or estimated number of rides provided for seniors and individuals with disabilities as a result of other Section 5310 projects implemented in the current reporting year.
- The designated recipient should ensure that the above information is reported for all subrecipients of Section 5310 funding in projects selected by the designated recipient. Subrecipients will be required to report these performance measures as required by Lextran and the FTA.

## ELIGIBLE SUBRECIPIENTS

Under the federal guidelines, eligible subrecipients under Section 5310 include:

- State and local governmental agencies
- Public and private transportation providers
- Social service agencies
- Non-profit organizations

To be eligible for funding from the 5310 programs, proposed projects must be located within or a destination within the Lexington-Fayette Urban County area. Additional detailed information for typical subrecipients is outlined below.

### **Private Nonprofit Organization**

A private nonprofit organization includes a corporation or association determined by the United States Secretary of the Treasury to be an organization described by 26 U.S.C 501(c), or one which has been determined under State law to be non-profit and for which the designated State agency has received documentation certifying the status of the nonprofit organization.

### **Governmental Authority**

A Governmental Authority subrecipient may be of two types:

- Approved by the state to coordinate services for seniors and individuals with disabilities; or
- Certifies that no nonprofit corporations or associations are readily available in an area to provide the service.

## Private Taxi Operators

Private operators of public transportation are eligible subrecipients. Private taxi companies that provide shared-ride taxi service to the general public on a regular basis are operators of public transportation, and therefore eligible subrecipients. “Shared-ride” means two or more passengers in the same vehicle who are otherwise not traveling together. Similar to general public and ADA demand response service, every trip does not have to be shared-ride in order for a taxi company to be considered a shared-ride operator, but the general nature of the service must include shared rides.

Local (municipal/state) statutes or regulations, or company policy, will generally determine whether a taxi company provides shared-ride or exclusive-ride service.

Taxi companies that provide only exclusive-ride service are not eligible subrecipients; however, they may participate in the Section 5310 program as contractors. Exclusive-ride taxi companies may receive Section 5310 funds to purchase accessible taxis under contract with a state, designated recipient, or eligible subrecipient such as a local government or nonprofit organization. The taxi company may hold title to the accessible vehicle(s) as long as the agreement between the state, designated recipient, or subrecipient and the taxi company is sufficient to establish satisfactory continuing control. Acceptable means of establishing satisfactory continuing control could include a state, designated recipient, or subrecipient’s lien on the vehicle, or contract provisions that require the accessible taxi to be used to provide transportation for seniors and people with disabilities, and that the vehicle may not be removed from service or disposed of prior to the end of its useful life without the express written consent of the FTA recipient or subrecipient.

## ELIGIBLE PROJECTS

Section 5310 funds are available for capital and operating expenses to support the provision of transportation services to meet the specific needs of seniors and individuals with disabilities. All projects must be situated in the Lexington-Fayette Urban County area to qualify for these 5310 program funds.

These funds are to be utilized for public transportation projects that:

- Public transportation projects (capital only) planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is



insufficient, inappropriate, or unavailable;

- Public transportation projects (capital and operating) that exceed the requirements of ADA;
- Public transportation projects (capital and operating) that improve access to fixed-route service and decrease reliance by individuals with disabilities on ADA complementary paratransit service; and
- Alternatives to public transportation (capital and operating) that assist seniors and individuals with disabilities with transportation.

Such projects must be targeted toward meeting the transportation needs of seniors and individuals with disabilities, although they may be used by the general public. It is not sufficient that seniors and individuals with disabilities are included (or assumed to be included) among the people who will benefit from the project. FTA encourages projects that are open to the public as a means of avoiding unnecessary segregation of services.

#### **Projects that Exceed the Requirements of the ADA (previously Section 5317 Program)**

The following activities are examples of eligible projects meeting the definition of public transportation services that are beyond the ADA requirements.

- Expansion of paratransit service parameters beyond the three-fourths mile required by the ADA;
- Expansion of current hours of operation for ADA paratransit services that are beyond those provided on the fixed-route services;
- The incremental cost of providing same-day service;
- The incremental cost (if any) of making door-to-door service available to all eligible ADA paratransit riders, but not on a case-by-case basis for individual riders in an otherwise curb-to-curb system;
- Enhancement of the level of service by providing escorts or assisting riders through the door of their destination;
- Acquisition of vehicles and equipment designed to accommodate mobility aids that exceed the dimensions and weight ratings established for wheelchairs under the ADA regulations, 49

CFR Part 38 (i.e., larger than 30" x 48" and/or weighing more than 600 pounds), and labor costs of aides to help drivers assist passengers with oversized wheelchairs. This would permit the acquisition of lifts with a larger capacity, as well as modifications to lifts with a 600-pound design load, and the acquisition of heavier duty vehicles for paratransit and/or demand-response service in order to accommodate lifts with a heavier design load;

- Installation of additional securement locations in public buses beyond what is required by the ADA; and
- Accessible “feeder” service (transit service that provides access) to bus stations and stops, for which complementary paratransit service is not required under the ADA.

### **Public Transportation Projects that Improve Accessibility**

The following activities are examples of eligible projects that improve accessibility to the fixed-route system.

- Enhancements that remove barriers to individuals with disabilities so they may access greater portions of public transportation systems, such as fixed-route bus service. This may include:
  - Building an accessible path to a bus stop that is currently inaccessible, including curb cuts, sidewalks, accessible pedestrian signals, or other accessible features;
  - Adding ramps, detectable warnings, or other accessibility improvements to bus stops that are not otherwise required under the ADA;
  - Improving signage or wayfinding technology; and
  - Implementation of other technology improvements that enhance accessibility for people with disabilities including ITS.
- Training programs for individual users on awareness, knowledge, and skills of public and alternative transportation options available in their communities. This includes travel instruction and travel training services.

### **Public Transportation Projects that Assist Seniors and Individuals with Disabilities with Transportation**

The following activities are examples of projects that are eligible public transportation alternatives.

- Purchasing vehicles to support accessible taxi, ride-sharing, and/or vanpooling programs provided that the vehicle meets the same requirements for lifts, ramps, and securement systems specified in 49 CFR Part 38, subpart B, at a minimum, and permits a passenger whose wheelchair can be accommodated pursuant to Part 38 to remain in his/her personal mobility device inside the vehicle;
- Supporting the administration and expenses related to voucher programs for transportation services offered by human service providers. This activity is intended to support and supplement existing transportation services by expanding the number of providers available or the number of passengers receiving transportation services. Vouchers can be used as an administrative mechanism for payment of alternative transportation services to supplement available public transportation providing vouchers to seniors and individuals with disabilities to purchase rides, including: (a) mileage reimbursement as part of a volunteer driver program; (b) a taxi trip; or (c) trips provided by a human service agency. Providers of transportation can then submit the voucher for reimbursement to the recipient for payment based on predetermined rates or contractual arrangements; and
- Supporting volunteer driver and aide programs including support for costs associated with the administration, management of driver recruitment, safety, background checks, scheduling, coordination with passengers, other related support functions, mileage reimbursement, and insurance associated with volunteer driver programs. The costs of enhancements to increase capacity of volunteer driver programs are also eligible. FTA encourages communities to offer consideration for utilizing all available funding resources as an integrated part of the design and delivery of any volunteer driver/aide program.

## FUNDING

### **Federal Share of Costs / Local Match**

Section 5310 funds may be used to finance capital and operating expenses. The federal share of eligible capital costs shall be in an amount equal to 80 percent of the net cost of the activity. The federal share of the eligible operating costs may not exceed 50 percent of the net operating costs of the activity. Recipients may use up to 10 percent of their apportionment to support program administrative costs including administration, planning, and technical assistance, which may be funded at 100 percent federal share.

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

Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide local match for Section 5310 operating assistance. In either case, the cost of providing the contract service is included in the total project cost. No FTA program funds can be used as a source of local match for other FTA programs, even when used to contract for service. All sources of local match must be identified and described in the grant application at the time of grant award. In addition, the local share may be derived from federal programs that are eligible to be expended for transportation, other than the Department of Transportation (DOT) programs, or from DOT's Federal Lands Highway program. Examples of types of programs that are potential sources of local match include: employment, training, aging, medical, community services, and rehabilitation services. Specific program information for other types of Federal funding is available at [www.unitedweride.gov](http://www.unitedweride.gov).

### **Exceptions to Local Match Requirements**

The federal share may exceed 80 percent for certain projects related to ADA and Clean Air Act (CAA) compliance as follows:

- The federal share is 85 percent for the acquisition of vehicles for purposes of complying with or maintaining compliance with ADA (42 U.S.C. 12101 et seq.) or the CAA. A revenue vehicle that complies with 49 CFR Part 38 may be funded at 85 percent federal share.
- The federal share for project costs for acquiring vehicle-related equipment or facilities (including clean-fuel or alternative-fuel vehicle-related equipment or facilities) for purposes of

complying or maintaining compliance with the CAA, 42 U.S.C. 7401 et seq), or required by the ADA, is 90 percent. FTA considers vehicle-related equipment to be equipment on and attached to the vehicle.

### **Funds Availability**

Section 5310 funds are available for obligation during the fiscal year of apportionment plus two additional years. The Federal funding available to Lextran for FFY 2022 is \$173,738 and for FFY 2023 the amount available is \$176, 572, which means the total federal funding amount is \$350,483, with a required 20 percent match. The entirety of these funds or any funding less than this amount can be applied for in direct relation to local match requirements and project objectives.

### **Transfer of Funds**

Transfers of Section 5310 funds to other programs are not permitted.

### **Subrecipient Oversight**

Any subrecipient under FTA programs is required to comply with all applicable Federal civil rights statutes and with the implementing regulations for the statutes. FTA implements the Civil Rights Act of 1964 by prohibiting discrimination under projects, programs or activities receiving financial assistance because of race, color, religion, sex, or national origin. The laws include Title VI of the Civil Rights Act of 1964, Equal Employment Opportunity, Disadvantaged Business Enterprise and Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (ADA).

### **Budget Authorization**

Prior to any application for a request to receive and use federal funds, the project needs to demonstrate that it meets all local, state, and FTA requirements and that it is eligible to receive federal funds. At this time, all matching funds must be identified and approved. Local match funding requirements and percentages can vary. Any match funding source outside the standards established by FTA must receive written approval from FTA to be used. Match funding should adhere to the following:

- Must be from an eligible funding source under FTA guidelines
- Must be available at the time of the grant award
- Match funding must be spent to qualify as a match
- No Federal funds may be drawn without authorization and availability of a sufficient match

funding source;

- Subrecipients must certify the use of local match with the submission of each invoice;
- Subrecipients are required to provide quarterly reports that account for the use of local funds as match

## GRANT APPLICATION PROCESS

Lextran will perform a “Call for Projects” to inform all interested parties of the grant opportunity. The Call for Projects will include information necessary for interested parties to submit an application for grant funds for their proposed project as well as a schedule of events. It will also include the specific dollar amount of grant funds available.

During the application process subrecipients will submit the following:

- Complete forms for project description, detail, budget, timeline, and milestones;
- Proof of acceptable audit in accordance with the latest Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) if more than \$500,000 of federal funds are received on an annual basis (includes all federal sources); and
- List of any revenue vehicles and/or changes to existing fleet plan.

### **Grant Award**

Lextran shall be responsible for the creation of an outside committee to review all grant applications. The committee will consist of stakeholders in Fayette County, i.e., seniors and/or disabled members of the community and/or their advocates, as well as employees or former employees of organizations that service such individuals. The committee will determine which applications meet the terms of the grant application. The committee will evaluate all responsive applications to determine which projects should receive the available funding. All funds may be allocated to one project, or the funds may be divided and awarded to multiple projects. No employee of Lextran shall be a member of this committee to ensure impartiality in the decision-making process. An employee of Lextran shall serve with the committee in a non-voting role to help ensure the process follows all requirements of the 5310 Program. Once the committee has made its recommendation for award(s), Lextran shall take that recommendation to its Board of Directors who will approve the

awarding of the grants via a Board resolution.

Once a grant is awarded, Lextran will work closely with the subrecipient to monitor all grant activity. All grant management will be conducted in accordance with FTA C 5010.1D. Upon execution of the grant, a Subrecipient Grant Agreement (SGA) shall be created and signed by all applicable parties. The subrecipient shall complete the FTA's Annual Certifications and Assurances, provide a copy of an acceptable audit in accordance with the latest Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance), if it has received over \$500,000 of federal funding from all sources or audited financial statements if the \$500,000 threshold has not been met and provide copies of other documents as Lextran and/or FTA requires. The SGA shall specify all applicable federal requirements including, but not limited to:

- Procurement;
- Disadvantaged Business Enterprise (DBE);
- Program-specific concerns;
- Prior approvals;
- Reporting requirements;
- Invoicing;
- Allowable activities per the work scope;
- Allowable costs for the work scope per the approved budget.

The subrecipient is responsible for adhering to the work scope and budget as approved by Lextran and the FTA. Prior approvals are required for some activities even if they are included in the work scope and budget. In order to receive full reimbursement of eligible expenses, subrecipients should read thoroughly the SGA to make sure all federal regulations are being adhered to.

All changes to the work scope require prior written approval from Lextran. Requests for reimbursement may begin as soon as the SGA is executed. Invoices must be for the net expense (i.e., total expense less match) actually incurred in direct support of the project. No advances or expenditures prior to the execution of the SGA are allowed.

The subrecipient must certify the use of local match with each invoice submitted. A financial report that includes a completely documented accounting of the use of local funds as match is required each quarter based on the federal fiscal year.

## MONITORING

Quarterly monitoring of subrecipients will be conducted to ensure that all federal guidelines are being adhered to when using federal funds. A project progress report is required along with a detailed accounting of the expenditure of the local match.

At least annually, Lextran will collect updated information and documentation on subrecipients' financial processes and controls, through either the Uniform Guidance or an annual financial statement when the subrecipient is excluded from Uniform Guidance audit requirements.

## APPLICANT SCHEDULE

Lextran will adhere to the schedule below for the 5310 program.

Advertise 5310 Program Funding Availability	Notify public and private transportation providers, non-profit groups and other relevant stake holders of funding availability
Call for Projects	Lextran will accept applications within a four (4) week application window
Review Applications	Lextran will forward eligible applications to the Project Review Committee. This Committee will score applications according to the selection criteria noted in this PMP. Projects selected for funding will be submitted to Lextran's Board of Directors as the 5310 Program of Projects for approval.
Program of Projects	Lextran will submit the 5310 Program of Projects to the FTA.



## EXPLANATION OF SELECTION CRITERIA

The following criteria will be followed in determination of funding:

### **Project Needs (20 points)**

Project applications should clearly state the need for the project and demonstrate how the project is consistent with the objectives of the grant program. The project application should indicate how the project will enhance transportation for the urbanized area's senior and disabled populations. The connection between the project and the Coordinated Plan should be clearly described in the application.

### **Project Planning and Implementation (20 points)**

For all projects, applicants must provide a well-defined service operations plan and/or capital procurement plan and describe the implementation steps and timelines for carrying out the plan. The applicant's plan should include coordination, eligibility determination, marketing and service delivery details.

### **Project Budget and Grants Management (15 points)**

Applicants must submit a complete project budget, indicating anticipated project expenditures and revenues, including documentation of matching funds. The application should address long-term efforts and identify potential funding sources for sustaining the service beyond the grant period.

### **Program Effectiveness and Evaluation (20 points)**

The project will be scored based on the applicant's identification of clear, measurable outcome-based performance measures, including customer satisfaction, to track the effectiveness of the service. The applicant should monitor and evaluate the service throughout the period of performance.

### **Organizational Preparedness and Technical Capacity (25 points)**

Projects should be a good fit in the applicant's organization. The applicant must demonstrate that it has staff with the technical experience to manage or operate a transportation service, such as correct levels of insurance for operations. In addition, the applicant must show that they are prepared to monitor and provide safe services.

<b>Project Evaluation Criteria</b>	<b>Points Possible</b>
<b>Project Needs</b>	<b>20</b>
Is the project consistent with the 5310 grant program's objectives?	0 or 5
To what degree will the project increase or enhance the availability of transportation for the Lexington Fayette Urban County area's senior and disabled populations?	0 to 5
Does the project address a need identified in the Coordinated Plan?	0 or 5
Does the project provide a service that otherwise would not be available?	0 or 5
<b>Project Planning and Implementation</b>	<b>20</b>
Does the project include coordination and/or partnerships with transportation providers or other relevant stakeholders?	0 or 5
Is the project timeline realistic?	0 or 5
To what extent does the applicant include plans to market to the target group and promote public awareness of their project?	0 to 5
Is there evidence the applicant has done all the necessary planning and is ready to begin the project upon being funded?	0 to 5
<b>Project Budget and Grants Management</b>	<b>15</b>
Were all the necessary budgets completed and submitted?	0 or 5
Are the certified local match sources for the project also listed in the budget as matching funds?	0 or 5
How does the agency propose to continue commitment to the life of the project beyond the availability of the requested grant resources?	0 to 5
<b>Program Effectiveness and Evaluation</b>	<b>20</b>
Did the applicant mention collecting data and/or documenting the delivery and utilization of services?	0 or 10
Does the applicant propose monitoring measurable indicators of success?	0 or 10
<b>Organizational Preparedness and Technical Capacity</b>	<b>25</b>
How closely does the proposed project align with the organization's mission and objectives?	0 to 5
How experienced is the applicant staff in managing transportation projects and/or operating passenger transportation?	0 to 5
How experienced is the agency with financial responsibilities such as quarterly reporting, annual audits, and/or other forms of financial reporting?	0 to 10
Does the applicant propose training, vehicle maintenance, inspection, or monitoring to manage risk and to provide safe services?	0 to 5
<b>Total Score</b>	<b>0 to 100</b>

## OTHER PROVISIONS

### Civil Rights

The recipient agrees to comply with all applicable civil rights statutes and implementing regulations including, but not limited to, the following:

#### **Nondiscrimination—Title VI**

The recipient agrees to comply, and assures the compliance of each third-party contractor and each subrecipient at any tier of the project, with all of the following requirements under Title VI of the Civil Rights Act of 1964:

- Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act,” 49 CFR Part 21.
- FTA Circular 4702.1B “Title VI Requirements and Guidelines for Federal Transit Administration Recipients.” This document provides FTA recipients and subrecipients with guidance and instructions necessary to carry out DOT Title VI regulations (49 CFR Part 21).
- U.S. DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons (70 FR 74087, December 14, 2005). This guidance clarifies the responsibilities of recipients of federal financial assistance from DOT and assists them in fulfilling their responsibilities to LEP persons, pursuant to Title VI of the Civil Rights Act of 1964 and Executive Order 13166.
- FTA Circular 4703.1 “Environmental Justice Policy Guidance for Federal Transit Administration Recipients.” This document provides FTA recipients and subrecipients with guidance and instructions necessary to carry out U.S. DOT Order 5610.2 to Address Environmental Justice in Minority Populations and Low-Income Populations, and Executive Order 12898 on Environmental Justice that describes the process that the Office of the Secretary of Transportation and each operating administration will use to incorporate

environmental justice principles into existing programs, policies, and activities.

- U.S. DOT Order to Address Environmental Justice in Minority Populations and Low-Income Populations. DOT Order 5610.2 describes the process that the Office of the Secretary of Transportation and each operating administration will use to incorporate environmental justice principles (as embodied in Executive Order 12898 on Environmental Justice) into existing programs, policies, and activities.

Contractors and subcontractors are not required to submit a Title VI report. However, they are responsible for complying with the Title VI Program of the recipient with whom they are contracting. Recipients and subrecipients are responsible for ensuring that their contractors are complying with their Title VI Program and Title VI regulations.

### **Nondiscrimination in Federal Transit Programs**

- The recipient agrees to comply, and assures the compliance of each third-party contractor at any tier and each subrecipient at any tier under the project, with the provisions of 49 U.S.C.
- 5332. These provisions prohibit discrimination on the basis of race, color, religion, national origin, sex, age, and disability, and prohibit discrimination in employment or business opportunity.

### **Nondiscrimination on the Basis of Disability**

The recipient agrees to comply and assures the compliance of each third-party contractor and each subrecipient at any tier of the project, with the applicable laws and regulations, discussed below, for nondiscrimination on the basis of disability.

- Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), prohibits discrimination on the basis of disability by recipients of federal financial assistance.
- ADA, as amended (42 U.S.C. 12101 et seq.), prohibits discrimination against qualified individuals with disabilities in all programs, activities, and services of public entities, as well as imposes specific requirements on public and private providers of public transportation.
- DOT regulations implementing Section 504 and the ADA include 49 CFR Parts 27, 37, 38, and 39. Among other provisions, the regulations specify accessibility requirements for the design and construction of new transportation facilities and vehicles; require that vehicles acquired (with limited exceptions) be accessible to and usable by individuals with

disabilities, including individuals using wheelchairs; require public entities (including private entities “standing in the shoes” of a public entity as a subrecipient or under a contract or other arrangement) providing fixed-route service to provide complementary paratransit service to individuals with disabilities who cannot use the fixed-route service; and include service requirements intended to ensure that individuals with disabilities are afforded equal opportunity to use transportation systems.

- Providers of demand responsive service must utilize accessible vehicles, as defined at 49 CFR 37.7, or meet the applicable equivalent service standard. For private and public entities, the service must be equivalent in regard to schedules, response times, geographic areas of service, hours and days of service, availability of information, reservations capability, constraints on capacity or service availability, and restrictions based on trip purpose.
- Providers of fixed-route service must generally utilize accessible vehicles. Private entities may utilize non-accessible vehicles if they can provide equivalent service in terms of schedules and headways, in addition to the equivalent service requirements described above for demand responsive service. Public entities must also provide complementary paratransit service to fixed-route service as defined in 49 CFR 37.121.
- In addition, recipients of any FTA funds should be aware that they also have responsibilities under Titles I, II, III, IV, and V of the ADA in the areas of employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other federal agencies.

### **Disadvantaged Business Enterprise (DBE)**

To the extent required by federal law, regulation, or directive, the recipient agrees to take the following measures to facilitate participation by DBEs:

- The recipient agrees and assures that it will comply with DOT regulation, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 CFR Part 26. Among other provisions, this regulation requires certain recipients of DOT federal financial assistance, namely state and local transportation agencies, to establish goals for the participation of disadvantaged entrepreneurs and certify the eligibility of DBE firms to participate in their DOT-assisted contracts.
- The recipient agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin, in the award and performance of any contract, or sub-agreement

supported with federal assistance derived from DOT, or in the administration of its DBE program, and will comply with the requirements of 49 CFR Part 26. The recipient agrees to take all necessary and reasonable steps set forth in 49 CFR Part 26 to ensure nondiscrimination in the award and administration of all third-party contracts and sub-agreements supported with federal assistance derived from DOT. As required by 49 CFR Part 26 and approved by DOT, the recipient's DBE program is incorporated by reference and made part of the grant agreement or cooperative agreement. The recipient agrees that implementation of this DBE program is a legal obligation, and that failure to carry out its terms shall be treated as a violation of the grant agreement or cooperative agreement. Upon notification by DOT to the recipient of a failure to implement its approved DBE program, DOT may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001, and/or the Program Fraud Civil Remedies Act, (31 U.S.C. 3801 et seq).

### **Equal Employment Opportunity (EEO)**

Lextran and 5310 program subrecipients must ensure that no person in the United States shall on the grounds of race, color, religion, national origin, sex, age, or disability be excluded from participating in, or denied the benefits of, or be subject to, discrimination in employment under any project, program, or activity receiving federal financial assistance under the federal transit laws.

Each 5310 program contract between Lextran and a subrecipient for the provision of FTA funding will contain language that requires the subrecipient to comply with FTA regulations related to EEO.

### **Assurances**

Lextran annually signs the FTA Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements, which binds Lextran to all civil rights requirements. Through annual grant agreements, subrecipients agree to comply with all applicable civil rights statutes and regulations. These include Title VI of the Civil Rights Act, Equal Employment Opportunity, and Americans with Disabilities Act. As subrecipients to Lextran, 5310 program subrecipients must comply with the FTA's Annual List of Certifications and Assurances as stated in their grant agreements with Lextran.

### **Buy America**

Title 49 U.S.C. 5323(j) provides that with limited exceptions, FTA may not obligate funds for a public transportation project unless the steel, iron, and manufactured goods used in the project are

produced in the United States. Section 5310 sub recipients must comply with FTA regulations, 49 CFR part 661. The former applies to all purchases, including materials or supplies funded as operating costs when funded by FTA, if the purchase exceeds the threshold for small purchases (currently \$150,000 or less), whereas the latter applies to direct federal procurements. FTA strongly advises recipients to review 49 CFR Part 661 as well as the current FTA Circular 4220.1, “Third Party Contracting Guidance,” before undertaking any procurement. In addition, 49 U.S.C. 5323(j)(9) allows a party adversely affected by an FTA action the right to seek review. FTA has created a Buy America website to provide an overview of these requirements as well as policies, procedures, and letters of interpretation: <http://www.fta.dot.gov/buyamerica>.

### **Drug and Alcohol Testing**

Subrecipients that receive Section 5310 program assistance are not subject to FTA’s drug and alcohol testing rules but must comply with the Federal Motor Carrier Safety Administration (FMCSA) rule for all employees who hold commercial driver’s licenses (49 CFR Part 382). Technical assistance materials and training information to help recipients implement the rules are available at FTA’s website <http://www.fta.dot.gov>.

### **Restrictions on Lobbying**

Federal financial assistance may not be used to influence any member of Congress or an officer or employee of any agency in connection with the making of any federal contract, grant, or cooperative agreement. Subrecipients awarded FTA assistance exceeding \$100,000 must sign a certification so stating and must disclose the expenditure of nonfederal funds for such purposes (49 CFR Part 20).

Other federal laws also govern lobbying activities. These laws do not prohibit general advocacy for transit. Providing information to legislators about the services a recipient provides in the community is not prohibited, nor is using nonfederal funds for lobbying, so long as the required disclosures are made.