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# State Management Plan

**For United States Department of Transportation  
Federal Transit Administration  
Public Transportation Programs**

December 2019

Freight and Passenger Services Division  
Bureau of Planning  
Maine Department of Transportation

**State of Maine**

**Public Transportation Programs**

**STATE MANAGEMENT PLAN**

49 USC § 5303 Metropolitan Transportation Planning, CFDA 20.505

49 USC § 5304 Statewide and Nonmetropolitan Planning Programs, CFDA 20.505

49 USC § 5307 Urbanized Formula Program, CFDA 20.507

49 USC § 5309 Discretionary Programs, CFDA 20.500

49 USC § 5310 Enhanced Mobility of Seniors and Individuals with Disabilities, CFDA 20.513

49 USC § 5311 Rural Area Formula Program, CFDA 20.509

49 USC § 5337 State of Good Repair, CFDA 20.525

49 USC § 5339 Bus and Bus Facilities Program, CFDA 20.526

Prepared by:

State of Maine  
Department of Transportation  
Freight and Passenger Services Division

Revised December 2019

## ***Prefatory Notices***

### **Americans with Disabilities Act (ADA) Alternative Format Information**

MaineDOT will make this plan available in appropriate alternative formats to provide effective communication to people with disabilities, by contacting:

**Maine Department of Transportation**

Civil Rights Office  
State House Station 16  
Augusta, Maine 04333

Phone: (207) 624-3042 ~ TTY Users dial Maine Relay 711

### **Title VI Notice to Public-Non-Discrimination**

Circular 4702.1B

It is the Maine State Department of Transportation's (MaineDOT) policy to assure that no person shall, on the grounds of race, color, national origin, or sex, as provided by Title VI of the Civil Rights Act of 1964, be excluded from participation in, be denied the benefits of, or be otherwise discriminated against under any of its federally funded programs and activities. Any person, who believes his /her Title VI protection has been violated, may file a complaint with MaineDOT's Civil Rights Office. For Title VI complaint forms and advice, please contact:

**Maine Department of Transportation**

Civil Rights Office  
State House Station 16  
Augusta, Maine 04333

Phone: (207) 624-3042 ~ TTY Users dial Maine Relay 711

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**Supporting Documents Available Under Separate Cover Upon Request**

- MaineDOT Organizational Chart
- Authorizing Resolution from Governor Paul R. LePage, dated 6/9/11
- Map of MaineDOT Transit Regions
- MaineDOT FTA Site Visit Review Form
- Transit Vehicle Inspection Form
- Maintenance and Facilities Inspection Form
- TAM Plan
- Maine Strategic Transit Plan 2025
- Vehicle Disposal Process

# Maine Department of Transportation

## Public Transportation

### State Management Plan

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## *Introduction and Legal Authority*

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The Federal Transit Administration (FTA) provides financial assistance to states to administer eligible public transit programs. FTA requires that each state produce a plan describing the state's policies and procedures for these programs. The Governor of Maine has designated the Maine Department of Transportation (MaineDOT) as the agency responsible for administering FTA programs under 49 USC as described below. See also Maine statute 23 MRSA at <http://legislature.maine.gov/statutes/23/title23sec4209.html> which outlines administration of public transportation funds.

This State Management Plan (SMP) describes the State's objectives, policies, procedures, and administrative requirements for the public transportation programs funded by the FTA. The purpose of this document is meant to inform MaineDOT, FTA, subrecipients, and the public as to MaineDOT's role in the administration of FTA funds. The FTA programs covered by this plan under 49 USC are:

- § 5303/5304 Metropolitan and Statewide Planning Programs
- § 5307 Urbanized Area Formula Program
- § 5309 Discretionary Programs
- § 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program
- § 5311 Rural Area Formula Program
- § 5311(b)(3) Rural Technical Assistance Program (RTAP)
- § 5320 Transit in the Parks (TRIP) (repealed)
- § 5337 State of Good Repair
- § 5339 Bus and Bus Facilities Program

This plan provides information on management of FTA programs, with emphasis on Sections 5310, 5311, and 5339. The Department adheres to all FTA requirements that are set out in the respective program guidance circulars published by the FTA or exceeds FTA requirements where appropriate. MaineDOT follows the FTA circular that was in place at the time of the award.

Maine Department of Transportation's mission is:

***“To responsibly provide our customers the safest and most reliable transportation system possible given available resources.”***

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# 1. Program Goals and Objectives

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Consistent with the stated mission of MaineDOT, the primary objective of this plan is to provide customers with the safest and most reliable transportation system possible through the improvement of the mobility for all Maine citizens including seniors, persons with disabilities, and low-income persons in the rural, small urban, and urbanized areas of the State of Maine. This includes support for the continuation of existing services; the inauguration of new services where need is demonstrated; and support for and improvements to existing intercity or long-distance common carrier services throughout the State. Integral to this objective is the coordination of new and existing services to those recipients of other federal, state and locally funded programs.

The current goals and objectives for guiding the transit activities of MaineDOT were set out in the Maine Strategic Transit Plan 2025, published April 19, 2015, and are shown below. The objectives revolve around the three goals which were developed as part of the Department-wide strategic plan. All the activities of the Department seek to achieve the three goals shown below. Activities and initiatives to achieve the goals and objectives are an ongoing process and are reviewed annually as part of the legislatively mandated Maine Department of Transportation Public Transit Advisory Council.

**Goal 1: Manage the Existing System. Effectively manage Maine’s existing transportation system for safety and effectiveness within reliable funding levels.**

- a. Improve and update the State Management Plan.
- b. Elevate and clarify the message that MaineDOT’s focus is on general public transportation.
- c. Administer state, federal, and local funding for public transportation.
- d. Improve the grant decision making process.
- e. Use population density of a geographic area to determine types of service offered.
- f. Use a demand-based capital priority setting process.
- g. Establish and use performance measures and provide technical assistance to increase the efficiency and effectiveness of sub-grantees.

**Goal 2: Support Economic Opportunity. Wisely invest available resources to support economic opportunity for our customers.**

- a. Support general public transportation systems.
- b. Support a mix of transit services.
- c. Support new systems and expand existing services.
- d. Encourage volunteer networks and alternatives to traditional transit services. Provide incentives for local communities and transit providers to leverage new sources of private funding for transit services.
- e. Explore ways to increase state and all sources of potential funding for public transportation.

**Goal 3: Build Trust. Demonstrate our core values of integrity, competence, and service, both individually and organizationally.**

- a. Establish a public transportation advisory group (completed 2016).
- b. Expand education, outreach, and marketing.
- c. Reinvigorate provisions of Maine Revised Statutes Title 30-a, Part 2, Subpart 5, Chapter 163 concerning regional transportation corporations and transition to government or quasi-governmental governing bodies.

**Program Goals by FTA Section**

**49 USC § 5310 Enhanced Mobility of Seniors and Individuals with Disabilities**

This program provides formula funding to increase the mobility of seniors and persons with disabilities. Funds are apportioned based on each state’s share of the targeted populations and are now apportioned to both states (for all areas under 200,000) and large urbanized areas (over 200,000). Eligible activities include services for individuals with disabilities that went above and beyond the requirements of the Americans with Disabilities Act (ADA) such as improve access to fixed-route service and decrease reliance by individuals with disabilities on complementary paratransit; or alternatives to public transportation that assist seniors and individuals with disabilities. Eligible activities also include mobility management which consists of short-range planning and management activities and projects for improving coordination among public transportation and other transportation-service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a government entity, under 49 USC Chapter 53 (other than Section 5309). Mobility management does not include operating public transportation services.

Projects selected for funding must be included in a locally developed, coordinated public transit-human services transportation plan. At least 55 percent of program funds must be spent on the types of capital projects —public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable. The remaining 45 percent may be used for: public transportation projects that exceed the requirements of the ADA; public transportation projects that improve access to fixed-route service and decrease reliance by individuals with disabilities on complementary paratransit; or, alternatives to public transportation that assist seniors and individuals with disabilities. Using these funds for operating expenses requires a 50 percent local match while using these funds for capital expenses (including acquisition of public transportation services) requires a 20 percent local match. The federal share for eligible capital expenses does not exceed 80% but may exceed 80% for certain projects related to the *Clean Air Act Amendments of 1990 (CAAA)*; or required to comply with the *Americans with Disabilities Act of 1990 (ADA)*.

**49 USC § 5311 Rural Area Formula Grants**

This program provides administration, capital, planning, and operating assistance to support public transportation in rural areas, defined as areas with fewer than 50,000

residents. Funding is based on a formula that uses land area, population, and transit service. Additional activities include:

- *Job access and reverse commute activities.* Activities eligible under the former Job Access and Reverse Commute (JARC) program, which provided services to low-income individuals to access jobs, are eligible under the Rural Area Formula program.
- *Tribal Program.* The Tribal program consists of formula program and a discretionary grant program. Formula factors include vehicle revenue miles and the number of low-income individuals residing on tribal lands.
- *Appalachian Development Public Assistance Program (none in Maine).*

## **49 USC § 5339 Bus and Bus Facilities Program (5339)**

The Section 5339 program serves to assist eligible recipients in financing capital projects to replace, rehabilitate, and purchase buses and related equipment, and to construct bus-related facilities. These eligible activities support the continuation and expansion of public transportation services in Maine. Funding is apportioned to direct recipients and states. MaineDOT is responsible for receiving and apportioning Federal Transit Administration (FTA) funds to eligible projects and applying for funds on behalf of eligible subrecipients within the applicable urban and rural areas. Capital projects may not exceed 80% for the federal share except for certain projects related to ADA, CAAA and certain bicycle projects.

### **Availability of Funds**

Federal funds are available to the state during the period of availability of the funds established by FTA. Therefore, the state need not apply for all its funds the year the funds are apportioned, but may apply in subsequent years as allowed.

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## **2. Roles and Responsibilities**

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### **Federal Transit Administration (FTA)**

The FTA is responsible for providing overall policy and program guidance through a variety of methods: Legislation, Federal rule-making documents, Federal Register notices, FTA Circulars, policy letters, new releases, Dear Colleague letters, social media, and trainings. FTA is also responsible for apportioning funds to states, developing and implementing guidelines for grantees, providing technical support, and conducting compliance reviews.

FTA region offices are responsible for the daily administration of all FTA programs including reviewing and approving FTA grant applications, obligating funds, managing grants, overseeing grant administration, reviewing and approving state management plans, providing technical assistance, and coordinating compliance reviews.



## MaineDOT

MaineDOT is responsible for serving as chair for the Public Transit Advisory Council (PTAC) which was created by statute under 23 MRSA §4209-A. The council was established to advise the Legislature and MaineDOT regarding public transit services in the state. MaineDOT works with the council's assistance to review and approve locally coordinated transit plans. The PTAC also advises on statewide strategic transit planning efforts. The PTAC is responsible for reporting each odd-numbered year to the Governor and the joint standing committees of the Legislature having jurisdiction over transportation and health and human services matters. By statute, the report will contain an assessment of the level of public transportation services provided to the public; recommendations for the level of service that should be provided and an estimated cost of providing those services; and recommendations for optimal coordination of transit services with other senior and veteran services.

The Transit Administration Unit within the Freight and Passenger Services Division in the Bureau of Planning is responsible for the administration of FTA grants and other tasks, including:

- Documenting the state's procedures in a state management plan (SMP) and making it available to grantees, planning organizations, and the general public after FTA approval.
- Developing additional policies and procedures and following them.
- Notifying potential participants about the program and soliciting applications.
- Developing project selection criteria and competitive selection process.
- Arranging for the evaluation of potential projects for funding.
- Reviewing, prioritizing and selecting projects for approval.
- Developing elements of the state transportation improvement program (STIP) for each FTA Section.
- Developing and forwarding an annual program of projects and grant application to FTA for each FTA Section.
- Certifying eligibility of applicants and project activities.
- Developing agreements with selected agencies.
- Monitoring local project activity.
- Ensuring that applicants utilize older grants first.
- Declining to distribute grant money of the same type of funds if an applicant has an open contract that is at least two years old and has not been closed out.
- Ensuring grantee and subrecipient compliance with all federal requirements, including all certifications and assurances.
- Ensure compliance by MaineDOT and subrecipients with the Uniform Guidance, CFR 2, Part 200.
- Overseeing project audits and closeouts.

- Submitting reports as required by FTA including National Transit Database (NTD) reporting.
- Certifying that funds are distributed in a fair and equitable basis.
- Supporting and overseeing the development of the Locally Coordinated Transit Plan(s) (LCPs) to include all of Maine, which is developed through a process including representatives from public transportation, private and non-profit transportation, human services providers, the public, and MaineDOT.
- Certifying that all projects funded through § 5310, 5311, and § 5339 are from a complete and implemented LCP.
- Requiring that projects within the MPO boundaries (5307, 5337, 5339) are included in the MPO TIP for inclusion in MaineDOT STIP and that planning projects (5303) are included in the MPO UPWP.
- Developing and implementing a program of training and technical assistance under § 5311(b)(2), the rural transit assistance program (RTAP).
- Developing and implementing the intercity bus program under § 5311(f).
- Ensuring that projects funded through § 5311 have been developed in coordination with transportation projects assisted by other federal sources.
- Planning for future transportation needs and ensuring coordination among transportation modes and subrecipients.

Besides the above responsibilities, MaineDOT's role in funding capital purchases includes:

- Purchase of rolling stock. MaineDOT purchases all subrecipient vehicles. Regional and flex route providers hold title to the vehicles with a lien naming MaineDOT as the lien holder. All titles are maintained until such time as the vehicle is disposed. On a case-by-case basis, MaineDOT may hold title to vehicles used by other providers. This simplifies the internal tracking of contracts and allows tighter adherence to State and Federal guidelines.
- Ensuring that equipment purchased with grant funds is maintained to manufacturers' specifications and operated consistent with project objectives.
- Ensure purchases conform to CFR Title 2, Part 200, Uniform Guidance.

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### 3. Coordination

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The coordination of public transit programs, including social service transportation, is required by both Federal and State law as referenced above. Coordination is key to developing strong and effective transportation networks within each transit region and the state.

Every five years, a Locally Coordinated Transit Plan (LCP) is prepared to include all of the transit providers in each of the eight regions. The LCP is approved with input from the Public Transit Advisory Council.

The LCP is developed through extensive public outreach efforts and serves to include the following principles:

1. Public Outreach: Public outreach includes maximum participation by seniors, individuals with disabilities, the general public, public and private transit providers, and human services transportation providers. Samples of these outreach efforts include:
  - Transit forums held statewide in partnership with Age-Friendly Communities.
  - Mobility Management efforts.
  - Meetings with volunteer transportation groups and other stakeholders.
  - Transit provider interviews.
  - Interviews with MaineCare (Medicaid) transportation brokers.
  - Hosting a booth at Disability Pride Day and other events.
  - Working with the Mobility Manager at the VA.
  - Meetings with Tribes.
  - Partnering with other public entities, like Greater Portland Council of Governments, on special projects like inclusiveness and mobility management.
2. Maximum feasible coordination of funds among all State agencies that sponsor transportation in the region;
3. Development and maintenance of a permanent and effective transportation system, with particular regard to seniors, individuals with disabilities and low-income persons;
4. Participation of private transit operators in the service area to the greatest extent possible;
5. Conformity with general operational requirements as prescribed by the Commissioner of MaineDOT;
6. Reference to the Transit Asset Management (TAM) plan to show the capacity and condition of the system.

Approval of the LCP is given by MaineDOT with input from the Public Transit Advisory Committee and the Department of Health and Human Services. Upon approval, all agencies, groups or organizations named as subrecipients in the LCP become eligible to receive funds administered by MaineDOT. Separate contracts are then written between MaineDOT and each provider agency.

All providers receiving funds from MaineDOT must coordinate with providers in their region to avoid duplication of effort and provide the most service to the public.

## **Other Coordination Efforts:**

**Maine Transit Association (MTA):** Through quarterly meetings of the MTA, MaineDOT and transit agencies discuss important transit topics including delivery of service to everyone. These meetings serve to provide greater of coordination of service and eliminate duplication of effort.

**Tri-State Transit Conference:** MaineDOT and most members of the MTA attend the biennial Tri-State Transit Conference. Through sessions provided during the conference, transit operators and partners discuss various transit topics which may serve to provide better coordination of services.

**NorthEast Passenger Transportation Association (NEPTA):** Like the Tri-State Conference, the biennial NEPTA conference affords transit systems the opportunity to discuss services, coordination, and other valuable transit topics.

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## ***4. Eligible Subrecipients***

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The following sections list the specific eligible recipients by program.

### **49 USC § 5307 Urbanized Area Formula Grants**

Under the 49 USC § 5307 Program, funds are made available for or grants may be made in accordance with FTA Circular 9030.1E to:

- Public entities (direct recipients)
- Private, non-profit agencies for continuation of JARC projects
- Other public entities which are not direct recipients.

### **49 USC § 5310 Enhanced Mobility of Seniors and Individuals with Disabilities**

#### **Eligible Sub-Recipients:**

Under the 49 USC § 5310 Program, funds are made available for or grants may be made in accordance with FTA Circular 9070.1G to:

- Recipients in Urbanized Areas over 200,000 in population;
- Subrecipients in Rural and Small Urbanized Areas under 200,000 in population;
- Tribes;
- Non-profit organizations;
- A State or local government authority that:
  - a. Is approved by the State to coordinate services for seniors and individuals with disabilities; or

- b. Certifies that there are no non-profit organizations available in the area to provide the service;
- An operator of public transportation that receives a Section 5310 grant indirectly through a recipient;
- Private taxi companies that provide shared-ride taxi service to the general public on a regular basis or special categories of users (such as seniors or individuals with disabilities).

MaineDOT requires private non-profit applicants to:

- Hold a 501(c)(3) certificate verifying non-profit status.
- Register with the Maine State Secretary of State.

## **49 USC § 5311 Rural Area Formula Program**

### **Recipients:**

In accordance with FTA Circular 9040.1G, the following entities are eligible to receive § 5311 grant funds and for the intercity bus program only, purchase of service agreements:

- State agencies.
- Local governmental agencies and their authorities.
- Indian Tribal governments.
- Private non-profit organizations.
- Operators of public transportation services or intercity bus service providers that receive FTA grant funds directly through the state or a subrecipient.
- Private intercity bus operators, § 5311(f) intercity bus program, only includes bus service for the general public that:
  - Operates with limited stops over fixed routes connecting two or more “urban areas” not in close proximity;
  - Has the capacity for transporting baggage carried by passengers; and
  - Makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available.
- Private for-profit operators of transit or paratransit services may participate in the 5311 program as contractors for the State or grantees but not as subrecipients. Private for-profit companies may contract directly with the State for Intercity services. State agencies do not define 49 USC § 5311 recipient eligibility requirements further than those stated above.

## **49 USC § 5339 Bus and Bus Facilities Program**

The following entities are eligible to receive § 5339 capital grant funds as subrecipients according to FTA Circular 5100.1:

- Public entities
- Private non-profit organizations engaged in public transportation.

- Tribes that operate fixed route bus service that are also eligible to receive grants directly under 5307 and 5311.

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## 5. Eligible Services and Service Areas (5311)

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Eligible services are public transportation services in Maine designated to maximize usage by transportation disadvantaged persons, provided that the general public is afforded an equal opportunity to utilize the same services. Eligible service activities include: administration, planning, technical assistance, operating assistance, and capital expenses to support demand response, flex route, or intercity bus services. Maximum coordination of services is required.

Maine is divided into geographic transit regions under state statute 23 MRSA §4209 §§1 (<http://www.mainelegislature.org/legis/statutes/23/title23sec4209.html>). These regions serve as eligible service areas and are used to distribute Section 5311 formula funds annually to regional transportation providers and other providers of rural public transportation services for existing services. Applications are solicited annually from established providers which include regional transit providers, other providers of public transportation service, and rural ferry systems. Intercity bus service is discussed in Section 9.

MaineDOT also considers funding for new services or off-cycle requests if funding allows. These requests are reviewed to ensure all state and federal goals and objectives are being met.

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## 6. Eligible Assistance Categories

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### **Administration:**

Sections 5310 and 5311 funds are used by MaineDOT to administer 49 USC § 5310 and 49 USC § 5311 grants. FTA allows for up to 10% of each apportionment of these type funds to administer the grant programs. The federal reimbursement rate for state administration is 100% and includes administration of FTA programs, related planning, and technical assistance provided to subrecipients.

Administrative expenses for 49 USC § 5311 subrecipients and contractors may be funded with 80% Federal funds. MaineDOT requires that administrative expenses cannot exceed 30% of the total subrecipient budget. Administrative expenses are not authorized for 49 USC § 5310 subrecipients.

### **Capital**

Capital expenses for Sections 5310, 5311, and 5339 are funded at 80% Federal share. The Federal share may exceed 80 percent for certain projects related to ADA and CAA compliance. MAP-21 and FAST Act allows a higher percentage for the acquisition of

vehicles and/or for vehicle-related equipment or facilities depending on funding source. MaineDOT may contribute up to the non-federal share if funds are available. Local funds must make up the difference. In rare instances, MaineDOT may use non-federal funding to purchase additional vehicles.

## **Operating Expenses**

Operating expenses for Sections 5307, 5310 and 5311 are funded with 50% Federal share. Sections 5307 and 5311 programs may also receive State funds as available for match. The State may provide up to 10% as matching funds and, upon request, may increase its share up to 50% of deficit for § 5311 programs. The § 5310 program in Maine is currently eligible for operating funds for expanded ADA services under MAP-21 and FAST act.

If CMAQ funds are flexed to FTA for operations, then the federal reimbursement rate is 80% for the first three years of operations. After the initial three year period, projects must be funded under either Sections 5307 or 5311 formula funds at the regular 50% federal share.

Intercity routes in the State of Maine are funded, based on bids received, at 50% Federal funds for operating and 80% Federal funds for capital (not preventive maintenance). As new intercity service is developed and funding increased, capital and operating expenses may be reimbursed to the appropriate provider in the same manner as the other 49 USC § 5311 services.

## **Section 5310:**

Projects must be included in a locally developed, coordinated public transit-human services transportation plan (LCP) developed through a process that includes seniors and people with disabilities. At least 55 percent of program funds must be used on traditional projects that are:

- Public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable. Types of eligible capital projects include vehicles, acquisition of public transportation service and mobility management.

Up to 45 percent may be used for other or nontraditional capital and/or operating projects:

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

A public transportation service provider that receives assistance under this section may coordinate and assist in regularly providing meal delivery service for homebound individuals, if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

## **Section 5311:**

The following activities are authorized for recipients located in rural areas:

- Planning - provided that a grant under this section for planning activities are in addition to funding awarded to a state under Section 5305 for planning activities that are directed specifically at the needs of rural areas in the State.
- Public transportation capital projects.
- Operating costs.
- Job access and reverse commute projects.
- Acquisition of public transportation services, including service agreements with private providers of public transportation services (intercity).
- Small urban transit systems may qualify for Section 5311 funding if the route is predominantly for connecting rural riders with the city as a feeder service.

## **Section 5339:**

Funds may be used for projects that replace, rehabilitate, and purchase buses and related equipment, and transit facility construction/renovation projects according to Circular FTA 5100.1. Example projects may include:

1. The acquisition of buses for fleet and service expansion;
2. Bus maintenance and administrative facilities;
3. The acquisition of vans for fleet and service expansion, including specialized vans and related facilities used to provide ADA complementary paratransit service;
4. Transfer facilities;
5. Bus malls;
6. Transportation centers;
7. Intermodal terminals;
8. Intercity facilities which are a part of a joint development project;
9. Park-and-ride stations;
10. Acquisition of replacement vehicles;
11. Bus rebuilds;
12. Bus overhauls;
13. Passenger amenities such as passenger shelters and bus stop signs;
14. Accessory and miscellaneous equipment such as:
  - Mobile radio units, supervisory vehicles, fareboxes, computers, and shop and garage equipment.
15. Clean Fuel projects;
16. Introduction of new technology;
17. Costs associated with environmental compliance including engineering and design activities including preparation of environmental documents;



18. The incidental costs of incorporating art into facilities;
19. Leasing of capital assets;
20. Capitol cost of contracting;
21. Eligible project administration costs (not used in Maine);
22. Innovative financing;
23. Bicycle facilities.

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## **7. Local Share and Local Funding Requirements**

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### **General**

Matching funds for Sections 5307, 5310, 5311, and 5339 are made up of local, State and/or unrestricted non-DOT Federal funds.

Title 23, §4209, provides state funding to be used as match for planning, administration, and operating assistance for FTA grants. These funds are distributed annually via formula to rural and urban transit systems to match approved FTA grants.

Other local share must be provided from sources other than Federal DOT funds. Some examples of sources of local match which may be used for any or all of the local share include: State bond or local appropriations; other non-DOT Federal funds; dedicated tax revenues; private donations; revenue from human service contracts; toll revenue credits; undistributed cash surplus; and net income generated from advertising and concessions. Non-cash share such as donations, volunteer 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 is included in the net project costs in the project budget. Methodology for in-kind match must be approved and on file at MaineDOT.

Interline agreements with intercity carriers may be used as in-kind match for intercity bus routes only. A letter of commitment from the intercity carrier supporting the interline agreement must be submit to MaineDOT so that it may be included with annual 5311 grant application.

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 the program operating assistance and capital projects. 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.

Local match may be derived from other Federal funds derived from Federal programs that are eligible to be expended for transportation, other than from the DOT programs. To be eligible for local match for FTA funds, the other Federal funds must be used for activities included in the total gross project costs of the FTA grant. Expenditure of other Federal funds for transportation outside of the scope of the project cannot be applied as a credit for local match in the FTA grant.

Advertising revenue, as noted above, may be used as local share according to FTA regulations. However, Circular 5010.1E states that it may not be used in the grant from which it was earned, but may be used in future grants. Alternatively, advertising revenue may be used to reduce the net project cost.

### **Capital Assistance**

The required local and/or state share for capital assistance is 20 percent of eligible expenses. The local and/or state share may be less for certain projects related to ADA and CAA compliance. MAP-21 allows a lower percentage for the acquisition of vehicles and/or for vehicle-related equipment or facilities depending on funding source. The 20 percent match requirement may be met using a combination of local funds and eligible state funds. MaineDOT permits a local share greater than 20 percent if the total eligible capital expenses exceed the amount budgeted. The project may be supplemented with additional local, state, and/or federal funds depending on availability.

### **Operating Assistance**

The local and/or state share for operating assistance is 50 percent of the net eligible expenses (gross expenses less fares and/or donations). The 50 percent match requirement may be met using a combination of local funds and eligible state funds. Based on availability, the project may be supplemented with additional local, state, or federal funds if the total net eligible expenses exceed the budget.

The source of the local share for operating assistance must comply with the Federal Transit Act and amendments, which permits the use of certain federal funds such as Medicaid and Title IIIB.

### **Mobility Management Assistance**

The required local and/or state share for mobility management assistance is 20 percent of eligible expenses. The 20 percent match requirement may be met using a combination of local funds and eligible state funds. Based on availability, the project may be supplemented with additional local, state, or federal funds if the total net eligible expenses exceed the budget.

### **Planning Assistance**

The required local and/or state share for planning assistance is 20 percent of eligible expenses. The 20 percent match requirement may be met using a combination of local funds and eligible state funds. Based on availability, the project may be supplemented with additional local, state, or federal funds if the total net eligible expenses exceed the budget.

### **Summary of Local Match Requirements**

There are restrictions on the source of the local share of any project costs and the way the local share must be allocated. Restrictions include:

- The local share cannot be derived from USDOT federal funds.
- No use restrictions may be put on the equipment by the funding source and if used in a 5311 funded service they must be open to the general public.
- The funding source must not affect the legal ownership of the equipment.

- Advertising revenue - Circular 5010.1E, cannot be used as match in the grant from which it was earned, but may be used in future grants, or used to reduce operating costs similar to farebox.

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## **8. Project Selection Criteria and Method for Distributing Funds**

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Projects are solicited in a variety of ways for FTA Sections 5310, 5311, and 5339. These solicitations provide a fair and equitable project selection process and includes:

- Public meetings as part of the LCP planning process,
- Long range planning process,
- Three-year capital work plan development process,
- STIP development process,
- Annual Publication of legal notice announcing available grant programs inviting applications.

### **Section 5310**

FTA § 5310 funds are distributed on the basis of need and project evaluation criteria.

Projects funded with Section 5310 funds are selected through the LCP and annual competitive application process. Annual applications are sent to subrecipients after the legal notice is published each year. From the applications received, projects are reviewed and selection is made using a combination of need and project evaluation criteria, after confirming that the project need is found in the LCP. For vehicle requests, the TAM is utilized to determine the state of good repair for the vehicles requesting to be replaced, and those vehicles with the lowest score are prioritized for replacement.

It is the practice of the UZA during the split process to allocate the Section 5310 apportionments for Portland to MaineDOT. MaineDOT works collaboratively with two private-non-profits to distribute these funds according to identified need.

### **Section 5311**

Allocation of Section 5311 funds to each of the eight regions is determined by formula which includes the three basic factors of population, road mileage and square miles. Thirty percent of rural funding remaining after the 10% administrative deduction and the 15% deduction for the intercity program is distributed by this formula. The remaining 70% is assigned to projects which meet needs identified by MaineDOT and the LCP. MaineDOT may redistribute, via a Governor's letter, a portion of the 15% intercity distribution to other identified priorities, after verifying that all intercity needs have been met. This is not common.

While the eight regions are autonomous, coordination among and between regions is required. However; only one subrecipient for any specifically defined service will be funded in any given region. That is, no two-like services are funded in any specific geographic area. But any region can have more than one subrecipient providing the services provided do not overlap or duplicate each other.

Contracts are for a single project year with the exception of capital improvement projects and/or procurements. Any funds remaining on a contract at the end of the project year may be credited to the next year's contract. Subsequent project year contracts may be reduced by any funds that remain on the previous year's contract. Because the program is continuously managed, oldest funds available are drawn first regardless of the year of award for program activity until balances are expended.

### **Section 5339**

Section 5339 funds are apportioned to Maine in three categories: national distribution, small urban, and UZA. Additional funds may come from discretionary grants. The funds may be competitive or designated to transit agencies to fill funding gaps.

It is the practice of the UZA during the split process to allocate the Section 5339 apportionments for Portland to MaineDOT. MaineDOT works collaboratively with two private-non-profits to distribute these funds according to identified need.

### **Discretionary (all types)**

MaineDOT applies for Section 5339(b) Bus and Bus Facilities discretionary funds on behalf of rural subrecipients when funds are made available by FTA. MaineDOT will also apply for other discretionary funds when available if those applications would serve to help MaineDOT meet its goals and objectives.

### **Application Process and Evaluation of Projects:**

In general, transit projects selected by MaineDOT are funded by formula grants and eligible match. Additional projects may be funded if MaineDOT has received a discretionary grant. In most cases, MaineDOT requires that providers submit an application for funding. Following submission of an application or applications, MaineDOT takes the following steps:

- Review projects to determine eligibility
- Identify projects funded by formula
- Prioritize non-formula projects aimed at meeting identified transit needs
- Prepare a Program of Projects based on available funding

Specific procedures for distributing FTA funds are as follows:

Priority One: The first priority for funding is to continue operating assistance to existing general public Section 5311 subrecipients where there exists a continuing demand for public transportation service and a need for federal subsidy. Emphasis is placed on funding multiple county or regional transportation systems.

Priority Two: The second priority for funding is to support capital projects for existing systems. If and when capital funding is made available, eligible requests will be prioritized on the following basis:

- Replacement of vehicles which are beyond their useful life, unsafe, outmoded, or fully depreciated;
- Preventive maintenance activities;
- Purchase of vehicles for the expansion of existing services or purchase of additional vehicles to meet demonstrated capacity problems on current routes;
- Purchase of miscellaneous capital equipment (e.g. radios, shop equipment, etc.); and,
- Construction and/or renovation of facilities.

Priority Three: The third priority is the funding of operating and capital expenses for new rural transportation systems. When establishing new service, the Department may give priority to those areas which are in economically distressed counties. Other areas may also be considered.

Before the MaineDOT will approve any new rural transit project, the following must be determined and a narrative covering the following items must be attached to the grant application for funding:

- **Goals and Objectives.** An agency should determine why and to whom it wants to provide transportation. As the mission of the transportation program is clarified, there are specific issues that will shape a transportation system. These include determining the geographic area to be served, the area's greatest transportation needs, and current transportation resources.
- **Needs Assessment.** Once the goals, objectives and service area are defined, a provider must determine what transportation needs are not being met by conducting a needs assessment within the proposed service area. This needs assessment will aid a system in determining:
  - Transportation needs for human services clients as well as the general public;
  - Revenue sources to provide an adequate level of service to meet these needs;
  - Existing transportation services, both public and private as well as existing vehicles in the service area, including their type, age, condition, seating capacity and whether for sale, lease or shared use;
  - New vehicle and other capital needs;
  - Municipal government support of rural transit;
  - A multi-year financial plan.
- The needs assessment must reference the appropriate Locally Coordinated Plan (LCP) and describe how the needs were addressed in the LCP.

However, MaineDOT reserves the right to fund projects aimed at meeting transit needs that may not be identified through the LCP.

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## **9. Intercity Bus Transportation**

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Fifteen percent of Section 5311 funds are used to support intercity bus service and feeder services. Additional funds, if available, may also be allocated to support increased services as necessary. Intercity routes are bid at least every five years for a one-year contract with an option to renew up to four years. All transportation operators, public and private, are given an opportunity to submit proposals for consideration through direct mailings to known providers and a notice published in appropriate newspapers and on MaineDOT's website.

Intercity Bus Consultation efforts include:

- Inventorying in-state and border state carriers.
- Inviting carriers to a public meeting to review intercity bus needs.
- Inviting carriers to a public meeting to discuss statewide long-range transportation planning efforts.
- Inviting carriers to participate in development of the locally coordinated plan.
- Solicit projects through the annual Work Plan and STIP processes.

Periodically, the MaineDOT surveys the New England states of Vermont, New Hampshire and Massachusetts regarding possible multi-state intercity bus projects.

The state surveys Section 5311 subrecipients regarding possible connections to existing intercity services and addresses possible intercity bus connections during site visits.

When funding allows, MaineDOT will use the approved option for redistributing, via a Governor's letter, a portion of the 15% intercity distribution to other identified priorities, after verifying that all intercity needs have been met. This option has not been used since 2014.

Intercity carriers requesting to use interline agreements as match must coordinate those agreements directly and provide documentation to MaineDOT.

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## **10. Annual Program of Projects (POP) Development and Approval Process**

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To create annual Programs of Projects, MaineDOT uses an application process along with project selection criteria and distribution methods as outlined earlier in this document. POPs are required by FTA for each grant application. POP development includes these steps:

- MaineDOT requests applications from subrecipients and contractors.
- Notice of funding availability is published online.
- Completed applications submitted to MaineDOT.
- Applications are evaluated for completeness and eligibility.
- Projects funded with formula funds are reviewed for eligibility and accepted.
- “Non-formula” projects are prioritized and selection is made based on available funds.
- POPs are developed showing selected projects for each grant.
- The MPO TIPs and MaineDOT STIP are amended or adjusted if necessary to coincide with the available funding per FTA grant program as shown in the POP and satisfy public participation requirements.
- POPs are updated annually or as projects change and uploaded to TrAMS.

The selection criteria requires a connection to needs identified in the LCP process. Criteria are established for each round of selection. Selection continues as long as there are funds available.

All records must be kept for the life of the grant and for three years beyond its closure, per the State’s record retention program and FTA requirements. The record identifies applicants that use grant program funds to provide assistance to predominantly minority and low-income populations. The record also indicates whether the applicants were accepted or rejected for funding.

Off-cycle funding requests will be considered on a case-by-case basis but will not be approved if the need should have been anticipated and request made during a regular application process. In each case, the value of the urgency or opportunity will be weighed against any potential negative impact of granting the request.

### **STIP Public Involvement Process**

The STIP is published as a stand-alone federal document and contains projects that are FHWA, FTA, or completely state funded. Most projects listed in the STIP have been through another public process during development of the annual Work Plan.

To obtain public input on the STIP, the document is placed on the MaineDOT website for 30 days and accompanied by an errata sheet if necessary. During that time, the public has the ability to submit comments on the document through various means and review the errata sheet which contains all corrections, omissions, public comments, and other responses as it is updated. Methods of public comment may include: phone, email, website.

After the 30-day public review and comment period, and after all corrections are made, the STIP is submitted to FHWA and FTA for approval.

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## **11. State Administration, Planning, and Technical Assistance**

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MaineDOT transit staff in the Bureau of Planning provide technical and management assistance to subrecipients. This may include the issuance of statewide policies and procedures that affect transit operations and compliance, the development and maintenance of online transit grants, and carrying out the annual and/or discretionary grants application process.

MaineDOT informs subrecipients of applicable Federal requirements, provides technical assistance in meeting those requirements, and oversees compliance with those requirements. Technical assistance is provided through orientations, informal conversations, formal correspondence, on-site performance reviews, and conferences. MaineDOT provides RTAP funds to assist subrecipients in meeting their technical assistance and training needs.

MaineDOT provides technical assistance to the provider agencies through planning assistance, training, and other technical assistance. Staff also serve as advisors to the Metropolitan Planning Organizations (MPO) boards, attend public hearings, serve on special committees, and inform recipients of applicable federal requirements.

Other divisions, bureaus, and offices within MaineDOT assist transit staff with state administration, planning and technical assistance as outlined in this SMP. A summary of those efforts includes:

**Office of Civil Rights:** Provide guidance and oversight on EEO, DBE, ADA, and Title VI as well as ensuring compliance with all civil rights regulations.

**Bureau of Human Resources:** Development of MaineDOT EEO plan for employees.

**Fleet Services Division:** Provides guidance on maintenance issues, warranties, disposals, and procurement of vehicles. Develops vehicle and equipment specifications.

**Bureau of Finance and Administration:** Assists with financial questions and facilitates reimbursement.

**Office of Audit:** Performs audits; reviews and approves indirect cost rates, cost allocation plans, and in-kind methodology; ensures federal and state audit compliance.

**Contract Procurement Office:** Provides cooperative agreements, contracts, and assignment letters to facilitate payment of grant funds. This process ensures accountability and compliance with FTA provisions.

**Multimodal Program:** Provides technical assistance and oversight for construction projects.

**Property Office:** Provides technical assistance and guidance to ensure compliance with the Uniform Act and right-of-way provisions.

**Safety Office:** Provides technical assistance and guidance on safety matters.



**Environmental Office:** Provides assistance and guidance for NEPA compliance.

**Legal Services:** Provides guidance on legal matters and signs annual Certifications and Assurances.

**Creative Services:** Provides updates to website.

**Office of Information Technology:** Researches data management solutions and provides technical support.

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## ***12. Transfer of Funds***

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Funds in certain categories and for specific purposes can be transferred between FTA and FHWA. Maine follows the Consolidated Planning Grant process for its apportioned Section 5303 funds. Each year, MaineDOT issues a letter to FTA authorizing the transfer of 5303 planning funds to the FHWA for administration of projects in the Unified Planning Work Program (UPWP) in consolidation with FHWA planning funds.

MaineDOT may program FHWA funds for transit projects. These funds are Surface Transportation Program (STP) or Congestion Mitigation and Air Quality (CMAQ), also called “flex” funds. When FHWA flex funds are programmed for transit activities, MaineDOT will request transfer to FTA to complete transit projects.

MaineDOT monitors and evaluates each of the region's local projects by direct contact with the transportation providers on a scheduled basis and examination of performance reports. The evaluation will include a review of all projects to determine if surplus funds are available for transfer. FTA allows the transfer of federal funds between urban and rural areas. If MaineDOT finds surplus funds in either area, they will be transferred in accordance with FTA Circulars. The FTA Regional Administrator will be notified of any request of transfer of funds as directed by FTA Circulars.

It may be necessary to transfer Section 5307 funds into the Section 5311 program or Section 5311 funds into the Section 5307 Program. Section 5339 funds may be transferred to 5311 and 5307 but must still meet 5339 eligibility requirements. MaineDOT does not transfer Section 5310 funds to other programs. In all instances, the process from applicable FTA circulars is followed.

Other funds may be transferred to meet program needs or to consolidate activities under one federal authority.

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## ***13. Rural Transit Assistance Program (RTAP)***

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The State's Rural Transportation Assistance Program (RTAP) provides funding assistance for training, technical assistance, transit research and related support services. These funds are available to rural transit providers and planning organizations for training and technical assistance to meet the needs of transit operators in nonurbanized areas. In

some cases, RTAP funds may also benefit providers in small urbanized areas or urban areas but participants from these areas cannot receive exclusive benefits and can participate in RTAP programs only as they have the excess capacity to do so and never at the expense of a rural area.

MaineDOT administers the RTAP program, 49 USC § 5311(b) (3), with input from regional providers, the Maine Transit Association (MTA) and others. Funds are generally distributed as scholarships for training, the annual bus rodeo for improved safety, the annual MTA conference, and other specialized training.

**Eligible subrecipients:**

- Section 5311 and 5310 subrecipients
- Rural/small-urban transit operators
- Maine Transit Association

**Eligible projects:**

- Training – Either sponsored by MaineDOT or another organization.
- Technical Assistance – On-site to any eligible recipient or transit studies
- Transit Support Services
- Research

**Goals and Objectives.** The goal of RTAP is to promote improvement of public transportation services and mobility for persons living in rural areas.

**Local Match Requirements.** All RTAP activities are funded at the 100% federal funding level. In some cases, training scholarships will provide reimbursement for all expenses associated with attendance at seminars or workshops. Should the scholarship not cover the full cost for training, the recipient will be required to make up the difference with local funds.

**Program Development and Implementation.** The following shows how rural operators aid in the development and implementation of the annual RTAP program of projects:

**Input by Forum.** During statewide meetings or workshops held throughout the year, such as the Maine Transit Association quarterly meetings, discussions are conducted among operators to determine their training and technical assistance needs and solicit input on development of the RTAP program.

**On-Site Visits.** Staff periodically conduct reviews of the rural transit providers to evaluate and monitor performance. From these visits, subrecipients (Sections 5311 and 5310) needing or requesting assistance or training are identified and steps are generally taken by MaineDOT to provide or obtain the services.

**Project Selection Criteria.** The Section 5311 Grant Manager determines, with input from the Manager and staff members, as to what projects will be funded with RTAP funds.

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## **14. Private Sector Participation**

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It is the policy of MaineDOT to encourage private enterprise participation in the planning process in order to coordinate public and private transportation services throughout the State through the Locally Coordinated Plan (LCP).

### **5310 - Private Sector Participation**

The Section 5310 program is to assist in areas where public transportation for the seniors and/or individuals with disabilities is unavailable, insufficient or inappropriate. Therefore, each applicant organization is required to write all other transportation providers (especially private for-profit operators) within its service area to insure the service proposed cannot be provided with equipment already in service. Copies of the letters to these providers and their response must be included in each application.

A public notice allowing 30 days for response must be printed in local newspapers of the proposed service area and Publisher's Affidavit submitted to MaineDOT with the application.

### **5311 - Private Sector Participation**

#### **Private Operators**

A public entity or not-for-profit recipient may use a for-profit company as their provider if they do not wish to operate their own transit system. The recipient must adhere to a bidding process that includes:

1. Public notification of the bid solicitation,
2. Bid packets being made available to all potential bidders, and
3. The bid packets including all FTA assurances and certifications required of the recipient.

MaineDOT must review the bid packet prior to solicitation of bids or proposals and concur in the award of bid as well as reviewing the third party contract before execution. All contracting parties must sign a written contract that includes relevant FTA assurances and certifications, and any additional requirements contained in the agreement between MaineDOT and the grantee. A copy of the executed contract must be submitted to MaineDOT.

#### **Participation by Private Providers**

Private providers are made aware of proposed projects through the required notices of public hearings. The charter bus and school bus provisions of local project agreements protect charter bus and school bus operators.

Local organizations are encouraged to use private providers in their Section 5311 project to the greatest extent possible. The department has developed standard procedures for soliciting private bids and executing subcontracts. Local projects that make use of taxi services are also encouraged.

### **5339 - Private Sector Participation**

Federal law requires the public to be involved in the transportation planning process, and specifically requires that private providers be provided an opportunity to be consulted in developing transportation plans and programs in both urbanized and rural areas. Public involvement processes must be proactive and provide complete information, timely public notice, full public access to key decisions, and opportunities for early and continuing involvement throughout the transportation planning and programming process.

### **Coordination Efforts**

MaineDOT has encouraged Metropolitan Planning Organizations (MPOs), regional planning agencies, and all rural and urbanized transportation providers to assist the State in integrating the private sector throughout all planning activities as well as using them where appropriate in operational service areas. The State policy on privatization has been implemented in the following ways:

1. All MPOs and designated agencies responsible for transportation planning in any of the eight MaineDOT regions must submit for approval as part of their grant application, a privatization policy;
  - a. Develop an inventory of all private operations and their capabilities in their area of operations and invite their participation in the planning process;
  - b. Develop, submit for approval, and adopt a local process to involve existing private operators in both planning and provision of transit services;
  - c. Develop a mechanism for resolving challenges or disputes that might arise, in a manner which assures fairness to all parties involved;

In the event that the local procedures are not followed resulting in a formal complaint or that the local process did not provide for fair resolution of disputes, the MaineDOT will hold a formal hearing to resolve any conflict or complaint from private transportation providers that was not resolved at the local level.

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## **15. Civil Rights**

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All agreements entered into by MaineDOT of behalf of FTA, and to meet State requirements require the contractor to certify that no person on the grounds of race, color, religion, national origin, sex, age or disability, sexual orientation, will be excluded from participating in, or be denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part by FTA in accordance with Title VI and the Equal Employment Opportunity requirements. In addition, the State of Maine and all transportation providers certify that a good faith effort is made to use Disadvantaged Business Enterprises (DBE) as required by FTA Circular 5010.1E. All transportation providers who receive Federal and/or State subsidies are required to meet regulations delineated in the Certifications and Assurances. Technical support is provided in the form of distribution of guidance from the FTA to the providers in helping to meet civil rights requirements.

There is also coordination between the Bureau of Planning and the Civil Rights Office within the Maine Department of Transportation. The Civil Rights Office has responsibility for drafting, maintaining and updating a certified Disadvantaged Business Enterprise (DBE) Directory as well as the Department's DBE Program. This Program outlines how the various administrative and operating units of the Department shall work together to carry out the policy established by the Department.

MaineDOT personnel assigned to the Bureau of Planning are assigned specific types of FTA Programs. In addition to providing technical assistance to local subrecipients, they also monitor the recipients as required to insure compliance with the requirements of Title VI, EEO, and DBE. This is accomplished through the site visits to the provider agencies and administrative contacts. Environmental Justice Assessments are done on a project by project basis and meet the requirements of NEPA.

Staff will review the minority and low-income population in the area served by the provider based on most recent Census data. The service provided and/or available to these identified groups will be determined by the provider and verified by the Office of Civil Rights in conjunction with transit staff.

In addition, during the Locally Coordinated Transit Plan (LCP) planning process, all known representatives of identified minority and low-income groups and other minority and low-income individuals will be invited to participate. Through this process the need for service using 5310 or 5311 funds is identified and planned for within the limits of available funding and regulations. MaineDOT continues to be committed to coordinated service as it reaches out to these groups.

## **TITLE VI**

Under the Civil Rights circular 4702.1B, MaineDOT will require and approve all subrecipients Title VI Plans every three years. This compliance activity will be reported to FTA Region I Civil Rights Office, as required.

MaineDOT has implemented a five year cycle for the FTA Compliance Reviews for its subrecipients with the exception of the Title VI Plans that will be submitted and reviewed every three years. A MaineDOT on-site visit to the subrecipient will be completed during the first year of a five-year cycle. For each of the remaining four years, the subrecipient will receive a checklist to self-certify that their agency is in compliance with applicable FTA guidelines. The subrecipient will complete the self-certifying checklist and return it to MaineDOT along with copies of any updated policies and procedures. If at any time during the four year self-certifying period MaineDOT becomes aware of a status change and/or complaint, MaineDOT has the right to perform a random on-site visit. After the fourth year of self-certifying, MaineDOT will schedule another on-site visit beginning the five year cycle.

MaineDOT site visits include the review of Civil Rights policies and processes including Title VI/EJ, ADA and Disadvantaged Business Enterprise Programs and processes, and public outreach and complaint procedures.

Subrecipients are required to complete and submit Title VI Plans for their organizations to the MaineDOT. These Programs may be submitted electronically. The MaineDOT has developed a template for subrecipients that they may use to assist them in the development of a Title VI Plan

MaineDOT assists subrecipients in complying with US DOT's Title VI regulations, including the general reporting requirements. MaineDOT provides the following information to subrecipients:

- Sample Title VI Plan
- Sample notices to the public informing beneficiaries of their rights under DOT's Title VI regulations, procedures on how to file a Title VI complaint, and the recipients Title VI form.
- Sample procedures for tracking and investigating Title VI complaints filed with a subrecipient, and when MaineDOT expects the subrecipient to notify MaineDOT of complaints received by the subrecipient.
- Demographic information on the race and English proficiency of residents served by the subrecipient. The information will assist the subrecipient in assessing the level and quality of service it provides to communities within its service area and in assessing the need for language assistance.
- Any other recipient-generated or obtained data, such as travel patterns, surveys, etc. that will assist subrecipients in complying with Title VI.

### **Limited English Proficiency**

Under guidance from the U.S. Department of Transportation, and in accordance with Circular FTA C 4702.1B, MaineDOT is obligated to determine the extent of its obligation to provide LEP services to its transit population. This determination must be based on an analysis of four factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or recipient;
2. The frequency with which LEP persons come in contact with the program;
3. The nature and importance of the program, activity, or service provided by the program to people's lives; and
4. The resources available to the recipient for LEP outreach, as well as the costs associated with that outreach.

MaineDOT's LEP implementation plan addresses the identified needs of the population it serves. The plan:

- Identifies LEP individuals who need language assistance
- Develops language assistance measures
- Addresses staff training
- Details how to provide notice to LEP persons
- Addresses procedures for monitoring and updating the plan.

MaineDOT's written plan:

- Includes the results of the Four Factor Analysis, including a description of the LEP population(s) served
- Describes how MaineDOT provides language assistance services by language

- Describes how MaineDOT provides notice to LEP persons about the availability of language assistance
- Describes how MaineDOT monitors, evaluates and updates the language access plan
- Describes how MaineDOT trains employees to provide timely and reasonable language assistance to LEP populations

MaineDOT's methods for ensuring meaningful access include, but are not limited to:

- Translating vital written materials into the language of each frequently encountered LEP group
- Training bilingual staff to act as interpreters and translators
- Using telephonic and video conferencing interpretation devices
- Formalizing use of qualified community volunteers
- Using centralized interpreter and translator services
- Hiring staff interpreters
- Using symbolic signs (pictographs)
- Translating into languages other than English vital written materials, such as applications or instructions on how to participate in MaineDOT's program, signs in bus and train stations, notices of public hearings and other community outreach, and notices advising LEP persons of free language assistance

## **DBE**

MaineDOT is committed to engaging small disadvantaged, minority and women-owned business enterprises as defined in all contracts to the maximum feasible extent, and works to ensure the maximum feasible opportunity for these businesses to participate in contracts financed in whole or in part with federal funds.

As a recipient of federal USDOT funding, MaineDOT is required to develop and administer the DBE Program. MaineDOT administers the DBE Program and certifies all DBEs in Maine in compliance with federal regulations under 49 CFR Part 26. This Program is intended to remedy past and current discrimination against disadvantaged business enterprises, ensure a "level playing field", and foster equal opportunity in USDOT-assisted contracts; improve the flexibility and efficiency of the DBE Program; and reduce burdens on small businesses.

It is the policy of MaineDOT to implement the provisions of 49 CFR Part 26 with the following objectives:

1. To ensure nondiscrimination in the award and administration of United States Department of Transportation assisted contracts in the MaineDOT's financial assistance programs;
2. To create a level playing field on which DBEs can fairly compete for DOT assisted contracts;

3. To ensure that MaineDOT's DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet the eligibility standards specified in 49 CFR Part 26 are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in MaineDOT-assisted contracts;
6. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program; MaineDOT will establish the state DBE goal on an annual basis.
7. To include a written certification that it has reviewed contracting records and monitored work sites for the purpose of ensuring that work committed to DBE's at contract award is actually performed by DBEs.

MaineDOT's DBE Program and the Maine DBE Directory can be found at <http://www.maine.gov/mdot/civilrights/dbe/>

### **Equal Employment Opportunity**

The Maine Department of Transportation's follows the guidelines of FTA circular C 4704.1A to ensure compliance with EEO. MaineDOT requires subrecipients of FTA funding to commit to EEO law in hiring, retaining, and advancing employees. It also requires subrecipients to have a written policy in place to prevent harassment, intimidation, and coercion in any form. Any subrecipients meeting or exceeding FTA thresholds defined in the circular must submit EEO programs to the MaineDOT for review and approval.

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## ***16. Maintenance & Asset Management***

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Subrecipients and contractors are required, at a minimum, to follow the manufacturer's suggested maintenance intervals and procedures. Maintenance can be reviewed at any time and is reviewed during site visits. Currently MaineDOT performs on-site inspections at transit facilities with both announced and unannounced (surprise) reviews. This maintenance review program ensures that all Federal and State requirements are met and helps extend the life of the transit vehicles. Maintenance of ADA accessibility features is included.

The following paragraph is included in the Cost Sharing Agreement for Providers:

"Provider shall maintain the vehicles at a high level of cleanliness, safety, and mechanical reliability. Provider hereby covenants and agrees that, at its sole cost and expense; it will repair and maintain the vehicles in accordance with the current specifications and requirements of the manufacturer. Vehicles will be subject to periodic inspection by MaineDOT."



## **Monitoring Compliance/Continuing Control Site Visits**

MaineDOT staff monitors compliance by its subrecipients and contractors through its review of policies and procedures, site visits, and reporting of passenger trips.

Site visits are conducted on a risk assessment basis but no less frequent than once every five years to review compliance with program requirements including vehicle, equipment and facility usage. Vehicle use is reviewed at that time but can be conducted at any time. Maintenance can be reviewed at any time. At a minimum it is reviewed at a site visit. Occasionally consulting experts are hired to support the review process and ensure that all Federal and State requirements are met.

The risk assessment review conducted at any time may be generated by the following or other notable actions or issues:

- Exceeding grant contract funding amounts or requests for additional funds
- Tardy or inadequate reports and reimbursement requests
- Significant changes in principal staff or changes in oversight boards or advisory groups
- Pattern of service delivery problems
- Pattern of incidents, complaints, crashes and collisions

MaineDOT staff visits all its contractors and subrecipients for an FTA Compliance Review (commonly, Site Visit) every five years and uses the 'MaineDOT Field Visit Checklist for FTA Compliance Review'. Providers follow a self-certification procedure in off-years. Unannounced visits to sites or routes may occasionally take place to verify appropriate use of equipment. In addition, qualified contractors may be hired to conduct additional and in-depth service delivery reviews, maintenance monitoring visits, inspections and physical inventory requirements.

## **Managing and Maintaining FTA Funded Equipment**

MaineDOT uses the following procedures to maintain control over FTA funded equipment operated by sub-recipients:

**Equipment inventories.** Inventories track how many vehicles and other equipment were purchased with FTA or state assistance. Subrecipients provide an equipment inventory annually or as needed or requested which is used to reconcile the subrecipient's inventory to the state's inventory. MaineDOT conducts physical inventories at least once every two years.

**Periodic reporting of vehicle use.** Periodic reports of vehicle use (miles, hours, passenger trips, trip purpose) are required to ensure that vehicles are used in accordance with program requirements and are not underused.

**Vehicle titles.** Titles show the subrecipients as owners with a lien held by MaineDOT. MaineDOT retains title to vehicles operated by private taxi companies and similar entities.

**Lease restrictions.** If any vehicles are leased, restrictions to control vehicles that are titled to MaineDOT include:

- The lessee shall be required to operate the project property to serve the best interest and welfare of the grantee and the public. The terms and conditions for operation of service imposed by the grantee shall be evidenced in the lease.
- The lessee shall be required to maintain project property at a high level of cleanliness, safety and mechanical soundness under maintenance procedures outlined by the project sponsor. The project sponsor and/or FTA shall have the right to conduct periodic inspections for the purpose of confirming the existence, condition, and the proper maintenance of project equipment.
- The lease shall contain a requirement that the leased property may not be subleased without grantee written approval and may not be otherwise encumbered without FTA written approval.

**Productivity standards.** MaineDOT uses productivity standards, where appropriate, to ensure that vehicles are used in accordance with grant requirements. MaineDOT reserves the right to transfer vehicles that are underused.

**Site visits.** MaineDOT uses site visits and maintenance reviews to visually inspect vehicles to ensure their continued use in transit service.

**Insurance.** Subrecipients are required to purchase insurance for equipment purchased with all federal and state funds. MaineDOT requires that insurance be adequate to protect the federal and state interest in the vehicle until disposal.

**Useful life standards.** Useful life standards for vehicles and ferries reflect FTA's standards and are shown in the following table:

| <b>MaineDOT Bureau of Planning<br/>Useful Life Standards for Vehicles and Ferries</b>   |                                |
|---|--------------------------------|
| <b>Vehicle</b>  | <b>FTA-Defined Useful Life</b> |
| <b>Heavy Duty* Large Bus (35' to 40' and articulated buses):</b><br>Approximate Typical Characteristics:<br>33,000 to 40,000 GVW          | 12 years or 500,000 miles      |
| <b>Heavy-Duty* Small Bus (30' to 35'):</b><br>Approximate Typical Characteristics:<br>26,000 to 33,000 GVW                                | 10 years or 350,000 miles      |
| <b>Medium-Duty* and Purpose-Built Bus (25-35'):</b><br>Approximate Typical Characteristics:<br>16,000 to 26,000 GVW                       | 7 years or 200,000 miles       |
| <b>Light-Duty Mid-Sized Buses (25-35'):</b><br>Approximate Typical Characteristics:<br>10,000 to 16,000 GVW                               | 5 years or 150,000             |
| <b>Light-Duty Small Bus, Cut-a-ways, Regular &amp; Modified Van (16-28'):</b><br>Approximate Typical Characteristics: 6,000 to 14,000 GVW | 4 years or 100,000 miles       |
| Rail vehicles   | 25 years                       |
| Fixed guideway steel-wheeled trolley  | 25 years                       |
| Fixed guideway electric trolleybus  | 15 years                       |
| Passenger ferry   | 25 years                       |
| Other ferries without refurbishment   | 30 years                       |
| Other ferries with refurbishment  | 60 years                       |
| *Note: A heavy duty transit bus is built as a bus. A medium duty bus is built on a truck chassis.   |                                |

## Vehicle Disposition

MaineDOT implements its own disposition procedures to ensure that vehicles are used until the end of their useful lives, to ensure that vehicles that are no longer needed by a subrecipient can be transferred to another subrecipient, and to ensure that proceeds are used for transit purposes.

In the event that a vehicle must be disposed of before the end of its useful life, MaineDOT will send a written request to FTA requesting disposal before the end of the vehicle's useful life, with an explanation of why the disposal is justified. In the event of a systemic problem such as corrosion, MaineDOT can give permission to dispose of vehicles prior to the end of their useful lives with FTA concurrence.

Disposal of all property titled to the State of Maine is done through the Surplus Property Office of the State and follows their procedures.

## **Construction Management/Program Management**

MaineDOT requires all subrecipients to comply with the FTA regulations stated in Circular 5010.1E with regards to the standard assurances, historic preservation, applicable environmental mitigation processes, NEPA, CE's, EA's, etc. and the project management plans and any more stringent State regulations which apply. Currently, new sprawl regulations are in addition to the standards followed. In addition, State of Maine regulations regarding inventory and disposal are to be followed by all contractors and subrecipients.

MaineDOT, when constructing projects, follows the standard Sixteen (16) Division rules as published. MaineDOT also has Standard Specifications for construction which incorporates the articles and items which are the standard Federal guidelines for construction. Davis Bacon is also adhered to.

In response to FTA Circular 5010.1E, MaineDOT requires that each facility with FTA investment have and follow a maintenance plan.

## **Property Management**

The Bureau of Planning follows all State of Maine Property Management requirements as well as FTA C 5010.1E guidelines on Management of Real Property, Equipment and Supplies. These include notably equipment inventory, Bureau of Planning's Inventory System in ACCESS; acquisition costs under procurement and audit practices; excess property guidelines in disposition; and incidental use in Charter Regulations.

For facilities purchased or built with FTA funds, the MaineDOT does a site visit and inspection every five years. In addition, a facility maintenance plan is required for each site and be included in leases if applicable.

For facilities built for direct recipients, federal interest and property title will be transferred to the direct recipients upon completion. Direct recipients are responsible for maintenance, oversight and disposal according to FTA requirements.

## **Monitoring of Project Productivity and Termination of Projects**

Overall trends are monitored ridership, cost per trip, local cash share (not contract), in-kind and contract match share, farebox recovery, percent of elderly and disabled riders, boardings per hour, cost per hour, cost per trip, ridership per capita (population of service area using Maine only statistics).

Operating statistics and performance measures consistent with the NTD (National Transportation Data Base) definitions are collected and assessed annually to determine the relative performance of each project funded by MaineDOT. For each service type (i.e. rural demand response, rural flex service, etc.) acceptable performance goals are set through a peer comparison process.

Service measure goals are compared against Maine peers and average performance measures are established. The peer states selected in the Maine Strategic Transit Plan 2025 are Idaho, Montana, New Hampshire, North Dakota, Vermont, West Virginia and Wyoming. Those services performing at or above the average are rated "Successful."

Those services performing at or above one half the statewide average are rated as “Acceptable.” Those services below one half of the statewide average are rated as “Deficient” and are subject to further review.

Those services rated as deficient are placed in a three year improvement program to help improve their performance. The improvement program consists of technical assistance and more frequent monitoring until project is improved or terminated.

## **Transit Asset Management (TAM)**

MaineDOT has developed a Statewide Tier II Transit Asset Management Plan in accordance with the guidelines established by the FTA. Specifically, §625.25 requires that all TAM plans must include:

- An inventory of the number and type of capital assets. The inventory must include all capital assets that the provider owns, except equipment with an acquisition value under \$50,000 that is not a service vehicle. The inventory also must include third-party owned or jointly procured exclusive-use maintenance facilities, passenger station facilities, administrative facilities, rolling stock, and guideway infrastructure used by a provider in the provision of public transportation. The asset inventory must be organized at a level of detail commensurate with the level of detail in the provider's program of capital projects.
- A condition assessment of those inventoried assets for which a provider has direct capital responsibility. A condition assessment must generate information in a level of detail sufficient to monitor and predict the performance of the assets and to inform the investment prioritization.
- A description of analytical processes or decision-support tools used to estimate capital investment needs over time.
- A project-based prioritization of investments.

In addition to the above elements, Maine’s plan also meets these criteria:

- The plan development was coordinated with each Tier II provider’s Accountable Executive.
- The completed group plan is made available to all participants in an easily accessible format.

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## **17. Charter Rule**

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FTA recipients are prohibited from providing any charter service using FTA-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service that the recipient desires to provide as long as no exception applies.

In 49 CFR, Subpart C - § 604.13-14, the Rule sets forth a public participation process for determining if there are any willing and able private charter operators using the new FTA Registration Website for advertising to the registered private providers.

[http://ftawebprod.fta.dot.gov/CharterRegistration/\(S\(jza3bqn33pwhi4iqilophuub\)\)/Splash-CharterRegistration.aspx](http://ftawebprod.fta.dot.gov/CharterRegistration/(S(jza3bqn33pwhi4iqilophuub))/Splash-CharterRegistration.aspx). The process may be carried out by the State in state-administered programs or may be delegated to subrecipients of FTA funds. As the state-administering agency, the MaineDOT has chosen to delegate the responsibility for the public notice to subrecipients. Providers must follow all rules under the new Charter regulations concerning what is defined as charter service, what the exceptions are to the charter service rule, how to proceed with the notification process and how to provide charter service. Providers must notify the MaineDOT when they have used the website to notify private charter providers.

Sections 5310 and 5311 subrecipients can provide services for program purposes only. "Program purposes" is defined as transportation that serves the needs of either human service agencies or targeted populations, such as elderly, individuals with disabilities, low income, etc.

"Program purposes" does not include exclusive service for other groups formed for purposes unrelated to the special needs of these targeted populations. Thus, Section 5310 and 5311, subrecipients who intend to provide charter service that is outside their program purposes must follow the guidelines outlined below. The FTA-published Charter Service Final Rule (49 CFR Part 604) was published January 14, 2008 and is effective April 30, 2008. <https://www.transit.dot.gov/regulations-and-guidance/access/charter-bus-service/charter-bus-service-rule-and-guidance>

The 2008 definition of charter service is as follows:

"Charter service" means, but does not include demand response service to individuals: Transportation provided by a recipient at the request of a third party for the exclusive use of a bus or van for a negotiated price. The following features may be characteristic of charter service:

1. A third party pays the transit provider a negotiated price for the group;
2. Any fares charged to individual members of the group are collected by a third party;
3. The service is not part of the transit provider's regularly scheduled service, or is offered for a limited period of time; or
4. A third party determines the origin and destination of the trip as well as scheduling.
5. Transportation provided by a recipient to the public for events or functions that occur on an irregular basis or for a limited duration and:
6. A premium fare is charged that is greater than the usual or customary fixed route fare; or
7. The service is paid for in whole or in part by a third party.

All FTA subrecipients are prohibited from providing charter service using FTA-funded equipment unless allowed under an exemption.

MaineDOT requires any subrecipient wishing to provide charter service to comply with the procedures in the Final Rule on Charter Service. MaineDOT must be notified via email or postal service that a request for charter service exception is being submitted to FTA accompanied with all supporting documentation.

Services that do not meet the definition of charter service and, therefore, are not considered charter service by FTA are:

1. Service requested by a third party that is irregular or on a limited basis for an exclusive group of individuals and the grantee does not charge a premium fare for the service and there is no third party paying for the service in whole or in part;
2. Shuttle service for a one-time event if the service is open to the public, the itinerary is determined by the grantee, the grantee charges its customary fixed route fare and there is no third party involvement.
3. When a university pays the grantee a fixed charge to allow all faculty, staff, and students to ride the transit system for free so long as the grantee provides the service on a regular basis along a fixed route and the service is open to the public.
4. When the grantee sees a need and wants to provide service for a limited duration at the customary fixed route fare.

### **Exemptions**

1. Transportation of employees, contractors, and government officials. Grantees are allowed to transport their employees, other transit systems' employees, transit management officials, transit contractors and bidders, government officials and their contractors, and official guests to or from transit facilities or projects within its geographic service area or proposed geographic service area for the purpose of conducting oversight functions such as inspection, evaluation, or review.
2. Private charter operators. The prohibitions do not apply to private charter operators that receive, directly or indirectly, Federal financial assistance under the over-the-road bus accessibility program or to non-FTA funded activities of private charter operators that receive, directly or indirectly, FTA financial assistance.
3. Emergency preparedness planning and operation. Grantees are allowed to transport their employees, other transit system employees, transit management officials, transit contractors and bidders, government officials and their contractors, and official guests for emergency preparedness planning and operations.
4. Sections 5310, and 5311 recipients. The prohibitions do not apply to grantees that use Federal financial assistance from FTA for program purposes, that is, transportation that serves the needs of either human service agencies or targeted populations (elderly, individuals with disabilities) under Sections 5310, or 5311. Program purposes do not include exclusive service for other groups formed for purposes unrelated to the special needs of the identified targeted populations.
5. Emergency response. Grantees are allowed to provide service for up to 45 days for actions directly responding to an emergency declared by the president, governor or mayor or in an emergency requiring immediate action prior to a formal declaration.

6. Recipients in rural areas. Grantees in rural areas may transport employees, other transit systems' employees, transit management officials, and transit contractors and bidders to or from transit training outside its geographic service area.

### **Exceptions**

MaineDOT does not allow charter exceptions that exceed those defined by FTA.

### **Reporting:**

1. Done on a quarterly basis
2. Submitted through FTA Charter Reporting  
<https://ftawebprod.fta.dot.gov/CharterReporting/Default.aspx>
3. Required for all charter service performed
4. Dockets established for Government Officials, Petitions to the Administrator, Advisory Opinions/Cease and Desist Orders, Complaints for Removal, Complaints, and Hearings. Check <http://www.regulations.gov/#!/home> .
5. New FTA Registration Website, web address, takes the place of "willing and able" paper process.
6. Private operators and some QHSOs must register. Can be removed from website for cause.
7. Formal advisory opinions now available as well as cease and desist orders.
8. Complaints have clear procedures and deadlines for industry and FTA.
9. Hearings can be held before a neutral arbiter (Presiding Official).
10. Assessment of remedy.
11. FTA created new position to assist with new rule requirements. The Ombudsman for Charter Service can be contacted at: [ombudsman.charterservice@dot.gov](mailto:ombudsman.charterservice@dot.gov)

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## ***18. Section 504 and Americans with Disabilities Act (ADA) Reporting***

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Individual transportation providers are required to submit Section 504 and ADA certifications through the annual submission of Certifications and Assurances for FTA Assistance. Certifications are submitted annually.

The State of Maine's Human Rights Commission has regulations more stringent than the Federal 504 Requirements, stipulating that all vehicles purchased with either a State or Federal subsidy must be accessible by the State's senior and disabled population. As a result of these requirements, all vehicles purchased under any of the FTA Programs are made accessible either by installing a ramp or lift or use of vehicles designed to accommodate wheelchairs and mobility impaired riders without the use of a ramp or lift such as low-floor and/or kneeling bus. The only exception to this rule are vehicles such as



minivans or station wagons when they constitute no more than 10% of the fleet and are used where there is no call for an accessible vehicle. The agency must provide an accessible vehicle whenever and wherever necessary in conjunction with their service plan.

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## 19. NTD Reporting

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### NATIONAL TRANSIT DATABASE REPORTING:

To comply with the federal reporting requirements for Section 5311 (Rural area) funding, MaineDOT completes an Annual Report Package and submits to the Federal Transit Administration (FTA) via the National Transit Database (NTD) system. This Annual Report Package is entered and submitted on or before October 31<sup>st</sup> each year.

<https://faces.fta.dot.gov/suite/tempo/records/view/all>

The following section outlines the steps in the reporting process:

- At the start of the fiscal year, confirm information for the prior year and declare/confirm information for the current fiscal year.
- Complete the Report Year Kickoff creating the annual reporting forms for the fiscal year.
- By the end of September, send out copies of the reporting form templates, and copies of prior years' reports, to providers with a completion deadline, generally giving adequate time to enter the information into the NTD to be submitted on or before October 31. <https://www.transit.dot.gov/ntd/ntd-reporting-system-forms>
- The Program Administrator enters data received from the transit providers into the Annual Report Package.
- Once data has been entered, resolve any validation issues before the package may be submit for the first time on or before October 31; this is referred to as the "original submission".
- The NTD validation analyst will review the data reported to identify any issues. If any issues are found, the analyst will return the NTD Report Package for revisions, updates, and/or clarification. This process can be done up to four times before the report is finalized.
- Once NTD Report Package is finalized, the analyst will work on closing out the report.

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## 20. Program Measures

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Projects funded with Section 5310 are required to report at least annually on certain criteria for rolling stock and equipment, such as mileage, vehicle conditions, condition assessments and major repairs. This data is used to monitor performance of services and satisfy TAM requirements. In addition, MaineDOT obtains reports from the 5310 regional transportation providers on Gaps in Service Filled and Ridership within one month after the end of the fiscal year as set forth in FTA Circular 9070.1G, as follows:

(1) Gaps in Service Filled. Provision of transportation options that would not otherwise be available for seniors and individuals with disabilities measured in numbers of seniors and people with disabilities afforded mobility they would not have without program support as a result of traditional Section 5310 projects implemented in the current reporting year.

(2) Ridership. Actual or estimated number of rides (as measured by one-way trips) provided annually for individuals with disabilities and seniors on Section 5310–supported vehicles and services as a result of traditional Section 5310 projects implemented in the current reporting year.

All subrecipients are required to go through an extensive site visit review periodically. These reviews are performed by MaineDOT staff no less than every 5 years. Additional reviews may occur upon a change in staffing at the subrecipient level, or at the discretion of MaineDOT grant managers. These reviews serve to verify performance and asset management data reported by subrecipients.

MaineDOT and Maine’s four MPOs signed cooperative agreements in 2018 regarding the coordination of establishing both FHWA and FTA performance measures/targets, which formalized ongoing processes. Statewide targets are listed in each annual MaineDOT STIP.

FTA project selection entails funding projects that align with and help meet the goals and strategies outlined in the 10-year comprehensive transit plan most recently updated in 2015. Additionally, FTA project selection considers targets and performance measures identified in the Transit Asset Management Plan for rolling stock, equipment, and facilities.

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## 21. Program Management

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### **State Administration – Accounting and Financial Reporting**

MaineDOT follows Federal guidelines contained in FTA Circulars 4710.1, 5010.1E, 9040.1G, 9070.1G, 5100.1 and others, along with the Master Agreement in the management of its public transportation programs. All contract agreements are reviewed by the MaineDOT, Office of Audit. All procurement transactions are carried out in accordance with the provisions of FTA Circular 4220.1F. Property records are maintained in accordance with FTA Circular 5010.1E, as are all disposition transactions. MaineDOT

has contracts with the transportation providers in each region pertaining to fiscal and property management (where applicable) of program funds. Program funds are distributed on a reimbursable basis and providers are required to file invoices on a monthly basis. Providers may request a waiver to bill quarterly or annually. All invoices are subject to a review by a Transportation Planning Analyst in the transit section prior to payment.

Audits are conducted annually by the Department of Transportation Audit Staff in accordance with FTA Circular 5010.1E, and when the projects have been audited and all audit issues satisfactorily resolved, the projects are closed out. Audits include:

- A review of indirect cost rates to ensure that cost allocation plans or procedures have been submitted to a cognizant agency;
- A review to ensure that the correct administrative rate is charged by recipients for FTA-funded projects; and
- A review to ensure that subrecipients have the financial management systems to carry out the programs and receive and disburse federal funds.

MaineDOT also follows all State of Maine financial and property management regulations for their internal programs and requires such compliance with all subrecipients and contractors.

MaineDOT assigns a staff person within the Finance Office the responsibility of receiving and disbursing FTA funds through a web-based application, Electronic Clearing House Operation (ECHO). The process for receiving and disbursing funds includes the retention of records to support ECHO requests and disbursement. The process also ensures that drawdowns are signed by an authorized official other than the individual who requests the payment. Most FTA funds are reimbursement only, but if they are advanced (this is very rare), funds are disbursed within three business days of receipt of a properly document request.

Financial Management regulations are covered under CFR Title 2, Part 200 Uniform Guidance, and the Common Rule and State regulations including Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP). Most transit subrecipients qualify as community agencies and therefore must follow MAAP rules.

## **Electronic Reporting**

MaineDOT submits annual Milestone Progress Reports (MPRs), or annual status reports, electronically into TrAMS for each active grant by October 30 of each year. This status report (MPR) reflects any changes for the preceding year. This includes an updated POP containing revised project descriptions if necessary, changes in projects from one category to another, and adjustments within budget categories as necessary. These may also require budget revisions. It also includes significant civil rights compliance issues and any notable accomplishments or problems involving subrecipients in these programs. DBE reporting is done biennially and electronically in TrAMS.

MaineDOT also complies with the requirements of the Federal Funding Accountability and Transparency Act (FFATA) by electronically reporting prime grant awards and sub-award activity and executive compensation. The FFATA Sub-award Reporting System (FSRS.gov) is the system used to report sub-award activity. MaineDOT reports to FSRS by the end of the month following the month in which the sub-awards are completed.

## **State Administration - Grant Management**

Grant management practices include:

- Require that providers spend oldest funds first for on-going expenses such as program administration operating assistance, ADA complementary paratransit, RTAP, and preventive maintenance.
- Review ongoing projects during site visits.
- Accumulate state administrative expenses in a generic account and then draw from the oldest grant with available state administrative funds instead of charging the expense directly to grants.
- Set project time limits (less than 2 years), except for capital projects.
- Use available funding in open grants before including projects in a new grant when possible.
- Move delayed projects to newer grants and active projects to older grants as allowed by FTA.
- Transfer small remaining balances to new line items as allowed by FTA.
- De-obligate project balances and reapply for funds (if within period of availability and allowed by the regional office).
- Regularly reconcile grant balances with those in TrAMS to the project/scope level.
- When funding a project out of multiple grants, develop a grant drawdown plan.
- When funding a project out of multiple grants, charge retainage to the newest grant (and report it as an unliquidated obligation) to enable the closing of older grants.
- MaineDOT initiates project close-out of grants with FTA within 90 days after all work activities for the program of projects has been completed. This includes electronically submitting a final FFR, MPR, final budget and final program of projects.

## **Capital, Urban and Rural**

For large construction projects, a project manager is assigned from the Multimodal Program who works with Planning's transit staff on compliance and payment reimbursement. All TrAMS reports are filed by the 30<sup>th</sup> of the month following the end of the federal fiscal year. The program managers contract all other funds, manage the projects, manage the TrAMS grants including close outs, provide technical assistance and leadership to their contracting agencies and the entities in the area services are provided. They are responsible for ensuring that all federal and state requirements are met both by their activities and their subrecipients. Other general federal requirements (not attributed to one grant, rather the entire program) are allocated among the program grant managers.

MaineDOT uses a variety of mechanisms to monitor facility construction and rehabilitation projects. Monitoring mechanisms may include one or more of the following:

- Contracting with a consultant to provide project management oversight;
- Reviewing the request for proposals and construction contracts;
- Reviewing plans and drawings;
- Conducting periodic site inspections;
- Requiring progress reports;
- Conducting regular project review meetings;
- Withholding payment of a portion of the grant until final inspection and acceptance of the facility by the state.

MaineDOT ensures that subrecipients use FTA funded real property for project purposes through annual certifications of use, site visit inspections, or deed restrictions.

### **Lead Agency for Auditing Purposes**

The lead agency (a/k/a the cognizant agency in federal regulations) is determined by the amount of Federal funds received by an agency. The designated cognizant agency for audit shall be the Federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB makes a specific cognizant agency for audit assignment.

The intention of MAAP is to mirror Federal Regulations. Most of the MAAP agencies receive their federal funds as pass-through funds. Therefore, for MAAP purposes, the federal cognizant agency would be the agency providing the predominant amount of direct and/or pass-through federal funds.

### **Joint Section 5307 and 5311 Projects**

In some localities, a recipient may receive both Section 5307 and Section 5311 funding to provide public transportation for an urbanized area and surrounding rural areas. Because of the wide range of circumstances under which an operator could be providing services in both urbanized and rural areas, the local recipient develops a reasonable basis for allocating the costs between the two funding sources.

MaineDOT requires that subrecipients document their process for allocating costs between urbanized and rural areas and to report total expenses and show the allocation of expenses between urbanized and rural areas when requesting reimbursement. Staff may review financial information and the allocation of costs between urbanized and rural areas during site visits. This procedure is also to be applied to “joint” capital projects. In the interest of flexibility and coordination, vehicles purchased under either program may be used in any part of a combined urbanized and rural service area, but capital replacement policies should ensure that program funds are used appropriately. Ridership, operating hours and mileage factors are evaluated and used to allocate costs.

## Section 5310 Projects

MaineDOT staff monitors subrecipients to ensure that the funds are being used to support eligible transportation services for seniors and individuals with disabilities. Activities include:

- Executing agreements with subrecipients prior to expending funds on a project that specifies the project to be funded under the grant; and
- Requiring recipients to report information on the services provided and populations served on a periodic basis.

MaineDOT requires subrecipients to report performance information on gaps in service filled and ridership for the program.

## Procurement

All subrecipient vehicles, unless an exception is granted, are purchased with assistance from MaineDOT Fleet Services. Vehicle purchasing is done through the State of Maine Bureau of Purchases (BOP). State procurement procedures are followed. MaineDOT and BOP ensure that all relevant federal clauses are included in the bid proposals. Occasionally consulting experts are hired to support the procurement process and ensure that all Federal requirements, such as Buy America, are met.

Maine State procurement procedures, through the State of Maine, Bureau of Purchases, are followed except where federal regulations prevail, see 2 CFR, Part 200 and FTA C4220.1F, 9040.1G and 9070.1G and 9300.1B and 5100.1. No current conflicts are identified. MaineDOT follows their procurement ordering procedure and schedule for all buses and vans. MaineDOT enters into a stand-alone project contract entitled Cost Sharing Agreement with each applicable subrecipient prior to ordering buses and vans.

MaineDOT's Fleet Services prepares detailed specifications that best reflect each system's procurement needs. The capital procurement manager is responsible for reviewing the specifications and submitting any comments or revisions to Fleet Services. Subrecipients are permitted to perform their own procurement, with oversight from the Department on non-vehicle capital items. On all purchases, the Department is responsible for ensuring the federal requirements as stated in FTA Circular 4220.1F and Uniform Guidance are followed.

Staff is responsible for ensuring compliance with Uniform Guidance, Pre-Award and Post-Delivery Review Regulations, Buy America and performs factory inspections when vehicles are being manufactured.

**Capital Grant Management.** MaineDOT transit staff collaborate with MaineDOT Fleet Services to:

- Develop bid specifications;
- Establish solicitation/contract terms and conditions;
- Solicit and receive bids or proposals;
- Evaluate responses, determine responsiveness, and select a contractor;

- Conduct pre-award audits for compliance with Buy America, Federal Motor Vehicle Safety Standards (FMVSS) and purchaser's requirements;
- Execute a contract;
- Receive, inspect and accept revenue rolling stock;
- Conduct post-delivery audits for compliance with Buy America, FMVSS and purchaser's requirements;
- Pay the vendor.
- Monitor the grant to ensure that all of its conditions are met and that all reporting requirements are completed in a timely manner.

All RFPs, RFQs, bid awards, contracts and dispute resolution for vehicles are processed and approved by the Maine Bureau of Purchases. FTA requirements are followed regarding monitoring, property management, vehicle use, maintenance, and disposition for both purchases by subrecipients and direct procurements by the State of Maine which are then titled to transit providers. All previously cited FTA circulars are adhered to for State purchases.

MaineDOT includes language in its RFPs, RFQs, bid awards and contracts language that prohibits the inclusion of geographic preferences in its FTA-funded procurements except where allowed according to FTA Circular 4220.1F, Appendix D.

In the case of vehicle purchases, MaineDOT includes language in its RFQs that allows liquidated damages be imposed when vehicle delivery is delayed. MaineDOT requests monthly status reports relating to vehicle deliveries and encourages the vendor/manufacturer to communicate with MaineDOT if issues arise. All modes of communication including status reports, e-mail, and telephone conversations are used to determine if liquidated damages or late fees are assessed. If liquidated damages or late delivery fees are assessed, MaineDOT will negotiate the amount with the vendor/manufacturer. After an agreement is reached, the vendor/manufacturer will compensate the applicable transit providers. MaineDOT requires that any proceeds returned to transit providers be held for future purchases.

Pre-award/post-delivery reviews are conducted according to Federal and State regulations. Federal regulation, 49 CFR 663 (October 1, 1997) and 49 USC § 5323 require that prior to awarding the contract, MaineDOT must certify compliance with the described provisions of Buy America and the described provisions of the Bus Testing clearance (49 CFR 665). The manufacturer must submit documentation and certification both pre-award and post-delivery. This includes certifying by the Pre-Award Buy America Certification Form. Section 5323, Buy America, requires that prior to purchase, the State must not only obtain the certification from the manufacturer attesting to the appropriate percentage of manufacture and final assembly being done in the United States but must take further steps to certify that this is accurate. This may include any additional information about the manufacturer or the product. After delivery of the vehicle or other equipment as appropriate, the Capital Grants Manager, in consultation with Fleet Services, must further determine and document to the file that the documentation accompanying the vehicle which shows the origin of parts and location of assembly meets the appropriate regulation. These certification processes are documented in the procurement file.

**Buy America.** MaineDOT ensures that Buy America provisions apply to:

- All purchases of steel, iron, and manufactured products exceeding the \$150,000 threshold, regardless of whether they involve capital, operating or planning funds;
- Subcontractors, regardless of the size of the contract, if the prime contract is more than the \$100,000 threshold;
- Purchase made using an intergovernmental agreement and jointly purchased manufactured products; and
- Purchase of used items.

MaineDOT will not obtain signed Buy America certifications after contract award for its own contracts or contracts of other grantees to make the contracts eligible for federal funding. MaineDOT may, however, obtain signed Buy America certifications before buying off state GSA-type contracts to make them eligible for federal funding. MaineDOT will consider the full contract amount, not the amount of its purchase, when determining whether Buy America requirements apply to those purchases.

**Spare bus ratio.** MaineDOT follows FTA Circular, 5010.1E for spare bus ratio when applicable. The majority of Maine's subrecipients have fewer than 50; therefore, they are not subject to this guideline. However, MaineDOT, direct recipients, and subrecipients are committed to adhering as closely as possible to the FTA guidelines but acknowledge that the spare ratio may be higher based on the age of their fleet and the rurality of the subrecipient (distance to vehicle repair facilities).

**Least cost.** Standard accounting procedures will be used for determining least cost. Least cost is not the only factor in awarding bids.

**Capital vehicle payments.** MaineDOT uses the industry standard process of payment on delivery once the vehicles and/or equipment has satisfactorily passed MaineDOT's inspection.

**Transfers.** If at any time the vehicle is transferred from another grantee, the current grant in that category will have a memo attached to it (electronically) stating who the originally cited recipient was, the grant will be cited, and the current grantee noted.

**Excluded party.** In the event that MaineDOT becomes aware, after the award of a contract, that an excluded party is participating in a covered transaction, it will promptly notify FTA in writing of this information. MaineDOT may continue any covered transaction in existence at the time a party was debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded. MaineDOT is not required to continue the transaction and may consider termination. However, MaineDOT will not renew or extend the covered transaction (other than through a no-cost time extension) with the excluded party.

**Five year contracts.** MaineDOT does not enter into any contracts for revenue rolling stock and replacement parts that include ordering periods exceeding five years in total length including base and options.



**FTA procurement requirements.** MaineDOT complies with the following FTA procurement requirements:

- Comply with its own procurement regulations;
- Conduct all procurements in a manner providing full and open competition;
- Exclude the use of statutorily or administratively imposed in-state or local geographic preferences in the evaluation of bids or proposals except in those cases where applicable federal statutes expressly mandate or encourage geographic preference;
- Use competitive proposal procedures based on the Brooks Act when contracting for architectural and engineering services, if the state has not adopted a statute governing the procurement of such services before August 10, 2005;
- Award to only responsible contractors possessing the ability, willingness and integrity to perform successfully under the terms and conditions of the contract;
- Ensure that every purchase order or delivery order and contract executed using federal funds includes all clauses required by federal statutes and executive orders and their implementing regulations;
- Do not enter into any contract for rolling stock with a period of performance for ordering exceeding five years, inclusive of options, without prior FTA approval;
- Comply with Buy America requirements, including pre-award and post-delivery requirements;
- Comply with debarment and suspension requirements;
- Comply with lobbying requirements; and
- Comply with piggybacking requirements.

MaineDOT includes the following FTA C 4220.1F requirements in its contracts with subrecipients including non-profit or for-profit entities. These requirements include, but are not limited to:

- Maintain a written code of standards of conduct governing the performance of employees engaged in the award and administration of contracts;
- Have written procurement policies and procedures;
- Have written procedures to handle and resolve disputes relating to the award of contracts;
- Have procedures for settlement of contract issues/disputes;
- Analyze each planned acquisition in order to identify and evaluate potential organizational conflicts of interest;
- Review procurement requests to avoid duplicative or unnecessary purchases;
- Incorporate a clear and accurate description of the material, product or services being procured; identify all requirements that bidders must fulfill, and identify evaluation factors in solicitations;
- Develop an independent cost estimate before receiving bids or proposals;
- Conduct a contract cost or price analysis for every procurement;

- Evaluate options at the time of bid award, exercise the options at the agreed upon terms, and determine that the option price is better than current market prices before exercising the options;
- Maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions and specifications of their contracts or purchase orders; and
- Maintain a written record of procurement history.

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## **22. Other Provisions**

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### **Other Provisions - Implementing Federal Policies**

#### **MaineDOT Role in Monitoring Compliance with Federal Requirements.**

MaineDOT is proactive in ensuring that subrecipients comply with federal requirements. Systems include:

- Applications
- Quarterly/annual reports
- Meetings with providers
- Vehicle/facility/service inspections and reviews
- Site visits

#### **Public Transportation Agency Safety Plans (PTASP)**

A requirement under MAP-21 has provided FTA with the authority to regulate safety for all modes of public transit. The law requires all recipients of FTA Section 5307 funding to develop public transportation agency safety plans within one year of the final rule. MaineDOT will develop the PTASP for those small transit providers within the state unless they provide in writing to MaineDOT that they wish to opt-out of the state's plan. Maine does not have any large bus transit providers. Maine's plan will not include rail or ferry services which are governed by other federal entities.

When developed, each PTASP will demonstrate federal compliance with 49 CFR Part 673 and be based on safety management system (SMS) principles and methods. The plans will include:

- All applicable requirements under FTA's Public Safety Transportation Safety Program
- A Chief Safety Officer
- Signed by the Accountable Executive
- Approved by the agency's Board of Directors.

Components of the SMS included in each plan:

- Safety promotion

- Safety Risk Management
- Safety Management Policy
- Safety Assurance

Transit providers receiving federal or state financial assistance are required to update their emergency contact information and vehicle inventories with the Maine Emergency Management Agency (MEMA) via MaineDOT's *Transit Emergency Directory*.

### **Certifications and Assurances**

All subrecipients must comply with all Federal requirements through completion of all Certifications and Assurances. These Certifications and Assurances, which are required to be signed by an authorized public official, are part of the formal contract process. MaineDOT, when submitting State grant applications to FTA, also executes Certifications and Assurances both on behalf of the State and with respect to the local subrecipients.

Violation of a certification or assurance (agreement) by an applicant or grantee may require corrective measures and penalties, including debarment from receiving further federal assistance for transportation purposes. Grantee compliance is confirmed during site visits and/or desk reviews.

### **Drug and Alcohol and Drug-Free Workplace**

Current Drug and Alcohol regulations require recipients to comply with the FTA regulations, Section 5331. Current State regulations require compliance with the Maine Drug Free Workplace Act. FTA regulations require testing of all safety sensitive positions which includes drivers, dispatchers, mechanics and supervisors who control the movement of vehicles. Drug Free Workplace regulations require that all Maine workplaces shall be drug free, including alcohol.

Most transit providers in the State of Maine currently belong to a Drug Testing Consortium. Each contractor and subrecipient submits their policies as part of the site visit. They are reviewed for adherence to the FTA Drug and Alcohol regulations. In addition, MaineDOT is responsible for seeing that the providers are testing the accuracy of their testing contractor per the FTA regulations.

MaineDOT provides technical assistance to grantees in the form of training, networking, policy development, and distribution of FTA publications. Site visits by either MaineDOT or their consultant verifies all requirements for Drug and Alcohol testing including securement of records have been met.

The State of Maine Drug and Alcohol Testing Policy is located below at Section 15.2 and the State of Maine Drug Free Workplace Policy is found in Section 15.1:

<https://www.maine.gov/bhr/state-hr-professionals/rules-policies/policy-practices-manual>

## **Lobbying and Code of Ethics**

All subrecipients and contractors are required to submit documentation as part of their annual Certification and Assurances. For all third party contractors whose contract exceeds the \$100,000 minimum threshold, all applicable Certifications and Assurances must also be filed even in the cases where the third party contractor has already certified as a sub-recipient for another service. For disclosure of actual lobbying activity, subrecipients and contractors are required to use form FTA C 9300.1B "Disclosure of Lobbying Activities".

MaineDOT's contract with grantees requires adoption of a written code of ethics. All staff, officers, employees, board members, or agents of the grantee are required to comply with the code of ethics. MaineDOT verifies compliance with this regulation during project site visits and/or desk reviews.

## **Section 5333(b) Special Warranty**

Section 5333(b) provisions protect the interest of employees of agencies receiving § 5311 funds. Each grantee is supplied with a copy of the U.S. Department of Labor's Rural Transportation Employee Protection Guidebook which explains the regulations and posting requirements of Section 5333(b) notices in employee gathering areas. MaineDOT staff verifies that the agency has met the posting requirements during site visits and other project monitoring opportunities.

## **School Transportation Agreement**

Subrecipients may not engage in school bus operations using buses, facilities, or equipment purchased with federal funding in competition with private school bus operators, except as provided for in 49 CFR Part 605, School Bus Operations.

There are three statutory exemptions under which an FTA grantee may operate exclusive school bus service:

- The grantee operates a school system in the area and operates a separate and exclusive school bus service for that system.
- Existing private school bus operators are unable to provide adequate, safe transportation.
- The grantee, a public entity, has operated the service prior to August 12, 1973, or has received a grant for facilities before November 26, 1974.

**School tripper service.** Grantees are permitted to provide school tripper service to accommodate the needs of school students and personnel. The school bus regulation defines school tripper service as regularly scheduled mass transportation service that is open to the public and is designed or modified to accommodate the needs of school students and personnel. It may involve the use of various fare collections or subsidy systems.

Buses used in tripper service must:

- Be open to the public.
- Not carry designations such as “school bus” or “school special.”

All routes traveled by tripper buses must be within the regular route service as indicated in the published route schedules. School tripper service should look like all other regular service.

### **Environmental Regulations**

Under § 5310 and § 5311, MaineDOT anticipates funding only projects with Categorical Exclusion (CE) from both the National Environmental Protection Act and the State Environmental Protection Act. Therefore, no further documentation is necessary. However, with the potential of construction projects funded through transfers from the USDOT Surface Transportation Program, or Bus and Bus Facilities grants, MaineDOT will ensure that the grantee meets all the environmental requirements and submits all necessary documentation.

### **Local Oversight and Public Comment on Fare and Service Changes**

Each project must have a locally based oversight and policy board specific to passenger transit.

Subrecipients **must** notify MaineDOT *in writing 60 business days prior to enacting any contemplated changes or discontinuation of service and/or major fare increases or decreases and the agency’s justification for taking this action.* **If the agency receives State funds, failure to notify MaineDOT may result in the suspension or reduction of Section 5311 and/or State funding.** After written concurrence from MaineDOT, the agency must provide at least a 30-day notice by posting the information on the buses, agency’s web site and other appropriate venues such as flyers and newspaper ads or releases when fares are increased or service is discontinued or changed.

All major fare increases or service discontinuations must be approved by your agency’s Board. The subrecipient must request concurrence from MaineDOT prior to submitting the request to the Board for final approval.

Subrecipients must have a public involvement procedure described in their grant application for receiving input from users and non-users when making service changes, changing fares, planning for service development or significant capital expenditures. The policy must provide an opportunity for a public hearing or public meeting for any fare increase or major service reduction and should describe how such meetings will be conducted and how the results of such meetings will be considered in the process of changing fares and service. A public meeting is not mandatory; however, an opportunity for a public meeting in order to solicit comment must be given.

MaineDOT’s STIP development and the MPO TIP development satisfy the requirement for public participation from a statewide basis but each sub-grantee must have their own public involvement procedure.