



# **State Management Plan for Kansas Public Transportation Programs**

**49 U.S.C. 5310**

**49 U.S.C. 5311**

**49 U.S.C. 5339**

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**For Kansas Public Transportation**  
**49 U.S.C. 5310, 5311, and 5339**

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**Attachments**

Attachment 1 Project Selection Criteria (5310, 5311, and 5339)

# Chapter I

## Program Management

### A. Program Summary and History of the Management Plan

#### *Designated Administering Agency*

This document amends the State Management Plan (SMP) currently on file with the Federal Transit Administration (FTA). The State's procedures and policies for administering the 49 U.S.C. 5310 (Section 5310), 49 U.S.C. 5311 (Section 5311), and 49 U.S.C. 5339 (Bus and Bus Facilities) programs are presented within this State Management Plan. This plan will be reviewed annually at the same time as the Policies and Procedures are reviewed. Updates will be made as needed. Significant changes will be sent to FTA for approval.

The Governor of Kansas designated the Kansas Department of Transportation (KDOT) as the agency to administer these four programs. Within KDOT, the Office of Public Transportation, a unit of the Division of Planning and Development, is responsible for the administration of these programs. The Office of Public Transportation consists of the Public Transit Manager and five staff members: three Program Consultants, a Transit Planner, and a Public Service Administrator. The Office of Public Transportation is also supported by other units of KDOT, including but not limited to, the Office of Contract Compliance, which monitors KDOT programs in the areas of Nondiscrimination, Title VI, Disadvantaged Business Enterprises and Equal Employment Opportunity, and the Bureau of Fiscal Services, which is responsible for KDOT's financial accounting and reporting, payroll processing, vendor payment processing, project accounting and federal-aid billing, procurement, inventory oversight, contract audit, and the implementation of new funds. In addition, KDOT was designated by the State Legislature to establish Coordinated Transit Districts (CTDs) which serve as the administrative structure across the state for the purpose of providing financial and administrative assistance to transportation systems. Recipients of Federal or State grants are required to become a part of a CTD, to receive State and/or Federal transit funds.

The primary purposes of this document are to serve as the basis for the Federal Transit Administration (FTA) State-level management review of the programs, and to provide public information on KDOT's administration of these four programs. In addition, this document will be used internally by KDOT as a program guide for local project applicants.

Upon any substantial revision of the State Management Plan, an opportunity for comment on the State Management Plan is provided to potential sub-recipients, other state agencies, and representatives of other funding sources, and relevant state associations and professional organizations. Attachment 1 provides a list of agencies that are routinely contacted for SMP comment.

KDOT will enter into a written agreement with all sub-recipients of the Section 5310, 5311, and 5339 programs stating the terms and conditions of the assistance.

#### **49 U.S.C. 5310 Program**

The Section 5310 Program makes federal funds available to the Governor of Kansas to assist private, non-profit organizations in the purchase of vehicles and related equipment to provide

transportation services which meet the special needs of elderly persons and persons with disabilities in both rural and urbanized areas. Public bodies can become eligible recipients of Section 5310 funds if they are either approved by KDOT to coordinate services for elderly persons or persons with disabilities, or if the public bodies can certify to the Governor that there are no readily available non-profit corporations or associations in the area to provide Section 5310 services. All programming associated with the 5310 program must be related to outcomes identified in a Coordinated Human Service Transportation Plan.

#### **49 U.S.C. 5311 Program**

The Section 5311 program makes Federal funds available to assist in the development, improvement and use of public transportation systems in rural and small urban areas. Kansas prepares an annual program of projects, which must provide for fair and equitable distribution of funds throughout the State. Program funds may be used for planning, capital, operating, and administrative assistance to local public bodies, non-profit organizations, Indian Tribes and groups, and operators of public transportation services.

#### **49 U.S.C. 5339 Program**

***Bus and Bus Facilities Program*** (Section 5339) makes federal resources available to states and direct recipients to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities including technological changes or innovations to modify low or no emission vehicles or facilities. Funding is provided through formula allocations and competitive grants. Please note that once awarded, the 5339 funds take on the form of the program type of the agency they are awarded to (5310 or 5311).

### **B. Overview of Program Goals**

The overall goal of the Section 5310 program is to improve mobility for the elderly and persons with disabilities throughout Kansas. To meet this goal, Federal funds are made available for transportation services planned, designed, and carried out to meet the needs of the elderly and persons with disabilities in all areas—urbanized, small urban, and rural. Coordination among Federally assisted programs and services is crucial to make the most efficient uses of resources.

The goals of the Section 5311 program include: to enhance the access of the general public in non-urbanized areas to health care, shopping, education, employment, public services and recreation; to assist in the maintenance, development, improvement, and use of public transportation systems in rural and small urban areas; to encourage and facilitate the most efficient use of all Federal funds used to provide passenger transportation in non-urbanized areas through the coordination of programs and services; to assist in the development and support of inter-city bus transportation; and to provide for the participation of private transportation providers in non-urbanized transportation to the maximum extent possible. Increases in funding made by the Safe, Accountable, Flexible, and Efficient Transportation Equity Act – A Legacy for Users (SAFETEA-LU) should enable Kansas transit service

providers to extend service into areas currently un-served while improving service levels in areas that have minimal or inadequate service.

The goals of the Section 5339 program are to stabilize the vehicles in the program's fleet and make funds available to ensure support facilities are there to support transit and paratransit services.

◆ **Additional Goals and Objectives**

**Goal I:** To efficiently manage the subsidies for vehicle purchases in the Section 5310, 5311, and 5339 programs and the subsidies for operating the vehicles in the 5311, and 5339 program.

*Objective:* To encourage the most efficient use of FTA resources and to achieve improved mobility for the elderly, persons with disabilities, and the general public.

**Goal II:** To provide a balanced and adequate public transportation system in Kansas.

*Objective:* To establish a continuing planning and development process that is sensitive to the community values and needs.

To maximize opportunities for communities to benefit from public transportation programs.

To develop effective marketing strategies for public transportation.

**Goal III:** To provide a public transportation system that will foster safe, efficient, and reliable transportation for elderly persons, persons with disabilities, and the general public.

*Objective:* To promote grantee and operator awareness of safety, first aid programs, vehicle maintenance, and client sensitivity.

To coordinate vehicle and equipment inspection programs.

To develop reports on costs, performance effectiveness, and coordination.

**Goal IV:** To develop a public transportation program in Kansas that supports other agencies' and organizations' programs and facilities at the state and local levels.

*Objective:* To work toward full participation of state agencies, providers, and the general public in preparing input to the development and updating of statewide and local plans.

To meet KSA 75-5032 et seq., requiring the creation and implementation of Coordinated Transit Districts.

### **C. State Role in Program Administration and Program Designation**

As the agency designated to administer the Sections 5310, 5311, and 5339 programs in Kansas, KDOT is responsible for allocating the funds to urbanized and non-urbanized areas of the state in a fair and equitable manner, as well as ensuring compliance with Federal regulations during all phases of the application and funding processes. Annually, KDOT submits to FTA a program of projects for Sections 5310, 5311, and 5339 programs which are revised as needed.

KDOT's role in administering these programs includes notifying its providers of available funding who in turn notify their members of the program; placing program notices in an official state newspaper and in all local newspapers. KDOT determines applicant eligibility; develops project selection criteria; selects projects for funding; and ensures adherence to federal program guidelines by all recipients. Each eligible private, non-profit organization or public body must apply to KDOT for assistance under this program.

KDOT is required to certify eligibility of applicants and project activities to ensure compliance with federal requirements, monitor local projects, and oversee project audit and closeout. Before Federal funds are expended on individual projects, KDOT certifies to FTA that the local recipient has met all statutory and program requirements and must enter into an agreement with the local recipient. KDOT submits electronic certification within 90 days of the date that the federal allocation is published in the Federal Register. Sub-recipients certify on an annual basis as part of their annual project review, prior to KDOT certification to FTA.

KDOT is responsible for providing appropriate technical assistance, ensuring fair and equitable distribution of program funds within Kansas, ensuring a process whereby private transit providers are given ample opportunity to participate to the maximum extent possible, and providing for maximum feasible coordination of public transportation services.

KDOT's Office of Public Transportation oversees public transportation programs in Kansas. Detailed policies regarding eligibility, requirements and contacts can be found on KDOT's website at [www.ksdot.org/burTransPlan/pubtrans/index.asp](http://www.ksdot.org/burTransPlan/pubtrans/index.asp). These policies are revised and updated as needed.

### **D. FTA Role in Program Administration**

FTA is responsible for providing overall policy and program guidance, apportioning funds annually to the states, developing and implementing financial management procedures, initiating and managing program support activities, and conducting national program review and evaluation.

The FTA regional offices are responsible for daily administration of Sections 5310, 5311, , and 5339 programs, including reviewing and approving state grant applications, obligating funds, managing grants, overseeing implementation of annual programs, revising programs of projects, reviewing and approving State Management Plans (SMPs), providing technical assistance, and performing State Management Reviews.

### **E. Local Level Roles and Responsibilities**

Local applicants are responsible for complying with program guidelines as outlined in the application process (Application Process included by reference), documenting efforts to achieve local coordination, securing sources of funding for use as a local match, and meeting subsequent contractual obligations to KDOT and of the CTD's transportation providers.

#### **F. Relationship to other FTA Programs**

*Urbanized Area Formula Assistance* (Section 5307) provides funding for urbanized areas for planning, capital and operating assistance for public transit services. Funds for urbanized areas under 200,000 populations are made available to the Kansas Department of Transportation. For urbanized areas of 200,000 or more, funds are available to a local designated recipient(s). The Governor has the authority to transfer Section 5307 funds apportioned to the State for urbanized areas under 200,000 to supplement the State's Section 5311 apportionment. The Governor may also transfer Section 5311 funds to supplement the State's apportionment of Section 5307 funds for small urbanized areas. The transfer provisions were established to give greater flexibility in allocating formula transit funds in both urbanized and non-urbanized areas, to ensure that funds available to the State are fully utilized. Guidance for Section 5307 is found in FTA C 9030.1C.

*Capital Program - Buses and Bus Facilities* (Section 5309/5339) provides capital assistance for buses and bus related equipment and facilities (80 percent) in both urbanized and non-urbanized areas. The State and local public bodies are eligible applicants for Section 5309/5339 funds. Guidance for Section 5309/5339 is found in FTA C 9300.1C.

*State Planning and Research Program* (Section 5304). Section 5304 funds are apportioned annually to the States for use in planning and research. Eligible uses include statewide planning and other technical assistance activities, planning support for non-urbanized areas, research, development and demonstration projects, university research, and human resource development.

#### **G. Technical Assistance**

Technical assistance is available to providers by contacting KDOT on an as needed basis. If staff is unable to provide the assistance by phone, or in writing, they will provide the assistance on-site. KDOT staff also provides guidance at least quarterly at CTD meetings.

In addition, services of the Rural Transit Assistance Program (RTAP) include technical assistance to all public and private transportation providers in the state. KDOT contracts with the University of Kansas Transportation Center to manage, in total, the Kansas RTAP Program. RTAP project funds which are separate from the Section 5311 program administrative funds are used in the four assistance categories of training, technical assistance, research, and related support services. All categories are geared to provide services to the non-urbanized Section 5311 transportation provider.

#### **H. Monitoring Programs**

An on-site monitoring visit from the program coordinator will be completed at least once every three years or more frequently if indicated from a desk review and project activities.

Applicants for Section 5310, 5311, and 5339 funds are required to complete the following certification forms as necessary: Special 5333 (b) Warranty, debarment and suspension certification, lobbying certification, nondiscrimination assurance on the basis of civil rights and persons with disabilities, procurement compliance, bus testing certification, pre-award and post-delivery review, charter agreement, school bus agreement, anti-drug program agreement, and alcohol testing certification. These assurances are reviewed for completion.

In the procurement process for capital acquisition under Sections 5310, 5311, and 5339 certification forms for procurement compliance, bus testing certification and pre-award review are completed by each vendor and submitted with the bid. These certifications are kept on file by KDOT for the Kansas CTD Council. Sub-recipients and vendors complete post-delivery reviews at the time of vehicle delivery. Copies are also kept on file with the sub-recipients.

Maintenance of all certifications is reviewed by KDOT. In addition to annual reporting and on-site visit, sub-recipients will also be monitored for attendance at meetings and proper inspection of vehicles.

## **I. Reporting Requirements**

### *1. Annual Program of Projects Status Report*

Status reports of each active grant must be submitted to FTA by KDOT for the period ending September 30. These reports are intended to meet minimal program needs and will include updates and program changes. Section 5309/5339 grants are reported on a quarterly basis.

### *2. Financial Status Report*

KDOT Office of Public Transportation will submit a financial status report for the period ending September 30 to FTA for each active grant. Section 5309/5339 grants are reported on a quarterly basis.

### *3. DBE Reports*

DBE reports are submitted twice a year by KDOT with a description of DBE programs including goals and objectives.

### *4. Sub-recipient Reporting to KDOT*

KDOT requires regular reports from the sub-recipients to ensure program compliance. Reporting includes monthly ridership, expenditure, and DBE reports, and completion of annual vehicle inspections.

### *5. NTD Reporting to KDOT*

KDOT requires an annual RU 20 NTD report be submitted of all 5311 sub-recipients. KDOT will compile all data and input into the NTD system.

## **J. Program Management and Documentation Review**

Program management is ensured through the State Management Plan in which all policies and procedures for administering Sections 5310, 5311, and 5339 programs are outlined.

FTA reviews the program management to ensure that program objectives are being met. A periodic state management review is conducted every three years or as needed. Reviews include inspections of documentation, a visit to the State office, and local agency visits.

## **K. Commercial Motor Vehicle Safety Act of 1986**

The Commercial Motor Vehicle Safety Act of 1986 provides a uniform federal standard for Commercial Drivers Licenses (CDL), ensuring that operators of commercial and public transportation vehicles are competent to operate large product and passenger vehicles.

Federal law mandates that any vehicle over 26,001 pounds or which is designated to carry 16 or more passengers including the driver must be operated by an individual with a CDL.

Drivers may receive a CDL after passing a written test and a driving test designed specifically for commercial and public transit licensing. To be eligible for the test, an individual must be 18 years of age to transport passengers or property and 21 years of age if they require a CDL with a certificate to transport hazardous waste.

Provider agencies are responsible for ensuring that appropriate drivers have received a CDL and will also ensure that the license renewal is kept current.

## **L. Environmental Procedures**

Most projects and activities funded through the Section 5310, 5311, and 5339 programs do not normally involve significant environmental impacts. These projects are "categorical exclusions"; i.e., excluded from the requirement to prepare an environmental document. In the annual certifications and assurances, the State will assure FTA that all the projects in the application are categorical exclusions under 23 C.F.R. § 771.117(c) unless otherwise noted. These exclusions are divided into two groups:

The first group, described at 23 C.F.R. § 771.117(c), contains activities and projects which have very limited or no environmental effects at all such as: planning and technical studies, preliminary design work, program administration, operating assistance, and transit vehicle purchases.

The second group of projects, described at 23 C.F.R. § 771.117(d), that normally qualify for a categorical exclusion are projects involving more construction and greater potential for off-site impacts. Examples are: new construction or expansion of transit terminals, storage and maintenance garages, office facilities, and parking facilities. Experience has shown that these projects can be built and operated without causing significant impacts if they are carefully sited in areas with compatible land use where the primary access routes are adequate to handle the additional transit vehicle traffic.

Project applicants for this second group are required to provide documentation that demonstrates that the stated conditions or criteria are met and that no significant adverse

effects will result. Such documentation is usually narrowly focused on one or a limited number of environmental concerns or questionable areas. Depending on the circumstances, some technical analysis may be required, such as a noise impact assessment or a street capacity analysis; but in most cases, the documentation will focus on consistency with local land-use plans, zoning and any state or local plans or programs governing the protection and management of environmental resources, such as air quality, water quality and noise abatement. The documentation required includes a written record of coordination with those state and local agencies having jurisdiction or a special interest in some aspect of the project. No formal public review for these types of environmental studies is required of applicants. The state will file the approval letter from FTA stating the categorical exclusion prior to advancing a project to Category A.

The applicant will be asked to prepare an environmental assessment (EA) for public comment and FTA review on any project that is not found to be a categorical exclusion. The purpose of the EA will be to determine if a finding of no significant impact (FONSI) is appropriate. A project that requires an EA will not be included in Category A before FTA has issued a FONSI for the project. In the unlikely event that significant environmental impacts are identified for a Section 5310, 5311, or 5339 project, an environmental impact statement (EIS) will be required of the applicant.

The environmental requirements which may come into play for Sections 5310, 5311, and 5339 projects are: Clean Air Act conformity provisions; protection of public parkland, wetland and waterfowl refuges, and historic sites (49 U.S.C. § 303); Section 106 of the National Historic Preservation Act (protection of historic and archaeological resources); and Section 404 of the Clean Water Act (Corp of Engineers' permit requirements for dredge and fill activities in "waters of the United States"). KDOT requires compliance with these environmentally-related requirements within the overall environmental process.

The EA or environmental documentation to support a categorical exclusion must address these related requirements. Compliance with these requirements must be completed before a construction project is included in Category A.

FTA's procedures categorically exclude most Section 5311, and 5339 projects. KDOT screens potential projects when they are first identified to make an initial determination as to which projects clearly meet the FHWA/FTA criteria for categorical exclusions and which projects may require additional documentation. The latter is coordinated with the FTA regional office early in project development so that any necessary environmental analysis and review will not delay implementation. Any project involving new construction of a facility or substantial rehabilitation of an existing facility must be discussed with FTA to determine the need for information supporting a categorical exclusion and the applicability of any additional environmental requirements. Early coordination will identify those projects for which the state must prepare an EA.

The Clean Air Act, as amended, establishes many substantive requirements in order to bring air quality regions that violate the national ambient air quality standards into attainment by prescribed dates. KDOT will consult with FTA as early as possible in the development of the program of projects to establish which projects require further analysis to support FTA's conformity determination. KDOT will also consult with the Environmental Protection Agency and state and local air quality agencies for any project subject to the conformity review process.

Other Clean Air Act requirements may apply to the state and Section 5311, and 5339 sub-recipients. KDOT will maintain regular contact with the FTA Region VII Office to supply up-to-date information on various provisions of the Clean Air Act related to mobile sources.

## **Chapter II**

### **Grants Administration**

#### **A. Certificates and Assurances**

KDOT electronically submits certifications and assurances for all FTA programs. The following is a list of certifications and assurances that will be maintained by KDOT and/or sub-recipients.

- 1) Certifications and Assurances Required of Each Applicant
  - Authority of Applicant and Its Representative
  - Standard Assurances
  - Debarment, Suspension and Other Responsibility Matters
  - Drug-Free Workplace Certification
  - Intergovernmental Review Assurance
  - Nondiscrimination Assurance
  - Assurance of Nondiscrimination on the Basis of Disability
  - Procurement Compliance
- 2) Lobbying Certification Required for Each Application Exceeding \$100,000
- 3) Public Hearing Certification Required for Each Project (except urbanized area formula projects) that will Substantially Affect a Community or Transit Service
- 4) Certification of Pre-Award and Post-Delivery Review of Rolling Stock Required for each Applicant that Purchases Rolling Stock
- 5) Bus Testing Certification Required for New Buses
- 6) Charter Bus Agreement (Section 5311 and 5316) and School Bus Agreement
- 7) Certification Required for the Direct Award of FTA Assistance to an Applicant for its Demand Responsive Service
- 8) Substance Abuse Certifications
- 9) Certifications and Assurances for the Elderly and Persons with Disabilities Program (Section 5310 and 5339)
- 10) Certifications and Assurances for the Non-urbanized Area Formula Program (Section 5311 and 5339)
- 11) Clean Air and Clean Water Certifications

#### **B. Fair and Equitable Distribution**

The program of projects developed by KDOT will reflect projects that promote fair and equitable distribution of funds, including distribution to Indian reservations. Increased funding has been made available through SAFETEA-LU. KDOT encourages transit providers to develop projects that will use the increased funding to support the expansion of transit services to areas not currently served and to improve the level of service in areas which have minimal service.

### **C. Program of Projects**

The program of projects identifies the sub-recipients and projects for which KDOT is applying for financial assistance. Sections 5311, and 5339 annual program of projects submitted to FTA for approval must indicate the total number of sub-recipients, identify each sub-recipient, give a brief description of each project which includes the counties in which transit service is provided, and indicate the total project cost and the federal share for each project. For FTA Congressional delegation requirements, Indian tribal governments that are sub-recipients will be identified and specific tribal transportation needs that will be served in the project will be described. KDOT will notify FTA with any revisions to the program of projects.

Specific RTAP projects are described within the program of projects along with all programs provided for planning, technical assistance, and administration.

### **D. Project Approval**

The Kansas Coordinated Transit District Council (KCTDC), with KDOTs' concurrence, reviews all applications, which are received to ensure that all program requirements are met. When the project proposal and documentation are acceptable, the applications are approved and an opportunity for a public hearing. Applicants must offer the opportunity for public comment as a part of their application. Assurances (included by reference) that the applicant will meet federal regulations are then submitted to KDOT. Subsequently, contractual agreements (included by reference) are executed and funds are encumbered.

When the project proposal and documentation are acceptable, the applications are approved and an opportunity for a public hearing. Applicants must offer the opportunity for public comment as a part of their application. Assurances (included by reference) that the applicant will meet federal regulations are then submitted to KDOT. Subsequently, contractual agreements (included by reference) are executed and funds are encumbered.

An implementation plan for the program of projects is submitted electronically by KDOT to FTA. The plan includes a schedule of project milestones and estimated completion dates for each milestone and the project in its entirety. Any revised schedules will be submitted with annual program status reports.

KDOT has established a policy whereby support for existing systems and new systems within un-served areas have highest priority for funding under Sections 5310, 5311, and 5339. Applications received from areas with existing programs are required to coordinate with existing programs.

### **E. Labor**

Federal transit programs that involve transit operations require that fair and equitable arrangements must be made to protect the interests of transit employees that are affected by the assistance. Provisions for labor arrangements are outlined in 49 U.S.C. 5333 (b), which is administered by the Department of Labor.

49 U.S.C. 5333(b) - All 49 U.S.C. 5311 and 5339 sub-recipients must agree in writing to accept the terms and conditions of the 49 U.S.C. 5333(b) labor warranty. Once the agreement has been signed, it is incorporated by reference in subsequent applications for 49 U.S.C. 5311 and 5339 funding if it is still valid and labor conditions have not changed. KDOT certifies to the Department of Labor that each local 5311 and 5339 sub-recipient has signed the warranty and agreement before the project is included in Category A of the Program of Projects.

#### **F. Pre-Award Authority**

Sub-recipients are allowed to incur some costs prior to grant award in the formula programs. In order for the pre-award costs to be eligible for subsequent reimbursement, the project must have met all FTA statutory, procedural and contractual requirements. Reimbursement is subject to the availability of funds and grant award. Pre-Award Bid Specification Audit and Pre-Award Certificate of Responsibility forms are attached.

#### **G. Pre-Award and Post-Delivery Review**

KDOT requires that procurement of vehicles will be audited in accordance with the FTA regulation "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR Part 663. This requirement ensures that the purchase of rolling stock will be in compliance with bid specifications, Buy America requirements, and Federal vehicle safety requirements.

#### **H. Public Hearings and Private Sector Participation**

All participating and prospective entities are notified of hearings germane to their service. Opportunities for public hearings are published in the applicant's service area.

Agencies are encouraged to coordinate with and seek participation of the private sector. As part of the application process, procedures of private enterprise participation in federally assisted public transportation programs Sections 5310, 5311, and 5339 are required.

### **Chapter III Selection and Eligibility of Sub-recipients and Projects**

#### **A. Designated State Agency**

As the agency designated to administer the Section 5310, 5311, and 5339 programs in Kansas, KDOT is responsible for allocating the funds to urbanized and non-urbanized areas of the state in a fair and equitable manner, as well as assuring compliance with federal regulations during all phases of the application and funding processes. During the application process, KDOT ensures that efforts are made to maximize coordination at the local level.

#### **B. Eligible Sub-Recipients**

*49 U.S.C. 5310--Eligible Sub-Recipients*

- 1) Private Non-Profit; and
- 2) Public Bodies
  - a. If they are approved by the State to coordinate services for elderly persons and persons with disabilities.
  - b. If they certify to the governor that no nonprofit organizations are readily available to provide the service.

In 1985, KDOT approved a position paper that other State agencies would not be eligible to receive federal subsidies to purchase vehicles under the FTA program. Insufficient Federal funding and difficulties in the ability of State agencies to comply with FTA regulations for this program continue to be the deciding factors for KDOT's position on disallowing other state agencies from receiving the Federal subsidies.

All sub-recipients must either be a member of the CTD in which they will provide services or must join the CTD as part of their agreement in receiving these funds.

***49 U.S.C. 5311--Eligible Sub-Recipients***

- 1) County Governments;
- 2) Non-urbanized (under 50,000 populations) City Governments;
- 3) Indian Tribes and groups;
- 4) Private Nonprofit Organizations; and
- 5) Private for Profit Enterprise

Private-for-profit transportation providers operating in non-urbanized areas can participate in Section 5311 by contracting with an eligible recipient. State agencies are not eligible for vehicles and/or operating funds for the same reasons mentioned under the Section 5310 program.

- 6) Public Transit Authorities

Any public authorities with service boundaries including non-urbanized areas are eligible for participation in the Section 5311 program. Currently, there are no authorities in Kansas with boundaries encompassing rural areas.

All sub-recipients must either be a member of the CTD in which they will provide services or must join the CTD as part of their agreement in receiving these funds.

***49 U.S.C. 5316--Eligible Sub-Recipients***

There are three categories of eligible sub-recipients of JARC funds:

- a. Private non-profit organizations;

- b. State or local governmental authority; and
- c. Operators of public transportation services, including private operators of public transportation services.

All sub-recipients must either be a member of the CTD in which they will provide services or must join the CTD as part of their agreement in receiving these funds.

***49 U.S.C. 5317--Eligible Sub-Recipients***

There are three categories of eligible sub-recipients of New Freedom funds:

- d. Private non-profit organizations;
- e. State or local governmental authority; and
- f. Operators of public transportation services including private operators of public transportation services.

All sub-recipients must either be a member of the CTD in which they will provide services or must join the CTD as part of their agreement in receiving these funds.

***49 U.S.C. 5339--Eligible Sub-Recipients***

There are three categories of eligible sub-recipients of Bus and Bus Facilities funds:

- g. Private non-profit organizations;
- h. State or local governmental authority; and
- i. Operators of public transportation services including private operators of public transportation services.

All sub-recipients must either be a member of the CTD in which they will provide services or must join the CTD as part of their agreement in receiving these funds.

**C. Project Selection Criteria and Method for Distributing Funds**

KDOT will review and may or may not concur with the KCTDC on their selection of providers to receive 49 U.S.C. 5310 funds on a discretionary basis. If there are existing providers in the area, then any new entity desiring to provide services in the area are referred to the CTD for possible service being provided by a member or members of the CTD. KDOT will, in general, not allow the use of Section 5310 funds to replace vehicles that are less than five years old or less than 100,000 miles. Replacement vehicles are given first priority in the distribution of these funds. Fleet expansion is given consideration only if excess funds are available or the service expansion is deemed necessary and appropriate by KDOT staff.

The Section 5311 monies continue to remain fairly constant, but the demand for operating subsidies continues to increase. At present, almost all of the federal monies in this program are being made available for operating and capital expenses. KDOT reviews annually each

CTDs request for the following year's operating subsidies. KDOT then allocates the Section 5311 funds to each CTD based on their members past expenditure experience. Request for increases in the allocation are given consideration if there are federal funds to cover the increases and if the increases are judged to be needed (Section IV of this Plan).

KDOT will, in general, not allow the use of Section 5339 funds to replace vehicles that are less than five years old or less than 100,000 miles. Replacement vehicles are given first priority in the distribution of these funds, followed by bus facilities and fleet expansion (which is given consideration only if excess funds are available or the service expansion is deemed necessary and appropriate by KDOT staff).

Any applicant may be denied funding because of facts presented in a public hearing, non-coordination with other agencies in the CTD area, lack of local match money, or not meeting the program requirements, such as failure to allow ridership under Section 5311 to the general public, not providing the required reports, duplication of service, poor vehicle maintenance history, lack of ridership, or failure to meet the ADA and drug and alcohol testing requirements.

The project denied funding may appeal to the KDOT Office of Public Transportation. KDOT would then examine all documentation and base its decision on facts presented by the KCTDC and the project. If the project was still not satisfied the project sponsor could ask for a hearing, before the Secretary of Transportation, according to the Kansas Administrative Procedure Act (included by reference as part of this SMP).

#### **D. Eligible Service and Service Areas**

##### ***Section 5310--Eligible Service and Service Area***

Any transportation provider in an urbanized area or a non-urbanized area who has as its clientele, elderly persons and/or persons with disabilities can become eligible to receive Section 5310 assistance. Transportation services under this program can be open to all elderly persons, persons with disabilities, and the general public, after the immediate transportation needs as specified in the recipient's grant application are satisfied.

The service area for Section 5310 programs may include destinations across the Kansas state line. All operators of interstate service are required to register with the Federal Highway Administration Office of Motor Carriers.

Transit service providers receiving assistance from this program may coordinate and assist in providing meal delivery services for homebound persons on an incidental basis if the meal delivery services do not conflict with the provision of transit services or result in a reduction of service to transit passengers.

##### ***Section 5311--Eligible Service and Service Area***

Funds are available for expenditure for public transportation projects and intercity bus transportation projects in non-urbanized areas (areas outside a core area and the surrounding densely populated area with a total population of 50,000 or more, with boundaries fixed by the Bureau of the Census or extended by state and local officials). Since the goal of Section 5311 is to enhance access of people living in non-urbanized areas to activities, passengers from the non-urbanized area can be transported into and around the urbanized area. The

general public must be provided the transportation service on a regular and continuing basis. In special circumstances, the service area may include destinations that cross a state line. All operators of interstate service are required to register with the Federal Highway Administration Office of Motor Carriers.

Transporting meals to homebound persons is allowed on an incidental basis as long as it does not conflict with the provision of transit services or results in a reduction of service to transit passengers. It is expected that operating costs attributable to meal delivery will be borne by the nutrition program, which provides the meals. Capital assistance Section 5311 funds may not be used to purchase special vehicles used solely for meal delivery, or to purchase specialized equipment, such as food service equipment related to meal delivery.

KDOT will allow Section 5311 providers to charter the vehicles on an incidental basis. Section XVII.A provides more specific guidelines for charter service provision.

### ***Section 5339--Eligible Expenses***

Any transportation provider can become eligible to receive Section 5339 assistance, which focuses on capital projects to replace, rehabilitate and purchase buses, vans, and related equipment, and to construct bus-related facilities, including technological changes or innovations to modify low or no emission vehicles or facilities.

## **E. Overview of the Application Process**

KDOT accepts Section 5310 and 5311 applications on an annual basis and makes Section 5309/5339 funds available for capital expenditures on an individual application basis. Interested applicants for 5309/5339 funds must submit a project proposal to KDOT. Announcements of available funding are made prior to the application period. These announcements are distributed electronically from a mailing list KDOT maintains of grantees and interested parties, through media releases which are distributed statewide, Kansas Public Transit Association (KPTA) announcements, and RTAP newsletters. Interested parties may access the application material on KDOT's Black Cat website or by contacting Office of Public Transportation staff. Potential applicants who are not eligible are notified by the CTDs or KDOT of their ineligibility and, if applicable, of alternative ways in which they can participate in Sections 5310, 5311, and 5339 projects.

KDOT and the KCTDC review all applications to ensure that all program requirements are met and that an opportunity for a public hearing is made available. Applicants must offer the opportunity for public comment as a part of their application. Certifications and Assurances (included by reference) that the applicant will meet federal regulations are also submitted to KDOT. Subsequently, contractual agreements (included by reference) are executed and funds are encumbered.

The application timeline is as follows:

October – Announcement of available funding, website is updated, public workshops held, and applications are made available

Late November – Application Deadline

January/February – Application Review

March/April – KDOT notifies all project sponsors of award status

## **F. Sub-recipient Application to KDOT**

Before KDOT can provide the FTA with required assurances, KDOT must receive sufficient documentation from all sub-recipients to support the assurances. All of this documentation is transmitted through Black Cat, KDOT's grants management system. Additionally, KDOT requires:

a. ***Project Description and Coordination.*** The application should include sufficient information to evaluate the eligibility of the proposed project, and the recipient's legal, financial, technical and managerial capability to implement the project and maintain any project property. Applicants should pay particular attention to coordination efforts and the development of innovative projects that better meet the needs of the community. The application should describe how FTA assisted services are or will be coordinated with other federally funded agencies and private transportation providers in the service area.

b. ***Certification and Assurances.*** The sub-recipient must sign the certifications and assurances required of each sub-recipient (except those applicable only to direct sub-recipients), and all those applicable to the particular project (for example, the lobbying certification if the application exceeds \$100,000).

## **G. Joint Urbanized and Non-Urbanized Programs**

In some localities, a sub-recipient receives both Section 5307 and Section 5311 funding to provide public transportation for an urbanized area and surrounding non-urbanized areas. Section 5311 funds should be used only to assist the non-urbanized portion of those localities. Because of the wide range of circumstances under which an operator could be providing services in both urbanized and non-urbanized areas, sub-recipients must develop a reasonable basis for allocating operating costs between the two funding sources.

## **H. Eligible Assistance Categories**

KDOT makes Section 5310 and 5339 funds available for capital projects, and Section 5311 funds available for operating and/or capital projects, which provide public transportation in non-urbanized areas.

1) ***Federal participation for capital expenses.*** Federal participation in capital project expenses for these programs shall not exceed eighty percent (80%) of the total capital cost. These expenses may include, but are not limited to, purchase of vans or other para-transit vehicles, communications equipment, wheelchair lifts and restraints, passenger amenities such as bus stops and shelters, transit-related ITS equipment and initial installation costs. KDOT may reduce the federal participation matching ratio during periods of funding shortages.

2) ***Federal participation in administrative project expenses.*** Federal participation in Section 5311 administrative project expenses include but are not limited to items such as: Transit manager salary, computers, office equipment and supplies, driver uniforms and office utilities. Grantees are able to apply for the amount of funding that is necessary to administer their programs. KDOT may reduce the federal participation ratio during periods of funding shortages. KDOT will notify providers in a timely manner if the federal matching is changed.

3) ***Federal participation in operating project expenses.*** The maximum federal

participation in Section 5311 operating project expenses shall not exceed fifty percent (50%) of the total operating deficit (operating costs less project income). These expenses may include, but are not limited to, salaries for drivers, dispatchers, and mechanics; fuel, oil, replacement tires, repairs, parts and labor, vehicle storage, contract services, vehicle tags, vehicles and/or vehicle storage facilities. Any one vehicle repair cost exceeding \$1,500 must have prior approval from KDOT before it is incurred. KDOT may reduce the federal participation ratio during periods of funding shortages. KDOT will notify providers in a timely manner if the federal matching ratio is changed.

4) *Administration, Planning, and Technical Assistance.* The State may use an amount not to exceed 15 percent (15%) of its apportioned funds, not including the RTAP allocation, to administer the program and to provide technical assistance to sub-recipients. Allowable administrative costs include salaries, overhead expenses, supplies, and office equipment used to administer the program. Technical assistance may include project planning, program development, development of vehicle and equipment specifications, management development, coordination of public transportation programs (public and private for-profit and non-profit), and such research as the State may deem appropriate to promote effective means of delivering public transportation service in non-urbanized areas. No local share is required for these expenses. The State may pass any portion of these funds on to sub-recipients for the same purposes and, at its discretion, may impose a local share requirement.

#### **I. Local Match Requirements and Eligibility**

KDOT provides State funding for use as local match. The State share of operating expenses for the 5311 program is provided at the rate of 20 percent (20%) of the total operating deficit, while sub-recipients are responsible for providing 30 percent (30%) of the total operating deficit. We provide an amount of funds between \$5,000 and \$10,000 to the sub-recipients of the 5310 program annually. This allocation of funds is based on a formula utilizing the number of vehicles in the agencies fleet.

State funds are provided for capital assistance at the rate of 80 percent (80%) of total vehicle cost. Local sub-recipients are responsible for the remaining 20 percent (20%) of the cost.

Local applicants are responsible for securing funding for local match with an acceptable allocation between cash or cash equivalent and unrestricted federal funds (at least one-half must be cash or cash equivalent such as mill levy, in-kind services, etc.) on operating expenses only. Non-DOT Federal dollars may be used as a local match. Non-cash sources such as in-kind services qualify as eligible local share only if the value is formally documented and supported, and represent a cost which would otherwise be eligible under the project. Local applicants must secure cash for local match for capital expenditures.

#### **J. 5309/5339 Building Requirements**

KDOT makes Section 5309/5339 funds available for capital expenditures on an individual application basis. Interested applicants must submit a project proposal to KDOT. If funded, the project will follow the guidelines as set out in the "Section 5309/5339 Capital Program Application Handbook".

### **Chapter IV Financial Management**

## **A. Financial Management**

*Accounting Systems* – While KDOT does not require the CTD or Sections 5310, 5311, 5339 sub-recipients to adopt a specific accounting system, it does require that the system be adequate to maintain the records for the project, and that all paperwork is transmitted electronically through Black Cat, our grants management system. It is important that funds are easily traceable through good reporting methods so that it can be ensured that funds have not been used in violation of the restrictions and prohibitions applicable to the program. Sub-recipients are required to maintain records for at least five years, including records on any completed project or vehicle that has reached the end of its useful life.

## **B. Notification of Apportionment**

Sections 5310, 5311, program apportionments and RTAP allocations to the states are published in the Federal Register annually after the DOT Appropriation Act is signed. KDOT is responsible for notifying Kansas sub-recipients of grant approval.

## **C. Sections 5310 and 5311 Formulas for Apportionment**

Section 5310 funds are apportioned to Kansas by a formula that is based on the number of elderly persons and persons with disabilities in the state according to the most recent US census.

Sections 5310 funds are apportioned to Kansas by a statutory formula based on the ratio of the non-urbanized population of the state to the non-urbanized population of all of the states, according to the most recent US census.

As Section 5339 applications are comprehensively reviewed throughout the year based on application and need, they do not fall under the provisions of apportionment.

## **D. Availability of Funds**

Funds for Section 5310 are available for three fiscal years, beginning with the year of apportionment. Any funds remaining at the end of the fiscal year are added to the next year's program apportionment and are reapportioned among all of the states.

Funds for Section 5311 remain available for three fiscal years, beginning with the year of apportionment plus two additional years. Unobligated funds that have lapsed are included in a subsequent FTA apportionment to all of the states. Funds that are de-obligated from an approved program of projects remain available for re-obligation during the time period in which the funds were originally made available.

## **E. Transfer of Apportionment Under Different Programs**

Funds from Section 5310 can be transferred within 90 days of the end of the federal fiscal year to the Section 5311 program or to the 49 U.S.C. 5336 (d) (1) programs. Monies from 49 U.S.C. 5307 (Governor's portion) can also be transferred to the 5311 program. In the case of the Governor's portion of 49 U.S.C. 5307, KDOT will give first consideration to the urban transit properties for using these funds in their programs. Finally, any prior fiscal years' unused balances from the Section 5311 (f) program shall also be transferred to the Section

5311 program. KDOT will inform the Governor of the available ending fund balances from the prior fiscal year in the 5311 (f) program and request that the Governor certify to the FTA Administrator that the intercity bus service needs of the state was being met and that all of the unused ending balances be transferred into the 5311 program.

KDOT will make the final determination on the amounts to be transferred for each of the above programs. It is the intention of KDOT to give priority to using the monies from these transfers into the 5311 program for the purchase of vehicles.

#### **F. Availability of Sub-recipients' Local Matching and Operating Funds**

Applicants complete a certification submitted with their Sections 5310, 5311, and 5339 applications specifying availability of local match. Applications are evaluated for viability of the local match source. The program applications indicate a specific date by which funds will be available. Requirements for local match are incorporated into the sub-recipient contract. KDOT electronically certifies to FTA that sub-recipients will meet local match requirements.

#### **G. Audits**

KDOT conducts annual audits in accordance with OMB Circular A-133 submitted to the regional office. KDOT will be conducting CTD audits on a tri-annual basis. KDOT's Office of Inspector General audits the entire Sections 5310, 5311, and 5339 programs and the State transit program periodically.

Sub-recipients are responsible for submitting certifications and assurances for audit purposes along with applications. Copies of external audits conducted on sub-recipient programs are to be submitted to the Office of Public Transportation.

### **Chapter V Intercity Bus--Section 5311 (f)**

#### **A. Program Summary, Definition, and Objectives**

Under Section 5311(f), which is continued by SAFETEA-LU, the State of Kansas has or will set aside fifteen percent (15%) of the 49 U.S.C. 5311 apportionments for the development and support of intercity bus transportation.

KDOT is involved in identifying rural intercity transportation issues in the state, and developing a program implementation strategy based on the anticipated resources to support rural intercity service enhancement provided through SAFETEA-LU. KDOT will consult with intercity bus providers and other interested parties to determine intercity transportation needs and potential interested parties. KDOT advertises availability of funds for the Section 5311 (f) program utilizing the same sources that are used for the Sections 5310, 5311, and 5339 programs. KDOT will ensure that intercity bus providers are made aware of open applications and potential priority intercity corridors. These announcements are placed in major local newspapers from a press release sent out by the Office of Public Transportation, and published in the *Kansas Register*. Eligible applicants and private for-profit providers are asked to contact the Office of Public Transportation to develop an application for service. KDOT also provides opportunities for comment for statewide needs on an annual basis through the Kansas CTD Council to assist in identifying any unmet state needs.

For the purposes of this program, intercity bus service has been defined by FTA as "regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available".

The KDOT consultation process is as follows:

1. KDOT staff identifies potential intercity bus providers in Kansas.
2. KDOT staff consults with potential providers through summits and written communication.
3. KDOT provides a call for applications for potential intercity bus providers.
4. Results of the KDOT Intercity Assessment Plan will be used to determine if Intercity needs are being met.
5. KDOT staff will identify potential services to serve unmet demand as identified in the Assessment Plan.

## **B. Eligible Activities**

Assistance under Section 5311(f) must support intercity bus service in rural and small urban areas. Section 5311 specifies eligible intercity bus activities to include "planning and marketing for intercity bus transportation, capital grants for intercity bus shelters, joint-use stops and depots, operating grants through purchase-of-service agreements, user-side subsidies and demonstration projects, and coordination of rural connections between small transit operations and intercity bus carriers." This listing does not preclude other capital and operating projects for the support of rural intercity bus service. Capital assistance may be provided to purchase vehicles or vehicle related equipment such as wheelchair lifts for use in intercity service.

Examples of ways in which to use these funds are: improvements to existing intercity terminal facilities for rural passengers, modifications to transit facilities to facilitate shared use by intercity bus and rural transit operators, operating assistance to support specific intercity route segments, and applications of Intelligent Transportation Systems (ITS) technology for coordinated information and scheduling.

## **C. Eligible Recipients**

Section 5311(f) authorizes KDOT to provide funds to private intercity bus operators in a sub-recipient relationship. In some instances, certain intercity bus providers may prefer to maintain a contractual relationship, in order to isolate the remainder of their operations from Federal requirements related to a grant. KDOT is authorized to use either mechanism to provide assistance to private operators for intercity bus service. In either case, a merit based selection process is used to ensure that the private operator is qualified, will provide eligible service, can comply with Federal and state requirements, and is the best, or only, provider available to offer service at a fair and reasonable cost.

## **D. Feeder Service**

A provision is made for the "coordination of rural connections between small transit operations and intercity bus carriers," including a provision of service which can act as a feeder to intercity bus service. The feeder service is not required to have the same characteristics as the intercity service with which it connects.

**E. ADA Requirements**

Transit providers operating or contracting for intercity bus services are not required to provide complementary para-transit service for individuals with disabilities who are unable to use the fixed route intercity bus service. Commuter bus service is exempt by law from the requirement for complementary para-transit service. However, vehicles acquired for use in intercity service or feeder service may be required to be accessible.

**F. Over-the-Road Bus Accessibility Program**

This is a program included in SAFETEA-LU to assist operators of over-the-road buses comply with the training and capital requirements placed on the buses by new ADA accessibility legislation. This funding is available separate from 5310, 5311, and 5339 funding and has a 50 percent (50 %) federal share. Assistance will also be made available to local commuter, charter, and tour services.

## **Chapter VI**

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

#### **A. Program Summary and Objectives**

The State Rural Transit Assistance Program is managed by the University of Kansas Transportation Center. The funds are used to support KDOT non-urbanized transit activities related to training, technical assistance, research, and related support services. RTAP has both state and national support components that offer varying degrees of assistance. The state program provides funding for training and technical assistance while the national program provides for the development of resources by the local service providers and state administering agencies.

The RTAP objectives, as outlined in the Section 5311 circular, are to:

- a. to promote the safe and effective delivery of public transportation in non-urbanized areas and to make more efficient use of public and private resources;
- b. to foster the development of state and local capacity for addressing the training and technical assistance needs of the rural/small urban transportation community;
- c. to improve the quality of information and technical assistance available through the development of training and technical assistance resource materials;
- d. to facilitate peer-to-peer self help through the development of local networks of transit professionals;
- e. to support the coordination of public, private, specialized, and human service transportation services; and
- f. to build a national database on the non-urbanized segment of the public transportation industry.

#### **B. Program Development and Management**

The RTAP Advisory Committee is responsible for identifying and selecting the activities for the state RTAP program based on the current needs. Projects are selected at an annual transit advisory committee meeting held in late winter.

The RTAP Advisory Committee is comprised of KDOT staff, KU Transportation Center staff, Kansas Public Transit Association Executive Director, selected Section 5310 and Section 5311 providers, and representatives from the Kansas Department on Aging, Kansas Department of Social and Rehabilitation Services and the Kansas Department of Human Resources.

The state objectives are the same as those delineated by FTA Circular C 9040.1C which describes the RTAP program (Circular C 9040.1C by reference is made part of this SMP). The Section 5310, 5311, and 5339 providers as stated above become involved in program development by being a member of the advisory committee. In addition, providers who have outstanding transportation programs, or some transportation service expertise, are utilized to facilitate peer-to-peer self-help through local and state networking. RTAP activities should be developed in a manner which provides a “level playing field” for the participation of non-urbanized transit operators in identifying specific areas that are most in need of training and technical assistance, and other supportive services to ensure that the communities' needs are being met.

### **C. RTAP Allocations**

KDOT subcontracts with the University of Kansas Transportation Center (KUTC) for provision of RTAP services which include a quarterly newsletter, training, scholarships, technical assistance, a video and publication lending service, and other special projects. From time to time, KUTC has collaborated with other RTAP programs, the KCTDC, and the Kansas Public Transit Association to enhance the delivery of services.

### **D. Section 5310 Sub-recipient Participation**

Section 5310 sub-recipients and private transit providers participate in the training program and are included on the mailing list to receive newsletters and other products of the program.

## **Chapter VII Satisfactory Continuing Control**

### **A. Equipment Management**

Sections 5310, 5311, and 5339 transportation providers are required to submit monthly ridership/operating reporting forms itemizing ridership, mileage and expenses to the CTD. The CTD submits ridership reports along with monthly reimbursement request.

Full coverage is required for the useful life of the vehicle and is monitored in the On-Site Reviews.

### **B. Equipment Title**

Title to vehicles purchased with Sections 5309, 5310, 5311, and 5339 or state funds is held by the sub-recipients with a security lien to KDOT.

### **C. Vehicle Useful Life and Replacement Standards**

The useful life as determined by KDOT for standard vans, body, and chassis vehicles is a minimum of 100,000 miles or five years, or on a case by-case-basis. Vehicles with extraordinary maintenance problems or other special circumstances may be considered for replacement prior to 100,000 miles or five years. In general, depreciation is calculated at 20 percent (20%) each year.

### **D. Transferring Equipment**

Property may be transferred to any sub-recipient eligible to receive assistance under 49 U.S.C. Chapter 53 with the consent of the sub-recipient currently in possession of the equipment as long as the equipment will continue to be used in accordance with program guidelines. Sub-recipients are required to request a vehicle transfer in writing from KDOT to ensure program eligibility. Sub-recipients complete a Vehicle Transfer Agreement, requiring the new owner to certify that the vehicle will be used in accordance with program guidelines. The security lien with KDOT is continued under the new owner. The FTA grant budget and program of projects is then revised to reflect the vehicle transfer.

## **E. Vehicle Disposition**

To dispose of a vehicle, the sub-recipient must apply for a release of lien from KDOT. If appropriate, KDOT responds with a letter of release. Once released, the vehicle is no longer eligible for operating assistance from Section 5311 funds, except under unusual circumstances approved in advance by KDOT.

Sub-recipients who requests a lien release before the useful life of the vehicle has expired are required to pay 80 percent (80%) of fair market value, representing the federal share of purchase, to KDOT. The proceeds from the disposition are deposited in the General Fund at KDOT and used for maintenance and other capital-related expenditures within the Section 5310, 5311, and 5339 programs.

## **Chapter VIII Maintenance**

### **A. Equipment Management and Maintenance Procedures**

It is required annually that 5310, 5311, and 5339 vehicles be inspected by KDOT district personnel. Inspection reports indicate whether the vehicle is being properly maintained and becomes a part of the permanent project file. Maintenance records can influence subsequent funding decisions.

Proper vehicle maintenance procedures are discussed when the vehicle is first delivered and also checked during on-site monitoring.

### **B. Maintenance of Accessible Features and Lifts**

Public and private entities providing transportation services must be in compliance with ADA accessibility requirements. Therefore, transit agencies must maintain features that are required to make the vehicles and facilities readily accessible. Prompt repair of such facilities is necessary.

Regular and frequent maintenance checks of lifts must be performed by the sub-recipient to insure that the lifts are functioning properly.

In reviewing applications for funding, KDOT will make assurances that ADA requirements are being met. Technical assistance is also provided to applicants and sub-recipients when working to meet accessibility requirements. ADA compliance is also a component in the KDOT annual vehicle inspection.

### **C. Maintenance of FTA Funded Vehicles and Facilities**

Per FTA C 5010.1D, the grantee agrees to maintain project property in good operating order and in compliance with any applicable Federal regulations or directives that may be issued, except to the extent that FTA determines otherwise in writing. The grantee agrees to keep satisfactory records pertaining to the use of project property, and to submit to FTA upon request such information as may be required to assure compliance with Federal requirements. The grantee is required to have a written vehicle maintenance plan and facility/equipment maintenance plan. These plans should describe a system of periodic inspections and preventive maintenance to be performed at certain defined

intervals.

## **Chapter IX Competitive Procurement**

### **A. Procurement Procedures**

*1. Competitive Bid Procedure* - For capital purchases, the Kansas CTD Council (KCTDC), in collaboration with KDOT, prepares vehicle specifications for each type of vehicle. The KCTDC distributes a Notice to Bid to all vendors on a comprehensive vendor mailing list. Bids are tabulated and a low bid is accepted if all requirements are met. The KCTDC and KDOT will assist sub-recipient agencies in preparing purchase orders for the vehicle(s). Vehicle(s) are delivered to the provider where a post-delivery inspection is performed by the provider. Payment of the vehicle(s) (federal/state share) will be in the form of a check made out jointly to the grantee and the manufacturer. KDOT does not order or purchase vehicles. The sub-recipient orders and purchases all vehicles using the costs from the courtesy bid, which are incorporated by reference on the purchase orders. The manufacturers have agreed to the KCTDC that they will abide by their courtesy bids. Vehicle vendors must submit all certifications as part of their bid submittal and meet all requirements as set forth by 49 CFR Part 663 and 49 CFR Part 665 (49 CFR Parts 663 and 665 by reference is part of this SMP). Sub-recipients are responsible for pre-award and post-delivery audits. Pre-award audits are conducted by the KCTDC on behalf of the sub-recipients. Sub-recipients are responsible for maintaining all supportive documentation in their files.

*2. Third Party Contracts* - When KDOT sub-contracts with a CTD to provide transportation services under Section 5311, 5316, and 5317 KDOT becomes responsible for assuring compliance federal regulations. If needed, KDOT will do on-site monitoring. FTA C 4220.1 D contains a complete listing of FTA third party contracting requirements.

### **B. Full and Open Competition**

All procurement transactions will be conducted in a manner providing full and open competition.

KDOT strives to ensure full and open competition in procurement procedures. To ensure such competition, KDOT works with the Kansas CTD Council to:

- (1) Maintain a current bidders' list;
- (2) Maintain a written code of general ethical standards and conduct governing the performance of employees who are engaged in the award and administration of grants;
- (3) Specify clearly and adequately all bidder requirements;
- (4) Sufficiently publicize and advertise for bids;
- (5) Solicit an adequate number of bids or proposals; and
- (6) Allow ample time for bidders to respond to the proposals.

Some situations considered to be restrictive of competition include, but are not limited to:

- (1) Unreasonable requirements placed on firms in order for them to qualify to do business;
- (2) Unnecessary experience and excessive bonding requirements;

- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive awards to any person or firm on retainer contracts;
- (5) Organizational conflicts of interest. An organizational conflict of interest means that because of other activities, relationship, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice to the grantee; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage;
- (6) Specifying only "brand name" product instead of allowing "an equal" product to be offered without listing its' salient characteristics.

Grantees may define the salient characteristics in language similar to the following:

- (a) 'Original Equipment Manufacturer (OEM) part #123 or approved equal that complies with the original equipment manufacturers requirements or specifications and will not compromise any OEM warranties'; or
- (b) 'Original Equipment Manufacturer part #123 or approved equal that is appropriate for use with and fits properly in [describe the bus, engine, or other component the part must be compatible with] and will not compromise any OEM warranties'; and
- (c) "Any arbitrary action in the procurement process."

#### **D. Contract Term Limitation**

Grantees shall not enter into any contract for rolling stock or replacement parts with a period of performance exceeding five (5) years inclusive of options. All other types of contracts (supply, service, leases of real property, revenue and construction, etcetera) should be based on sound business judgment. Grantees are expected to be judicious in establishing and extending contract terms no longer than minimally necessary to accomplish the purpose of the contract. Additional factors to be considered include competition, pricing, fairness and public perception. Once a contract has been awarded, an extension of the contract term length that amounts to an out of scope change will require a sole source justification."

#### **E. Prohibition Against Geographic Preferences**

Grantees shall conduct procurements in a manner that prohibits the use of statutorily or administratively imposed in-state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. This does not preempt state licensing laws. However, geographic location may be a selection criterion in procurements for architectural and engineering (A&E) services provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

#### **F. Procurement of Architectural and Engineering Services (A&E)**

Grantees shall use qualifications-based competitive proposal procedures (i.e., Brooks Act procedures, etc.) when contracting for A&E services as defined in 40 U.S.C. §541 and 49 U.S.C. §5325(d). Services subject to this requirement are program management, construction

management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services.

Qualifications-based competitive proposal procedures require that:

- (1) An offeror's qualifications are evaluated;
- (2) Price is excluded as an evaluation factor;
- (3) Negotiations be conducted with only the most qualified offeror; and
- (4) Failing agreement on price, negotiations with the next most qualified offeror are conducted until a contract award can be made to the most qualified offeror whose price is fair and reasonable to the grantee.

These qualifications-based competitive proposal procedures can only be used for the procurement of the services listed above. This method of procurement cannot be used to obtain other types of services even though a firm that provides A&E services is also a potential source to perform other types of services. (emphasis added)

These requirements apply except to the extent the grantee's state adopts or has adopted by statute a formal procedure for the procurement of these services.

#### **F. Statutory and Regulatory Requirements**

A current but not all inclusive and comprehensive lists of statutory and regulatory requirements applicable to grantee procurements (such as Davis-Bacon Act, Disadvantaged Business Enterprise, Clean Air, and Buy America) is contained in the FTA Master Agreement. Grantees are responsible for evaluating these requirements for relevance and applicability to each procurement. For example, procurements involving the purchase of iron, steel and manufactured goods will be subject to the "Buy America" requirements in 49 C.F.R. Part 661. Further guidance concerning these requirements and suggested wording for contract clauses may be found in FTA's Best Practices Procurement Manual.

#### **G. Local and Tribal Government Compliance**

All sub-recipients of states that are local or tribal governments must comply with state and federal regulations when awarding and administering federal assistance. Procurement is conducted in a manner that provides for full competition, as outlined above.

#### **H. Non-Profit Organization Compliance**

All non-profit organizations using Section 5310, 5311, and 5339 funds for procurement of vehicles, equipment, construction, or related services must comply with third-party contract regulations as specified in FTA C 4220.1D and as outlined above. Non-profit organizations must submit written protest procedures, have specific written selection procedures, conduct procurement in a manner of full competition, conduct contract cost and price analysis for any

procurement, use competitive proposal procedures, maintain a contract administration system, obtain prior written approval of the state before entering into any contract with a period of performance exceeding five years, and maintain a written record of procurement history.

### **I. Leasing Equipment**

KDOT does not have any sub-recipients leasing equipment at this time. Leasing is not allowed by KDOT.

### **J. Bus Testing Certifications**

Bus testing certifications are included in the certifications that are submitted by the vendor to the KCTDC. All vehicles being purchased with FTA funds have met the Altoona Bus Test requirements.

## **Chapter X Buy America**

### **A. Buy America Provision**

As described in Section 5323 (j), federal funds cannot be obligated for transit projects unless the steel, iron, and manufactured products used in the projects are produced within the United States. For specific regulations for the Buy America requirement, see 49 CFR Part 661. The Buy America requirement applies to all purchases if the purchase exceeds the small purchase threshold (which is currently \$100,000). A few exceptions exist for the Buy America requirement and those exceptions are described in detail in the Federal Circular. They include general waivers:

- ◆ microcomputer equipment and associated software; and
- ◆ small purchases (currently less than \$100,000) made with capital, planning or operating assistance.

### **B. Certification of Buy America Assurance**

KDOT requires that sub-recipients display proof of compliance to the Buy America requirements through certification upon purchase. Certification must be kept in the program files. Technical assistance is provided for sub-recipients concerning compliance to the Buy America requirements. On site visits will facilitate discussions concerning Buy America requirements and procurement procedures.

### **C. Pre-Award and Post-Delivery Review**

KDOT requires that procurement of vehicles must be audited in accordance with the FTA regulation "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR Part 663. This requirement ensures that the purchase of rolling stock will be in compliance with bid specifications, Buy America requirements, and Federal vehicle safety requirements.

### **D. Assurance of Domestic Content**

Assurances of domestic content of the product, the components, and the sub-components in procurements of revenue rolling stock is included in the certifications required by KCTDC of vendors at the time of bid submission.

## **Chapter XI Debarment and Suspension**

### **A. Certificate of Assurance**

(1) In order to ensure that federal transit funds are not awarded to transit providers that have been debarred, suspended, ineligible, or voluntarily excluded from participation in federal aid, special debarment and suspension certification is required of all sub-recipients and contractors receiving funds in excess of \$25,000, which is included in the application packet. KDOT will review the applications for certificates of assurance and offer technical assistance for agencies concerned about debarment and suspension. KDOT will keep debarment and suspension certificates of assurance on file for all 5310, 5311, and 5339 sub-recipients. KDOT also requires an annual certification from sub-recipients. KDOT will continually check for sub-recipient compliance. KDOT requires that lower-tier sub-recipients (recipients receiving less than \$25,000) also comply with debarment and suspension terms, requiring signed certification from contractors in contractual agreements. KDOT will check the System for Management Award (SAM) (<http://www.sam.gov>) to make sure that none of the vendors are on the excluded listing. They will print screen a copy of each search and keep it in the file for documentation.

## **Chapter XII Restrictions on Lobbying**

### **A. Certifications and Assurances**

KDOT must have on file signed lobbying certificates of assurance from all sub-recipients who receive federal assistance for \$100,000 or more stating that they will not use Federal funds to pay for any lobby activities.

### **B. Inclusion of Assurance in Procurement**

Sub-recipients must include lobbying certification in procurement documentation when necessary. Any contractors or subcontractors using federally-appropriated funds must sign certificates of lobby assurance.

### **C. Monitoring of Compliance**

When reviewing applications for federal funds, KDOT checks for appropriate certification. All appropriate certification from sub-recipients, contractors, and subcontractors must be kept in the project file for compliance assurance.

## **Chapter XIII Planning and Coordination**

### **A. Planning Requirement**

Federal funds to be used for highway or transit projects must be included in a Statewide Transportation Improvement Plan (STIP), 23 U.S.C. Section 135, which generally covers three program years. Examples of areas for planning would be for vehicle acquisition, transportation services, operating assistance, intercity bus projects, facility construction, state administration, and training and technical assistance. Metropolitan planning organizations (MPOs) are responsible for planning and programs in metropolitan areas. Coordination must occur between the MPOs and local transit providers when servicing areas. KDOT will consider coordination efforts when approving projects. Potential Section 5310, 5311, and 5339 projects that are being proposed within the MPO's current planning area boundary, which may include areas that are currently non-urbanized, must be included in the MPO's TIP and subsequently in KDOT's STIP.

SAFETEA-LU requires that, to the extent feasible governmental agencies and nonprofit organizations that receive assistance from other federal agencies for non-emergency transportation services shall participate and coordinate with FTA recipients in the design and delivery of transportation services and be included in the planning for those services.

### **B. Coordination with Other Federal Programs**

FTA encourages State DOT's to work with their counterparts at State human service agencies, to participate with other States in regional initiatives, and to assist local recipients and sub-recipients of Sections 5307, 5310, 5311, and 5339 funds to participate in coordinated systems at the local level, along with recipients of funds from the programs of DHHS and other federal and state programs. Section 5311, RTAP, and Federal transportation planning funds may be used to support eligible activities related to the development and administration of coordinated activities at the state and local level.

SAFETEA-LU includes a requirement for local governmental agencies and nonprofit organizations that receive assistance from federal sources other than the FTA for non-emergency transportation services. These agencies are now required when possible to participate and coordinate with recipients of assistance from FTA in the design and delivery of transportation services. All participating agencies must be included in the planning for the services.

It is encouraged that transit providers work to coordinate transportation resources for welfare reform initiatives, with State agencies taking leadership roles in this effort. In addition to FTA and State transit funding, funding is available under Department of Labor Jobs programs and Department of Health and Human Services Temporary Assistance to Needy Families (TANF), as described in joint guidance published by DOT, DOL, and DHHS on December 23, 1998.

### **C. Local and State Coordination Efforts**

The Kansas Legislature mandated in 1992 that by July 1, 1995, all Section 5310, 5311, 5316 and 5317 sub-recipients must be part of a Coordinated Transit District (CTD). The purposes of the CTD's are to enhance coordination and management of all State and Federal public transportation funds.

*Some of the responsibilities of the CTDs are:*

- 1) Contracting with KDOT for receipt of State and Federal funds which will enhance transportation coordination among the providers in each district.
- 2) Provision of transportation services or subcontracting with eligible agencies.
- 3) Monitoring the provisions of transportation services in the districts to ensure compliance with applicable state and federal regulations and laws.

In addition to establishing CTD's, KDOT will continue to meet regularly with the Kansas Department for Aging & Disability Services, Kansas Department for Children & Families, and the Kansas Commission on Disability Concerns to discuss issues which are germane to providing transportation services to elderly persons, persons with disabilities, and the general public.

Section 5310 projects in urbanized areas will submit with their applications copies of notifications to any area Metropolitan Planning Organizations (MPOs) a statement of their intent to apply for capital assistance for inclusion on the TIP.

Each CTD has developed a local coordinated human service transportation plan and will begin to implement the plan in the next year with goals being set to be accomplished in the next three years. These plans will be reviewed and updated as necessary to reflect the changes in the communities and the changes within the regulations of the programs.

## **Chapter XIV Transportation Services for Individuals with Disabilities**

### **A. Signed Assurance**

Section 504 prohibits discrimination on the basis of disabilities by recipients of federal financial assistance. Each applicant must sign an assurance as part of the application package. Each transportation provider must also certify that they will not discriminate when they receive federal funding as part of the agreement between the CTD and the transportation provider. All providers must make written assurance to KDOT that they can provide equivalent service to persons with disabilities.

### **B. Identification of Appropriate Operators**

On the application for funding, potential sub-recipients will indicate the type of service that they intend to provide, including fixed-route service, allowing KDOT to properly identify appropriate agencies providing service for individuals with disabilities.

### **C. Implementation of ADA regulations**

All sub-recipients must comply with 49 CFR Parts 27, 37, and 38 implementing the ADA and amending the Section 504 rule (49 CFR, Parts 27, 37, and 38 by reference are part of this SMP)

#### **D. Complementary Para-transit Service**

Most transportation services that are currently provided by Section 5310 and Section 5311 operators are demand responsive. Therefore, they are not required to have complementary para-transit service. Every provider that operates a fixed route service provides a complimentary para-transit service.

Complementary para-transit service is provided by all Section 5307 providers. As they work directly with FTA, KDOT does not have jurisdiction over or approval of their plans.

#### **E. Lift Equipped**

All newly acquired vehicles utilized in demand-response services are required to be ramp- or lift-equipped. KDOT reviews overall fleet accessibility at the time of application and may require acquisition of an accessible (lift or ramp depending on the type of vehicle) vehicle in circumstances where accessibility is inadequate.

If providers cannot give an assurance of equivalent service, they must purchase a vehicle that is ADA accessible, or have a written agreement with another provider who can provide equal service to the disabled. Providers not having any vehicles that are ADA accessible in their fleet must purchase an ADA accessible vehicle when they purchase a new vehicle.

All new vehicles purchased for the Section 5310, 5311, and 5339 programs in Kansas must meet ADA vehicle specifications. If the vehicle is not lift equipped, it must still meet all ADA requirements regarding handrails and stanchions, doors, steps and thresholds, priority seating signs, and lighting.

#### **F. Building Construction and Renovation**

All ADA requirements also apply to construction and renovation of transit facilities using Section 5309/5339 funds.

### **Chapter XV Civil Rights**

#### **A. General Description of Civil Rights Laws and Compliance Requirements**

KDOT is responsible for ensuring that Sections 5310, 5311, and 5339 grant sub-recipients who receive FTA funds, are in compliance with all Civil Rights requirements applicable to transit related projects. Specific Civil Rights requirements are outlined in 49 U.S.C. 5332 of the Federal Transit Act, as amended, Title VI of the Civil Rights Act of 1964, Equal Employment Opportunity (EEO), Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act (ADA) of 1990 and Disadvantaged Business Enterprise (DBE) program requirements.

## **B. Title VI Program Requirements**

Each CTD and transportation provider must sign an assurance that they will not on the grounds of race, color, or national origin, exclude from participation in, deny the benefits of, or subject to discrimination any person within the program or activity receiving federal financial assistance.

This assurance is found in the application packet and is part of the signed agreement between KDOT, the CTD and the transportation provider.

KDOT requires all applicants and/or sub-recipients to provide information as described in FTA Circular 4702.1 (Circular 4702.1 by reference is part of this SMP). In addition to requirements outlined in the circular, sub-recipients must report to KDOT on compliance at least once every three years of operation.

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

Each CTD and transportation provider must sign an assurance that they will follow the provisions mentioned above. The provisions also apply to employment and business opportunities and will be considered to be an addition to and not in lieu of the provisions of Title VI.

This assurance is found in the application packet, and is part of the signed agreement between KDOT and the transportation provider.

KDOT requires all applicants and/or sub-recipients to provide information as described in FTA Circular 4704.1 (Circular 4704.1 by reference is part of this SMP).

KDOT provides an EEO coordinator that is able to provide technical assistance for sub-recipients. KDOT monitors sub-recipient compliance with EEO requirements through individual certifications filed with KDOT as well as annual monitoring and site visits.

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

KDOT and sub-recipients must take all necessary measures to ensure that disadvantaged business enterprises have a “level playing field” to compete for federal contracts. KDOT submits a three year DBE plan to FTA, which sets out the agencies' DBE goal based on its contracting opportunities. If cumulatively, the 5311 and 5339 providers do not exceed the funding thresholds established by FTA, only an annual DBE report is submitted as described in Circular 4716.1A (Circular 4716.1A by reference is part of this SMP).

If KDOT meets either of the following requirements, KDOT must submit a DBE program and transit goals for DBE participation. The requirements are: (1) applying for funds in excess of \$250,000 exclusive of transit purchases under Section 5309, 5307, 5310, 5311, and 5339; or (2) applying for funds that are in excess of \$100,000 under Sections 5303, 5304, or 5307.

Since KDOT does exceed the threshold, it requires all 5311 and 5339 providers who receive federal operating funds to report on a monthly basis all expenditures in areas that were determined to be contracting opportunities. These reports identify the type of expenditure, company from which the item was purchased and the cost of the item. KDOT, Office of

Civil Rights reports these expenses and the performance on the goal to FTA on a semi-annual basis.

Transit vehicle manufacturers must certify to FTA that they are in compliance with the requirements of Section 23.67 of 49 CFR Part 12, by submitting a current annual DBE goal to FTA. In addition, KDOT requires each vehicle vendor to submit with their bid, a Transit Vehicle Manufacturer Certification that they meet the requirements set out by the U.S. Department of Transportation that they comply with Section 23.67.

#### **E. Fair and Equitable Distribution**

All cities, counties, and tribal governments are notified of fund availability and are encouraged to apply for funds. Notices are disseminated through annual letters with information concerning funds available and specific procedures for applying for grants. KDOT staff is available for technical support.

#### **F. Technical Support**

KDOT provides technical support for sub-recipients for assistance in complying with Civil Rights requirements. Potential applicants are also encouraged to participate in CTD meetings for additional information and technical assistance. KDOT encourages CTDs to identify transportation needs within their districts, including the needs of minority organizations.

### **Chapter XVI FTA Drug and Alcohol Testing Program**

#### **A. Contract Provider**

All providers receiving Sections 5311 and 5339 operating funds are required to contract with the Third Party Administrator (TPA) contracted by KDOT. The TPA will administer the alcohol and drug testing and employee assistance programs to all safety sensitive positions for KDOT. All aspects of the program, individuals selected for random testing, specimen collection sites, laboratories for testing, medical review officer services, employee assistance programs, regulated training, and report preparation are handled by the contract agency.

#### **B. Written Substance Abuse Policy**

All providers must adopt a written substance abuse policy for dissemination to all employees that will be the basis for an ongoing substance abuse program. The policy must include all FTA required elements and describe specific actions taken against employees violating prohibitions. All providers receiving FTA funds are required to have their substance abuse policy statement available for inspection by KDOT upon request. If KDOT should change from the current contracted TPA, the transportation providers will follow the administrative policies established by KDOT with the new contracted TPA of the alcohol and drug testing program.

Employees must be informed of the drug and alcohol testing policy during training, annually, and anytime the drug and alcohol policy is updated. Training must include informing employees of the dangers of drug and alcohol abuse.

### **C. Certificate of Assurance**

KDOT and all sub-recipients must sign a certificate of assurance stating that they are in compliance with the drug and alcohol regulations. Section 5311 and 5339 compliance certificates must indicate special safety provisions for its employees, including testing and training requirements. Copies of all certificates will be maintained in the KDOT files.

Sub-recipient employees are required to sign individual commitments to drug-free workplace and drug and alcohol testing forms, where applicable, stating that they have been informed of the policy and understand its terms. Compliance is monitored with on-site visits.

### **D. Safety**

Specific safety requirements are outlined in Section 5329 for workplace safety in regards to substance abuse. Sub-recipients will inform employees of safety hazards in connection with drug and alcohol abuse and have a safety component in their written policy. Federal funds may be withheld if any sub-recipient that is not in compliance with Federal safety regulations.

Drug and alcohol programs are administered through a statewide consortium. The administrating agency assists 5311 and 5339 sub-recipients with developing conforming policies and for implementation of a drug and alcohol-testing program. KDOT has a designated staff member responsible for statewide monitoring.

### **E. Annual Reports**

KDOT, in collaboration with the TPA, collects and submits annual Management Information System (MIS) reports for each Section 5311 and 5339 sub-recipient summarizing drug and alcohol test results. MIS reports are filed for safety sensitive contractors as necessary.

### **F. Drug And Alcohol Testing Program Monitoring**

To oversee the Drug and Alcohol Testing Program, KDOT has an on-staff Drug/Alcohol Program Manager. This manager is responsible for drug and alcohol testing components for safety-sensitive employees, ensuring that drug and alcohol training courses are provided, and monitoring program compliance. The Drug and Alcohol Testing Program Manager also is responsible for contracting with and monitoring the performance of the third-party administrator of the program.

## Chapter XVII

### Charter Bus and School Bus Protections

The charter regulations include exemptions and exceptions that will allow a grantee to provider charter service. Exemptions, which are not considered charter service, do not require notification to registered charter providers, record-keeping, quarterly reporting, or other requirements. Exceptions are considered charter service and have administrative, record-keeping and reporting requirements.

The charter service **exemptions:**

- 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.
- Using funds from 5310, 5311, and 5339 for “program purposes”
  
- A grantee is allowed to provide charter service (up to 80 hours annually) to government officials (Federal, state and local) for official government business, which can include non-transit related purposes, if the grantee:
  - Provides the service in its geographic service area
  - Does not generate revenue from the charter service, except as required by law
  
- Qualified Human Services Organization (QHSO) – A grantee is allowed to provide charter service to QHSO for the purpose of serving persons:
  - With a mobility limitations related to advanced age
  - With disabilities
  - With low income
  
- When no registered charter provider responds to a notice sent by a recipient
- Leasing (must exhaust all available vehicles first)
- By agreement with all registered charter providers
- By petitions to the administrator:
  - Events of Regional or National Significance
  - Hardship
  - Discretion

If the QHSO received funding, directly or indirectly, from the programs listed in Appendix A of the regulation, the QHSO is not required to register on the FTA’s charter registration website. Otherwise, the QHSO is required to register. The grantee may provide service only if the QHSO is registered at least 60 days before the date of the first request for charter service. [www.fta.dot.gov/CharterRegistraton](http://www.fta.dot.gov/CharterRegistraton) (has registered QHSO)

- The grantee must send email notice to registered charter providers in the grantee’s geographic service area by close of business on the day the grantee received the request unless the request was received after 2pm, in which case the notice will be sent by the close of the next business day. The email notice must include the name, address, phone

number, email address, requested day of service, approximate number of passengers, type of vehicle requested, trip itinerary and approximate duration.

- No response by Registered Charter Provider – A grantee is allowed to provide charter service, on its own initiative or at the request of a third party, if no charter provider registered on the FTA;s website ( [www.fta.dot.gov/CharterRegistration](http://www.fta.dot.gov/CharterRegistration) ) responds to the notice issued:
  - Within 72 hours for charter service requested to be provided in less than 30 days, or
  - Within 14 calendar days for charter service requested to be provided in 30 days or more.
- The grantee is **NOT** allowed to provide charter service if a registered charter provider indicates an interest in providing the charter service described in the notice and the registered charter providers has informed the grantee of its interest in providing the service. This is true even if the registered charter provider does not ultimately reach an agreement with the customer that is requesting the charter service.
- Grantees are also allowed to provide charter service directly to a customer consistent with an agreement entered into with all registered charter providers in the grantee’s service area. The grantee is allowed to provide charter service for up to 90 days without an agreement with a newly registered charter provider in the geographic service area subsequent to the initial agreement. Any parties to the agreement may cancel the agreement after providing a 90 day notice to the grantee.

When charter is provided the grantee is required to maintain notices and records in an electronic format for a period of at least three years from the date of service. The records must include a clear statement identifying which exception the grantee relied upon when it provided the charter service. A single document or charter log to include all charter service trips provided each quarter. Charter trips should NOT interfere with your regularly scheduled Public Transportation service. Deficits incurred due to charter service operations are not eligible for reimbursement from the Section 5311 Program. Profits made by providing a charter service must be applied to the subrecipient’s local match requirement.

### **Charter Service Reporting Requirements:**

Public transit agencies must report all charter service provided under the following exceptions:

- Government Officials (49 CFR 604.6)
- Qualified Human Service Organizations (49 CFR 604.7)
- Leasing Equipment (49 CFR 604.8)
- When no registered charter provider responds to a notice from the recipient (49 CFR 604.9)

### **A. School Bus Operations**

Section 5310, 5311, and 5339 sub-recipients will have a signed certificate of assurance on file with KDOT stating that they are in compliance with all school bus requirements. Section

5310, 5311, and 5339 providers may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators.

The applicable school bus requirements are outlined in the 49 CFR Part 605.

## Chapter XVIII

### Glossary

**49 U.S.C. 5309/5339 Program (Section 5309 and Section 5339)**—These programs makes federal funds available to assist in financing bus and bus-related capital projects that will benefit the countries transit systems.

**49 U.S.C. 5310 Program (Section 5310)**—This program makes federal funds available to assist private, non-profit organizations in the purchase of vehicles and related equipment to provide transportation services which meet the needs of elderly persons and persons with disabilities in both non-urbanized and urbanized areas.

**49 U.S.C. 5311 Program (Section 5311)**—This program makes federal funds available to assist in the development, improvement and use of public transportation systems in rural and small urban areas.

**49 U.S.C. 5339 Program (Section 5339)**—This program makes federal resources available to states and direct recipients to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities including technological changes or innovations to modify low or no emission vehicles or facilities.

**Administrative Costs**—These expenses encompass operating costs and include vehicle insurance, advertising and marketing for transportation services.

**Americans with Disabilities Act of 1990 (ADA)**—Legislation that ensures non-discrimination and equitable services for individuals with disabilities.

**Buy America**—Buy America requirements ensure that federal funds are not obligated for transit projects unless designated levels of steel, iron, and manufactured products used in the projects are produced within the US.

**Capital Costs**—These expenses may include, but are not limited to, purchase of vans or other para-transit vehicles, communications equipment, wheelchair lifts and restraints, and initial installation costs.

**Coordinated Transit District (CTD)**—Incorporated organizations that provide financial and administrative assistance to transportation systems throughout Kansas, established by KDOT. All recipients of federal or state grants are required to become a member of a CTD.

**Disadvantaged Business Enterprise (DBE)**—Helps to ensure that disadvantaged businesses have a “level playing field” to compete for federal contracts.

**Equal Employment Opportunity (EEO)**—Applies to the discrimination provisions of Title VI to employment and business opportunities.

***Fixing America's Surface Transportation (FAST) Act (2015)*** The first federal law in over a decade to provide long-term funding certainty for surface transportation infrastructure planning and investment. The FAST Act authorizes \$305 billion over fiscal years 2016 through 2020 for highway, highway and motor vehicle safety, public transportation, motor carrier safety, hazardous materials safety, rail, and research, technology, and statistics programs.

***Federal Transit Administration (FTA)***—FTA is the federal agency responsible for providing overall policy and program guidance, apportioning funds annually to the states, developing and implementing financial management procedures, managing program support, and conducting national program reviews.

***Feeder Service***—Transit services that act as a connector from rural communities to intercity bus services. Feeder service coordinates rural connections between small transit operations and intercity bus carriers.

***Kansas Coordinated Transit District Council (KCTDC)***-- Consists of member-representatives from the individual Coordinated Transit Districts (CTDs) and as such, it represents Kansas Department of Transportation (KDOT)-funded Transportation Provider Agencies who provide service to the elderly, disabled, and the general public in the following matters.

***Kansas Department of Transportation (KDOT)***—The State agency designated by the Governor of Kansas to administer Section 5310 and 5311 transit programs.

***Kansas Public Transit Association (KPTA)***—State transit association which provides guidance and technical assistance for public transit agencies in Kansas.

***Metropolitan Planning Organization (MPO)***—Organizations within a metropolitan area designed to efficiently and effectively plan for the areas various needs. Often work with CTDs and local transit agencies to plan for community transit.

***Non-urbanized Area***—Areas outside a core area and the surrounding populated area with a total population of 50,000 or less, with boundaries fixed by the Bureau of Census or extended by state and local officials.

***Not-for-Profit***—an agency approved for IRS 501-3C status, making them eligible for various federal grants.

***Operating Costs***—These expenses may include, but are not limited to, salaries for drivers, dispatchers, and mechanics; fuel, oil, replacement tires, repairs, parts and labor, vehicle storage, contract services, vehicle tags, vehicles and/or vehicle storage facilities.

***Para-transit Vehicle***—Transit vehicles that are 22 feet or less.

***Rural Transit Assistance Program (RTAP)***—RTAP supports non-urbanized transit activities related to training, technical assistance, research, and related supportive services to promote safe and effective delivery of public transportation in non-urbanized areas.

***Safe, Accountable, Flexible and Efficient Transportation Equity Act-A Legacy for Users (SAFETEA-LU)***—A federal reauthorization act that replaces TEA-21 for Fiscal Years 2004-2009 that increases provisions designed to guarantee funding for highway and transit programs.

***Title VI***—Ensures that discrimination does not occur on the grounds of race, color, or national origin.

***Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21)***—a reauthorization act of ISTEA for Fiscal Years 1998-2003 that increases provisions designed to guarantee funding for highway and transit programs.

***United States Department of Transportation (USDOT)***—the federal agency that administers transportation programs and funds to state agencies.

***Urbanized Area***—An area that has a population in excess of 50,000. Funding for urbanized areas is separated based on population and population density for areas under 200,000 and on population, population density, and transit data for areas over 200,000 in population.

***Useful Life***—For standard vans, body, and chassis vehicles, useful life is a minimum of 100,000 miles or five years. Useful life for intercity buses is a minimum of 500,000 miles or twelve years.

## PROJECT SELECTION CRITERIA

Applications will be evaluated by the Kansas Coordinated Transit Council and KDOT Public Transportation staff based on the following criteria:

### **B. Identification of Needs**

**25 Points**

1. Documented demand for service in the area. Documentation can include but is not limited to log sheets of trip turn downs, surveys, testimonials from people not served, and additional services requested by existing riders and the general public. (8 pts.)
2. Estimated number of people in the service area
  - a. Estimated number of people to be served (2 pts.)
  - b. Number of transit dependent people (e.g. no vehicle, elderly and disabled, low income) (2 pts.)
3. Identification of the type of trips to be provided (medical, personal business, employment, etc.). (5 pts.)
4. Does the proposed service and schedules meet the needs of the identified riders? (3 pts.)

### **C. Replacement/Expansion/New Start**

- a. Replacement (2 pts.)
  1. Vehicle Model Year
  2. Maintenance History and Vehicle Condition
  3. Current Mileage
- b. Expansion/New Start (3 pts.)
  1. Description of Need
  2. Description of Benefit

**D. Utilization of Services 20 Points**

1. Service indicators (estimated for new starts, expansions, and actual for replacements, and retention of current level of operating funds).
  - a. Vehicle service hours per week (3 pts.)
  - b. Average miles per month per vehicle (3pts.)
  - c. Identification of types of local activities and employment centers served (trip generators) (4 pts.)
2. Trip purpose and passenger type statistics (are transportation services being delivered to the appropriate needs)? (10 pts.)

**E. Coordination of Efforts 10 Points**

1. Level of coordination with other transportation providers within the proposed service area. (5 pts.)
2. Level of coordination with local government agencies in determining transportation needs and whether those needs are being met. (2 pts.)
3. Level of coordination with human services and other social service agencies within the proposed service area that have client transportation needs. (3 pts.)

**G. Accessibility, Safety & Training 20 Points**

1. Accessibility of project vehicles and compliance with ADA criteria. This would include Coordination Agreements with other providers to enable equal access to wheelchair accessible vehicles. (7 pts.)
2. Provision for training of drivers as per the KDOT/RTAP training requirement? (13 pts.)

**H. Financial Management/Grant Capability 15 Points**

1. Qualifications and experience in managing grants and/or other governmental programs. (5 pts.)
2. Amount of local revenues obtained and support from local government revenue sources. (3 pts.)
3. Letter verifying local match share. (3 pts.)
4. Budget (Non-KDOT) sheet attached. (4 pts.)

**I. KDOT Contract Activities 5 Points**

1. CTD member in good standing. (1 pt.)
2. CTD meeting attendance and level of participation. (3 pts.)
3. Copy of contracting activities attached (Example: taxi voucher program, NEMT contracts, etc.) (1 pt.)

**K. Public Notice Attached 5 Points**

- Does not apply if agency is not asking for a vehicle

**PROJECT SELECTION CRITERIA - 5311**

Applications will be evaluated by the Kansas Coordinated Transit Council and KDOT Public Transportation staff based on the following criteria:

**B. Identification of Needs 25 Points**

5. Documented demand for service in the area. Documentation can include but is not limited to log sheets of trip turn downs, surveys, testimonials from people not served, and additional services requested by existing riders and the general public. (6 pts.)
6. Estimated number of people in the service area
  - a. Estimated number of people to be served (2 pts.)

- b. Number of transit dependent people (e.g. no vehicle, elderly and disabled, low income) (2 pts.)
- 7. Identification of the type of trips to be provided (medical, personal business, employment, etc.) (5 pts.)
- 8. Does the proposed service and schedules meet the needs of the identified riders? (5 pts.)

**C. Replacement/Expansion/New Start**

- a. Replacement (2 pts.)
  - 1. Vehicle Model Year
  - 2. Maintenance History and Vehicle Condition
  - 3. Current Mileage
- b. Expansion/New Start (3 pts.)
  - 1. Description of Need
  - 2. Description of Benefit

**D. Utilization of Services**

**20 Points**

1. Service indicators (estimated for new starts, expansions, and actual for replacements, and retention of current level of operating funds).
  - d. Vehicle service hours per week (2 pts.)
  - e. Average miles per month per vehicle (2 pts.)
  - f. Average monthly one-way passenger trips per month per vehicle (2 pts.)
  - g. Identification of types of local activities and employment centers served (trip generators) (2 pts.)
2. Trip purpose and passenger type statistics (are transportation services being delivered to the appropriate needs). (2 pts.)
3. Availability to the general public (2 pts.)
4. Cost indicators (estimates for new starts, expansions, and actual for replacement vehicles and retention of current level of operating funds). (5 pts.)
  - a. Cost per mile
  - b. Cost per one-way passenger trip
  - c. Annual monthly fare revenues
    1. set fares
    2. donations
  - d. Other sources of revenue (contributions, mill levy, advertising, or other grants) (3 pts.)

- E. Coordination of Efforts 5 Points**
1. Level of coordination with other transportation providers within the proposed service area. Doing regional service? (3 pts.)
  2. Level of coordination with local government agencies in determining transportation needs and whether those needs are being met. (1 pt.)
  3. Level of coordination with human services and other social service agencies within the proposed service area that have client transportation needs. (1 pt.)
- G. Accessibility, Safety & Training 20 Points**
1. Accessibility of project vehicles and compliance with ADA criteria. This would include Coordination Agreements with other providers to enable equal access to wheelchair accessible vehicles. (7 pts.)
  2. Provisions for training of drivers as per the KDOT/RTAP training requirement. (13 pts.)
- H. Financial Management/Grant Capability 15 Points**
1. Qualifications and experience in managing grants and/or other governmental programs. (5 pts.)
  2. Amount of local revenues obtained and support from local government revenue sources. (3 pts.)
  3. Letter verifying local match share. (2 pts.)
  4. Budget sheet (Non-KDOT) attached. (5 pts.)
- I. KDOT Contract Activities 5 Points**
1. CTD member in good standing. (1 pt.)
  2. CTD meeting attendance and level of participation. (2 pts.)
  3. Copy of contracting activities attached (Example: taxi voucher programs, NEMT contracts, etc.) (2 pts.)

**J. Local Commitment to Transit**

**5 Points**

1. Letters of support from local units of government (cities and counties) in proposed service area.

**K. Public Notice & DBE Advertising Attached**

**5 Points**