

PROGRAM MANAGEMENT PLAN

SECTION 5310 PROGRAM



October 2021

The Ohio-Kentucky-Indiana Regional Council of Governments (OKI) Program Management Plan (PMP) describes the policies and procedures for administering the Section 5310 federal program in the Cincinnati urbanized area (UZA). OKI, as the designated recipient, maintains this PMP to facilitate both recipient management and FTA oversight as required by FTA Circular 9070.1G Chapter VII. This PMP for the OKI Section 5310 Program includes program objectives, policies, procedures, and administrative requirements in a form accessible to potential subrecipients, recipient staff, FTA, and the public.

A. Program Goals and Objectives

The goal of the Section 5310 program is to improve mobility for seniors and persons with disabilities. The program requires coordination of federally assisted programs and services for the most efficient use of federal funds. To be eligible to receive funds through the program, projects or activities must be included in the OKI Coordinated Public Transit - Human Services Transportation Plan. This plan is updated at least once every 4 years and can be found at <https://www.oki.org/studies-plans/oki-coordinated-plan-2020-update/>. The Coordinated Plan was approved on August 9, 2007 and most recently updated on September 10, 2020. This Coordinated Plan establishes long-term goals for providing transportation services to seniors and persons with disabilities and identifies where gaps in transportation services exist in the OKI region. It also prioritizes which gaps are more important to residents in the region based upon extensive public input and stakeholder engagement. The list of prioritized gaps in transportation services was developed through surveys, meetings and other outreach methods used to gather public input into the development of the Coordinated Plan. The Coordinated Plan places higher emphasis on projects that address these gaps and the prioritization process rewards higher points to applications that address the higher ranked gaps in transportation services. The goals of the Coordinated Plan are consistent with the OKI Metropolitan Transportation Plan (MTP), the long range plan for the OKI region, and are listed in the Overview section of the MTP, found at <https://2050.oki.org/>.

Under 49 U.S.C. Section 5310, the U.S. Department of Transportation Federal Transit Administration (FTA) is authorized to issue capital grants for the purpose of assisting organizations in providing transportation services to meet the special needs of elderly persons and persons with disabilities where existing transportation services are unavailable, insufficient or inappropriate. This includes riders who are either 60 years of age or older or who by reason of illness, injury, age, congenital malfunctions, or other permanent or temporary incapacity or disability, are unable without special facilities, special planning or design to use mass transportation facilities and services as effectively as persons who are not so affected.

Elected officials comprise a large percentage of the OKI Executive Committee and Board of Directors and members are kept apprised of any developments with the Section 5310 program in the Cincinnati urbanized area. This group will ultimately award funding, by resolution, to applications seeking Section 5310 federal funds.

B. Roles and Responsibilities

Title 49 U.S.C. 5310 authorizes the formula assistance program for the Enhanced Mobility of Senior and Individuals With Disabilities Program and provides funding to states and designated recipients to improve mobility for seniors and individuals with disabilities. Under FAST Act, the States are responsible for selecting a designated recipient(s) for the Section 5310 program in their UZA. OKI has been named the Designated Recipient for the Section 5310 federal program in the Cincinnati urbanized area by the Governors of Ohio, Kentucky and Indiana. As the Designated Recipient, OKI is responsible for:

- a. documenting procedures in a Program Management Plan;
- b. planning for future transportation needs and ensuring integration and coordination among diverse transportation modes and providers;
- c. developing project selection criteria consistent with the coordinated planning process;
- d. notifying eligible local entities of funding availability;
- e. soliciting applications from potential subrecipients;
- f. determining applicant and project eligibility. This includes verifying the potential subrecipient is not listed on the U.S. General Services Administration's (GSA) System for Award Management (SAM) as excluded or disqualified by federal government agencies from receiving federal financial assistance;
- g. certifying that allocations of funds to subrecipients are made on a fair and equitable basis;
- h. ensuring subrecipients have the financial management systems to carry out the 5310 program proposed and receive and disburse federal funds (as applicable);
- i. submitting an annual Program of Projects (POP) and grant applications/reports to FTA;
- j. ensuring subrecipients continue to comply with federal requirements for their project and through their project period. This includes restrictions on lobbying certification, Title VI adherence, ADA requirements, and maintaining vehicle state of good repair (as applicable);
- k. certifying that all projects are included in the OKI Coordinated Public Transit - Human Services Transportation Plan;
- l. certifying that to the maximum extent feasible, services funded under Section 5310 are coordinated with transportation services assisted by other Federal departments and agencies;
- m. ensuring that at least 55 percent of the apportionment is used for traditional Section 5310 projects carried out by eligible subrecipients; and
- n. managing all aspects of grant administration, distribution, and oversight for subrecipients.

C. Coordination

All projects included in the application for Section 5310 funds must be included in the OKI Coordinated Public Transit-Human Services Transportation Plan. Twenty-five of the one hundred-fifteen possible points in the Section 5310 application are associated with coordination. Applicants must include a list of all agencies they coordinate transportation services with and specifically identify how the coordination results in transportation efficiencies. Documentation from each agency listed, such as a signed letter or agreement, must be attached that confirms any current, ongoing, or proposed coordination efforts.

The OKI 5310 Oversight Team, defined and established by the Coordinated Plan, includes representatives from local transit and private non-profit social service agencies. The Oversight Team assists OKI in reviewing 5310 applications each cycle and provides recommendation for funding awards to the OKI Intermodal Coordinating Committee and the OKI Board/Executive Committee.

With support by the 5310 Oversight Team, OKI periodically convenes the Tristate Transportation Equitable Opportunity Team (TTEOT), a support group of professionals who represent a broad spectrum of transportation providers and planners working to address the transportation needs of the elderly and individuals with disabilities in the OKI tristate region. The TTEOT is open to anyone interested in joining and shares information regarding ongoing projects, including 5310 funded activities, which impact transportation services for seniors and people with disabilities. All OKI Section 5310 subrecipients are invited to participate, share best practices to encourage coordination, and discover potential opportunities for new partnerships with the TTEOT.

D. Eligible Subrecipients

Eligible Subrecipients for Traditional Section 5310 Projects

Private non-profit organizations, which have their Articles of Incorporation on file with the Secretary of State in Ohio, Kentucky or Indiana, are eligible to apply for funding.

A state or local governmental authority that; (1) is approved by a state to coordinate services for seniors and individuals with disabilities, or (2) certifies that there are no non-profit organizations readily available in the area to provide service are eligible to apply for funding.

Eligible Subrecipients for Other (non-traditional) Section 5310 Projects

Eligible subrecipients for other eligible Section 5310 activities include a state or local governmental authority, a private non-profit organization or an operator of public transportation that receives a Section 5310 grant indirectly through a recipient.

Private Taxi Operators as Subrecipients

Private operators of public transportation are eligible subrecipients. Private taxi companies that provide shared-ride taxi service to the public or to special categories of

users (such as seniors or individuals with disabilities) on a regular basis are operators of public transportation and are eligible subrecipients. However, taxi companies that provide only exclusive-ride service are not eligible subrecipients. Local (municipal/state) statutes or regulations, or company policy, will generally determine whether a taxi company provides shared-ride or exclusive-ride service. Exclusive-ride taxi companies may participate in the Section 5310 program as contractors and they may receive Section 5310 funds to purchase accessible taxis under contract with a state, designated recipient or eligible subrecipient such as a local government or non-profit agency.

Eligible Activities

Traditional

FTA requires at least 55 percent of a recipient's (OKI) Section 5310 funds are to be used for capital projects that are "traditional" Section 5310 projects. The 55 percent requirement is the minimum, however capital projects can utilize more of the apportionment if needed. Capital projects are public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable. Fundable capital expenses that are considered traditional projects include, but are not limited to: New or replacement buses and vans; vehicle rehabilitation (e.g. radios, wheelchair lifts, ramps); passenger facilities (benches, shelters, and amenities); Intelligent transportation systems (ITS); dispatch and fare collection systems; lease of equipment when it is more cost effective; transportation services under contract or lease; capital and operating expenses associated with contracted services; coordination programs among public transportation providers and other human services agencies. Mobility Management is an eligible capital cost.

Non-Traditional

The Section 5310 program has expanded the list of eligible activities to include "non-traditional" public transportation projects that:

- a. improve access to fixed-route service and decrease reliance by individuals with disabilities on complementary paratransit.
- b. exceed the requirement of the ADA.
- c. provide alternatives to public transportation that assist seniors and the disabled.

These non-traditional projects are not permitted to utilize more than 45 percent of the OKI apportionment. These projects must be targeted toward meeting the transportation needs of seniors and individuals with disabilities, although the services may also be used by the general public. It is not sufficient that seniors and individuals with disabilities are included (or assumed to be included) among the people who will benefit from the project. FTA encourages projects that are open to the public as a means of avoiding unnecessary segregation of services. The following activities are examples of eligible projects that go beyond the minimum requirements of ADA:

Expansion of service hours for ADA paratransit beyond hours of fixed-route services; incremental cost of providing same day service; incremental cost of making door-to-door service available to all ADA paratransit riders; enhancing service by providing escorts or assisting riders through the door of their destination; purchase of equipment designed for mobility aids that exceed the dimensions/weight ratings under the ADA and labor costs of aides to help drivers with over-sized wheelchairs and installation of additional securement locations in public buses beyond ADA requirement.

Public transportation alternative activities may include: purchasing vehicles to support new accessible taxis, ride sharing, and/or vanpooling programs; supporting the administration and expense related to new voucher programs for existing transportation services offered by human service providers (mileage reimbursement as part of a volunteer driver program, taxi trip, or trips provided by human service agency). Vouchers are an operational expense that requires a 50/50 match.

E. Local Share and Local Funding Requirements

With the exception of unobligated funds allocated as of December 2020 having the local match requirement waived under the Coronavirus Response and Relief Supplemental Appropriation Act (CRRSAA), the 5310 grant program requires a local match to ensure projects are 100% funded. The FTA's contribution varies according to project type (please see below). Non-DOT funds and local and private funds can be used as the local match. Matching share requirements are flexible to encourage coordination with other federal programs that may provide transportation, such as Health and Human Services or Medicaid. All sources of local match must be identified and described in the grant application. Applicants must provide local match amount and certify the funding source. Once awards are determined, OKI requires a budget form to be included in subrecipient agreements with all 5310 project awards.

Local Match requirements by project type:

- Capital Projects – 80% Fed/20% Local Match
- Operating – 50% Fed/ 50% Local Match
- ADA or CAA compliant vehicles – 85% Fed/15% Local Match
- ADA or CAA vehicle-related equipment (on and attached to the vehicle) – 90% Fed/ 10% Local Match

F. Project Selection Criteria and Method of Distributing Funds

OKI uses a competitive selection process to determine awards and funding distribution. All projects must be included in the OKI Coordinated Public Transit-Human Services Transportation Plan. This plan was approved on August 9, 2007 and last updated on September 10, 2020. Applications for eligible 5310 projects and activities are scored on the competitive selection criteria listed below. Applications are submitted to OKI via

email using a digital application form provided on the www.oki.org website. The content of this form is Appendix 1.

Applications are scored with a total of 105 points distributed among six criteria and a bonus criteria, as follows:

Criteria	Points
Filling Gaps in service to target populations	0-15
Undertaking Coordinated Plan strategies	0-15
How well your project serves the target populations	0-15
Coordinated efforts to eliminate/reduce duplication in services	0-25
Project sustainability and steps taken to ensure	0-15
Quantification of anticipated benefits	0-15
Bonus: Use of technology to improve service and/or efficiency	0-5

OKI assures equity of distribution of 5310 funding benefits, as required by Title VI of the Civil Rights Act of 1964, in multiple ways. Public participation is the single most important element of the transportation planning process. OKI's Unified Planning Work Program (UPWP) includes a discreet work element directing the development and maintenance of the Public Participation Plan. The Plan describes processes in place to successfully engage the citizens, communities and business interests of OKI's eight county region. This Plan was followed when the current Coordinated Plan was prepared and each time it has been updated. Additionally, OKI prepared and included data depicting our identified Environmental Justice communities to inform the Coordinated Plan strategies and service gaps.

OKI ensures inclusion in development of the Coordinated Plan by following the aforementioned Public Participation Plan. The Coordinated Plan was developed and approved in cooperation with multiple stakeholders and establishes long-term goals for providing transportation services to seniors and persons with disabilities and identifies where gaps in transportation services exist in the OKI region. It also prioritizes which gaps are more important to residents in the region based upon extensive public input and stakeholder engagement. The list of prioritized gaps in transportation services was developed through surveys targeted to seniors and people with disabilities by distributing them through agencies serving these populations; meetings with specialized transportation agency representative and their clients; and, along with other outreach methods used to gather public input including social media posts.

G. Annual Program of Projects Development and Approval Process

The OKI competitive selection process begins with an applicant workshop facilitated by OKI staff. The workshop is open to any agency interested in submitting an application to attend to learn about the application process, eligible activities and eligibility requirements. OKI sends workshop invitations by email to all agencies currently included within the Coordinated Plan and agencies included in the OKI Tier II Group Transit Asset Management Plan. OKI also distributes program announcements to all currently active Section 5310 agencies in the OKI region, agencies that have previously applied for Section 5310 funding and were denied in the previous year's program and agencies that have requested information throughout the year. In addition, OKI posts announcement of the workshop on the OKI website www.oki.org and typically announces the date and time at preceding OKI events including the OKI Board/Executive Committee and Intermodal Coordinating Committee meetings.

An application deadline is announced prior to and during the applicant workshop. Agencies that are interested in applying for Section 5310 funds must complete an online OKI application. The online application is posted on the OKI website. Hard copies of the application may also be requested from OKI staff.

Following the application submittal deadline, OKI staff reviews and scores each application to ensure eligibility of applicant as well as proposed activity. The OKI 5310 Oversight Team assists OKI staff in reviewing applications, determining scores based upon the established criteria, and ensuring the appropriate level of traditional projects are included in a final award recommendation. The recommended awards are then forwarded to the OKI Intermodal Coordinating Committee (ICC), which acts as the technical advisory committee to the OKI Executive Committee/Board of Directors. The recommendations of the ICC are presented to the OKI Executive Committee/Board of Directors, which has the final determination of which projects to fund and approves the awards by resolution. OKI staff notifies all applicants whether their application was awarded or not awarded.

H. State Administration, Planning and Technical Assistance

OKI uses 10 percent of the annual Section 5310 allocation for administration, planning and technical assistance of the program.

These funds are used by OKI for various purposes including: 1) notifying the public of the solicitation period for the Section 5310 program, 2) holding a public workshop with instructions on how to fill out the Section 5310 application including review of the timeline and deadline for submitting completed applications, 3) providing technical assistance to any applicant or potential applicant as they consider or prepare a proposal, 4) reviewing the completed applications by OKI Staff and the Oversight Team and presenting the recommended projects to the Intermodal Coordinating Committee (ICC), the technical advisory committee, and to the OKI Board of Directors/Executive Committee for approval, 5) preparing the annual Program of Projects (POP) and other

documentation necessary to submit each grant and project in the FTA TrAMS system and update annual progress on milestones, and 6) ongoing oversight of subrecipients during awarded project activities to track progress of project delivery and monitor subrecipient agencies compliance with federal requirements.

Funds are used to cover OKI staff time, legal counsel services, and contracted consultant time, as needed, to perform the program administration activities.

I. Transfer of Fund

This PMP section does not apply to OKI. OKI is a Designated Recipient, not a state. The OKI 5310 program is not a statewide program. OKI, as a Designated Recipient for the Cincinnati Urbanized Area has no intention of transferring funds to another part of the state.

J. Private Sector Participation

OKI encourages private sector public transportation provider participation by collecting and maintaining contact information and communicating with providers on an ongoing basis.

With support by the 5310 Oversight Team, OKI periodically convenes the Tristate Transportation Equitable Opportunity Team (TTEOT), a group of professionals who represent a broad spectrum of transportation providers, including private providers. Meeting agendas focus on best practices to address the transportation needs of the elderly and individuals with disabilities in the OKI tristate region and encourages discussion of barriers that prevent transportation access. The TTEOT is open to anyone interested in joining and shares information regarding ongoing projects, including 5310 funded activities, which impact transportation services for seniors and people with disabilities. All OKI Section 5310 subrecipients are invited to participate, share best practices to encourage coordination, and discover potential opportunities for new partnerships with the TTEOT.

Each annual funding award cycle, OKI sends announcements and notices of 5310 funding awards to the current contact list to ensure the maximum participation by private providers of public transportation. Staff maintains an e-mail list of agency addresses in the region and notifies them when the application process begins. This list includes agencies within the Coordinated Plan, the OKI TAM Plan, and anyone expressing interest in the 5310 program over the year.

K. Civil Rights

Title VI

As part of the Section 5310 application, each applicant is required to provide information relating to the clientele to be served by the project, including the number of minority individuals broken down by American Indian and Alaska Native, Asian, Black or

African American, Hispanic or Latino, and Native Hawaiian and other Pacific Islander population groups.

Additionally, once awarded, each subrecipient of 5310 funding is required to certify compliance with a number of assurances including:

- Nondiscrimination in Federal Transit Programs
- Nondiscrimination on the Basis of Disability
- Nondiscrimination – Title VI;
- Equal Employment Opportunity;
- Nondiscrimination on the Basis of Sex
- Nondiscrimination on the Basis of Age
- Disadvantaged Business Enterprise (DBE);
- Compliance with Title VI of the Civil Rights Act of 1964, as amended; and
- Limited English Proficiency Requirement.

OKI's Title VI Program is included in the agency's annual Unified Planning Work Program (UPWP) and was reviewed by the Ohio Department of Transportation. ODOT is the agency cognizant for overseeing OKI for the states of Ohio, Kentucky and Indiana. The report indicates how ODOT has reviewed OKI's Title VI program in regards to MPO handling agency compliance; consultant contracts; and, the urban transportation planning process. OKI is not required to file an Equal Employment Opportunity (EEO) report since the agency has less than 50 transit related employees (either directly or through contractors).

OKI monitors subrecipient agencies on an annual basis to ensure Title VI requirements continue to be met by each subrecipient agency. Subrecipient agency Title VI plans are required to be submitted to OKI during the application process. OKI requires subrecipients respond to a monitoring questionnaire distributed to all active subrecipients annually through the duration of a 5310 project or program's activity or useful life benefit in the case of vehicles.

OKI has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. OKI has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, OKI has signed an assurance that it will comply with 49 CFR Part 26. It is the policy of OKI to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. This Program is available for download and review at www.oki.org

L. Section 504 and ADA Reporting

All Section 5310 subrecipients are required to comply with CFR Parts 27, 37 and 38, which implements the Americans with Disabilities Act and amends the 504 rule, as it applies to the provision and scheduling of service.

Since most Section 5310 subrecipients provide demand responsive transportation service, they must comply with the seven eligibility criteria set forth in the ADA and must have achieved system accessibility for ADA eligible clients or will have achieved accessibility with their proposed project. In addition, subrecipients are required to execute the FTA “Assurance of Nondiscrimination on the Basis of Disability”.

Section 5310 subrecipients approved for vehicle funding are required to report their ridership data for the vehicles that are awarded until the vehicles are approved for disposition. Data collected includes the number and types of passengers served, i.e. elderly, disabled, ambulatory, etc. This information is shown in PMP Section M, Program Measures below.

Section 5310 subrecipients are also required to report the gaps in service that have been filled through the program. This information will be provided in reports submitted to OKI annually and is shown in PMP Section M, Program Measures below.

OKI monitors subrecipient agencies on an annual basis to ensure ADA requirements continue to be met by each subrecipient agency. OKI requires responses to ADA questionnaire distributed to all active subrecipients annually (simultaneous with the aforementioned Title VI questionnaire).

M. Program Measures

Reports are required annually in the federal reporting system. Each grantee receiving vehicles is required to submit these reports to OKI. Annual reports are required until OKI grants disposition of the vehicle.

Reports are required for each vehicle awarded by OKI and include the following:

- Gaps in service filled: Total number of seniors and individuals with disabilities afforded mobility (total number of individuals served).
- Ridership: Actual or estimated number of rides (as measured by one-way trips) provided annually for seniors or individuals with disabilities.

The information in the database will be converted to annual figures and compared the actual figures to the estimates listed in the program applications. The comparison is performed to monitor and assess an agency’s compliance with reporting requirements and program goals and purpose. Maintenance information is tracked to ensure grantees are maintaining the vehicles as required and to provide additional documentation for repair disputes and warranty claims. Any repair disputes or warranty claims will be

handled directly between the subrecipient and the vehicle vendor. Information will be maintained for monitoring and for future application assessments.

Progress reports are required every 6 months of non-vehicle projects and programs. Subrecipients submit narrative to OKI describing their project/program progress. OKI monitors progress and includes narrative in annual FTA progress reports submitted in TrAMS for each activity.

N. Program Management

Subrecipient Agreement

OKI will develop and execute subrecipient agreements with all subrecipients awarded funding under the Section 5310 Program with the exception of public transit authority designated recipients of 5310 funding. The subrecipient agreements for capital projects will detail the scope of work of the project. Agreements for operating assistance will outline the type of service provided by the subrecipient, the time period covered by the agreement and the service area. All subrecipient agreements will include the funding amounts awarded. Any expenses incurred in excess of the budgeted amounts are the sole responsibility of the subrecipient. Refer to OKI Subrecipient Agreement template Appendix 2.

Procurement

OKI will procure vehicles awarded through the Section 5310 program by the OKI Board of Directors/Executive Committee. OKI will procure the vehicles off the Ohio State Term Contract, which meets all FTA requirements.

ODOT's Office of Equipment Management (OEM), in cooperation with the Office of Transit, prepares the vehicle and equipment specifications and the bid packages, and reviews all bids received to ensure the specifications have been met. The Office of Transit conducts the pre-award reviews in accordance with the Buy America regulations. ODOT's Purchasing Services Section within the Office of Contracts advertises and distributes the bid packages, conducts the bid opening and award to the vendor. The Office of Transit handles all purchase orders and vendor payments. Vendors are responsible for having title work prepared.

When necessary, in-plant inspections during the manufacturing process are conducted by OEM and the Office of Transit to ensure compliance with the specifications and FTA requirements. In addition, a pre-delivery inspection is performed by ODOT prior to the vehicles being delivered to the final agency. The post-delivery certifications are completed after the dealership inspections. OKI will keep copies of all necessary ODOT procurement documents.

The vehicles and equipment are delivered directly to the Section 5310 subrecipient agency, which is responsible for road testing and providing OKI with a signed delivery

receipt. Payment for the equipment will be initiated by OKI after receiving the signed delivery receipt, the original title with an OKI lien posted and an invoice from the vendor.

Financial Management and Accounting Systems

All 5310 applicants are required to submit a description of their agency including their governing structure and organizational structure along with an organizational chart if available. Additionally, applicants must include the most recent full agency audit with their application. For applicants and subrecipient agencies receiving less than \$750,000 and not required to conduct full audits, OKI accepts annual financial statements prepared by a professional accountant or tax preparer in lieu of a single full audit. OKI reviews this information to determine an assessment of financial risk and may recommend denial of 5310 funding if an applicant's funding request represents amounts proportionately higher than the agency's overall financial state; an agency has no record of stable financial controls; or have significant findings reported by an audit. OKI will continue to monitor subrecipient agencies by requiring copies of annual audits or financial records be provided through the duration of a project or through the useful life benefit of vehicles acquired.

As described in PMP Section E, each applicant is responsible for a minimum local share payment of twenty percent. The local share must be from a non U.S. Department of Transportation source. Subrecipients are required to certify in the application that the local matching funds are available from a non U.S. Department of Transportation source. Once awards are determined, OKI requires a budget form to be included in subrecipient agreements with all non-vehicle 5310 project awards. This budget will need to include the match amount and source.

OKI will invoice the agency that was awarded a vehicle(s) and the local share must be paid to OKI prior to the ordering of the vehicle(s).

Annual Subrecipient Monitoring

OKI monitors subrecipient agencies on an annual basis to ensure no significant changes occur to impact financial risk of each subrecipient agency. OKI requires responses to financial risk questionnaire distributed to all active subrecipients annually (simultaneous with ADA and Title VI questionnaire). OKI evaluates questionnaire responses and contacts any agency reporting concerns or changes in agency information. This information will be used to determine the breadth and depth of any corrective action that may be needed. The Annual Monitoring Questionnaire is Appendix 3.

Vehicle Inspection, Maintenance, and Use

Inspections of all vehicles awarded by the OKI Board of Directors/Executive Committee shall be conducted onsite by OKI at a minimum of every three years. OKI maintains an inventory of all vehicles.

Along with the onsite vehicle inspection, each agency's maintenance procedures and practices are reviewed. Recommendations are made as needed and a follow up visit is scheduled if conditions warrant. OKI is committed to a policy of encouraging good preventive maintenance practices. A copy of ODOT's "A Guide to Preventive Maintenance" is available to each Section 5310 subrecipient from ODOT's website or by contacting the ODOT Office of Transit at 614-466-8955

All Section 5310 subrecipients must submit an annual monitoring report (Appendix 4) to OKI documenting vehicle use. This report is required until OKI approves vehicle disposition. Report information is compiled and reviewed periodically to determine if vehicles are being fully utilized. Underutilized vehicles are noted and agencies are contacted. Site visits are scheduled as needed. OKI, using ODOT guidelines, suggests a minimum mileage requirement of 10,000 miles per year and expects vehicles to be in active service at least 5 hours per day, 5 days per week.

Agencies with vehicles that do not meet the minimum utilization requirements are advised and assistance is provided for better vehicle utilization. Coordination is stressed. Should an agency be unable or unwilling to improve the usage of a program vehicle, OKI will transfer the vehicle to another agency in the Cincinnati UZA with unmet transportation needs. Once it is determined the vehicle will be transferred, OKI locates an agency in need of an additional vehicle. The agency receiving the transferred vehicle must pay the original agency 20% of the vehicle's current value and place the vehicle in service until disposition is granted by OKI.

OKI will provide disposition for a vehicle once it reaches mileage and/or age as detailed in the current FTA Circular 5010.1, Grant Management Requirements per FTA Circular 9070.1G Chapter VI, 4.c. FTA Circular 5010.1, 3.f(2)(b) Light Duty Vehicles useful life is defined as at least 4 years or an accumulation of at least 100,000 miles. All vehicles provided through Section 5310 funding are within the Light Duty Vehicle definition which includes, light duty buses and vans.

O. Other Provisions

Environmental Protection and Clean Air

FTA has determined that vehicles routinely purchased under the Section 5310 program are categorical exclusions. FTA will be consulted regarding environmental requirements should any unusual projects be proposed.

Buy America

OKI will purchase vehicles awarded through the Section 5310 program through the ODOT state contract. Since ODOT conducts the procurement process on behalf of rural Section 5310 subrecipients for the same vehicle types, Buy American provisions are

incorporated into all ODOT procurement documents. OKI will keep copies of ODOT's Buy America provisions on file as documentation.

Pre-Award and Post Delivery Audits

OKI will procure vehicles on behalf of the Section 5310 subrecipients in the Cincinnati UZA in accordance with the FTA regulation "Pre-Award and Post Delivery Audits of Rolling Stock Purchases". OKI will use the most recent guidance provided by FTA. OKI will keep copies of ODOT's pre and post awards in the procurement files as documentation.

Restrictions on Lobbying

All subrecipients are required to execute the certification for Restrictions on Lobbying as part of their application. Subrecipients are also required to have their attorney affirm Lobbying restrictions when executing the Subrecipient Agreement (See Appendix 2).

Exclusive School Transportation

Subrecipients are required to certify in their application their understanding that FTA funded equipment is prohibited for use in exclusive school transportation service. In addition, OKI will carefully review each application to ensure that no exclusive school transportation is included in the sub-recipient's proposed application.

Drug and Alcohol Testing Requirements

Section 5310 subrecipients are excluded from FTA's Drug and Alcohol Testing Requirements. However, all holders of a Commercial Driver's License are subject to the Federal Highway Administration's (FHWA) drug and alcohol testing requirements. ODOT conducts training and awareness sessions which are open to all Section 5310 subrecipients to make them aware of the FHWA requirements.

OKI SECTION 5310 PROGRAM APPLICATION AND INSTRUCTIONS

FY 2022



The Section 5310 Transportation Program is authorized by the
Federal Transit Administration
49 USC Section 5310
CFDA 20.513

Table of Contents

Application Instructions	2
5310 Application Form.....	3
Project Information	4
Application Certification	10
Attachment A – Verification of Unavailable, Insufficient or Inappropriate Transit	11
Attachment B - Organizational Chart.....	11
Attachment C – Single Full Audit or Annual Financial Statement	11
Attachment D - Certification of Project Derived from a Locally Developed, Coordinated Public Transit-Human Services Transportation Plan	12
Attachment E – Certification of Local Match.....	13
Attachment F – Coordinating Agencies	14
Attachment G – Letters from Coordinating Agencies.....	15
Attachment H – Current Vehicle Inventory	16
Attachment I – Vehicle Request Form	17
Attachment J – Preventative Maintenance Request	19
Attachment K – Title VI Data Collection Form	20
Attachment L – Title VI Plan.....	21

Application Instructions

The entire application must be completed to be considered for an award, with each attachment clearly labeled

Applications must be submitted to OKI by Noon - 12:00PM EST 02/04/22.

The Application Certificate page **must** be signed in order for an application to be considered.

Any questions regarding this application may be directed to Summer Jones at sjones@oki.org or 513-619-7674.

Application Submission

Applications should be submitted electronically to Summer Jones at sjones@oki.org

5310 Application Form

Applicant Information

Project Name:

Legal Name of Agency:

Doing Business As (if applicable):

Type of Organization (select one):

- ☐ Private non-profit agency
- ☐ State or local government authority
- ☐ Operator of public transportation services (including private operators or public transit services)

Full Address:

Phone:

Agency Email:

Contact Email:

Federal Tax ID:

DUNS:

OH Charter #:

Is there a public transit system(s) serving the project area? Y N
(See/Provide Attachment A to supplement/support this response)


Project Information

Type of Project Requested

Vehicles Request?	If yes, quantity?
Preventative Maintenance?	
Equipment?	If yes, what kind?
Mobility Management Program?	

Project Description Narrative (+/- 500 words):

Provide a brief description of your project. Explain what you are requesting funding to provide; why the project is needed; and what population type this project will serve. Please be concise, we are only looking for a short summary.



Project Goals Narrative (+/- 300 words):

Goals should be SMART. Specific, Measurable, Attainable, Relevant, and Time-Bound.

Project Management Narrative (+/- 300 words):

Provide a brief description of your organizational and governing structure of your agency including an explanation of how this project will be managed.

(See/Provide Attachment B to accompany description)

Agency history with 5310 funding

Please describe the status of any 5310 funding you have received in the past.

- Number of grants received _____
- Amounts of grant(s) received _____

Drawdown history:

- Provide amount of any remaining balances: _____
- Did your project remain on budget? Please explain:

Consistency with Coordinated Public Transit-Human Services Transportation Plan

(See/Provide Attachment D to accompany responses)

Is your agency identified in the Coordinated Public Transit-Human Services
Transportation Plan for the OKI region (Coordinated Plan)? Yes or No

Does this project address one or more of the Coordinated Plan's identified gaps
between current services and needs described in Chapter 3? Yes or No

Does this project fulfill one or more of the Coordinated Plan's Strategies to Improve
Transportation identified in Chapter 4? Yes or No

The following responses will be scored to determine regional prioritization.

1. What gaps in service will this project help to fill? The gaps below are identified in the current Coordinated Plan. Check all that apply

- ☐ Inadequate transportation options during evenings, late nights, and weekends for elderly, disabled and low-income populations.
- ☐ Inadequate transportation options for low-income specialized transportation users, particularly for trips to work and job training opportunities.
- ☐ Very limited collaboration of services providers, particularly across county or state boundaries.
- ☐ Unaffordable fares, particularly for suburban and rural areas of the region.
- ☐ Inadequate number and variety of destination types available to users.
- ☐ No single point of information for users on current transportation options available.

Describe how your project will fill gaps checked above (0-15 points)

- 2. What strategies from the Coordinated Plan Chapter 4 does this project undertake to address the identified gaps in service? Include the Identified Need number from the Plan and the Strategy addressed. (0-15 points)**

- 3. How does this project provide service to the targeted populations (seniors and/or individuals with disabilities)? (0-15 points)**

4. What coordination efforts has the applicant undertaken to help eliminate or reduce duplication in services? (0-25 points)

5. How will this project be sustained beyond the use of funding awarded? (0-15 points)

- 6. Quantify the project's anticipated benefits (i.e. number of people to be served, number of trips to be provided or enhanced). (0-15 points)**

- 7. Does this project include technologies that improve mobility service accessibility and efficiency and/or reduce operating costs? (Bonus 5 points)**

Application Certification

This certification must be filled out and signed by the president or director of the agency requesting funds to be considered for funding.

For each attachment/table, check one box indicating that the information is completed and/or attached or the information is not provided/not applicable to this application.

Completed and/or Attached	No/Not Applicable to Application	Attachment/Table Name
Section 1: Applicant Information		
		Attachment A: Verification of Unavailable, Insufficient or Inappropriate Transit
		Attachment B: Organizational Chart
		Attachment C: Full Agency Audit
		Attachment D: Certification of Project Derived from a Locally Developed, Coordinated Public Transit – Human Service Transportation Plan
		Attachment E: Certification of Local Match
Section 2: Coordination Efforts		
		Attachment F: List of Coordinating Agencies
		Attachment G: Letters from Coordinating Agencies
Section 3: Vehicle and Preventive Maintenance Requests		
		Attachment H: Current Vehicle Inventory
		Attachment I: Vehicle Request Form
		Attachment J: Preventive Maintenance Request
Section 4: Public Demographics/Civil Rights		
		Attachment K: Title VI Data Collection Form
		Attachment L: Title VI Plan

* Signing below indicates that the applicant has reviewed the Program Management Plan (see below) and is certifying that their agency understands and will agree to all of the terms required of a “subrecipient” agency to meet Federal law.

[OKI 5310 Program Management Plan](#)

Authorizing Signature: _____

Printed Name: _____

Title: _____

Organization: _____

Date: _____

Attachment A

Verification of Unavailable, Insufficient or Inappropriate Transit

***You must include a letter** from the transit system serving your project service area either explaining how your two agencies will work together or verifying the transit system's inability to meet your clients' needs. Please label this letter "Attachment A".*

Attachment B

Organizational Chart

If your agency has a table of organization/organizational chart, please provide it, labeling it "Attachment B".

Attachment C

Single Full Audit or Annual Financial Statement

Provide a copy of your most recent full audit, labeling it "Attachment C". For applicants and subrecipient agencies receiving less than \$750,000 and not required to conduct full audits, OKI accepts annual financial statements prepared by a professional accountant or tax preparer in lieu of a single full audit. OKI reviews this information to determine an assessment of financial risk and may recommend denial of 5310 funding if an applicant's funding request represents amounts proportionately higher than the agency's overall financial state; an agency has no record of stable financial controls; or have significant findings reported by an audit. Note that OKI will continue to monitor subrecipient agencies by requiring copies of annual audits or financial records be provided through the duration of a project or through the useful life benefit of vehicles acquired.

Attachment D

**Certification of Project Derived from a Locally Developed, Coordinated Public Transit-Human
Services Transportation Plan**

(print, complete, and scan this page for submittal)

I, (name of authorized authority) _____, do hereby certify that the project named (project name) _____ is derived from the Locally Developed, Coordinated Public Transit-Human Services Transportation Plan for the OKI Region, prepared and lead by the Ohio-Kentucky-Indiana Regional Council of Governments and adopted on September 10, 2020 by the OKI Executive Committee. The plan was developed through a process that included representatives of public, private, and non-profit transportation and human services providers and participation by members of the public. This project, derived from Transportation Gaps and Needs identified in Chapter 3 of the plan ☐ does ☐ does not address one or more of the identified gaps between current services and needs. This project ☐ does ☐ does not fulfill one or more of the plan's Strategies to Improve Transportation identified in Chapter 4 of the plan.

Authorizing Signature: _____

Printed Name: _____

Title: _____

Organization: _____

Date: _____

Attachment E
Certification of Local Match
(print, complete, and scan this page for submittal)

I, the undersigned, representing _____ (Legal Name of Agency), do hereby certify to the Ohio-Kentucky-Indiana Regional Council of Governments that the required local match for the proposed project will be available in the following amount(s), from the following source(s) by the start date of the proposed project.

Requested Item		Qty	Total Cost (estimation)	Federal Share	Local Share	Local Funding Source(s) (be specific)

Applicant to add rows as necessary

All vehicle requests must fill out a vehicle pricing spreadsheet from the Ohio Department of Transportation Vehicle Terms Contract website (link below) See Attachment I. One spreadsheet per vehicle requested. Cost estimate should include vehicle base price plus all optional equipment requested. Pricing estimate should match figures shown above.

[Modified Minivan](#)

[Accessible Van](#)

[Light Transit Low](#)

[Light Transit Vehicle-Narrow Body](#)

[Light Transit Vehicle – Fiberglass over Steel](#)

[Light Transit Vehicle – Honeycomb](#)

Authorizing Signature: _____

Printed Name: _____

Title: _____

Organization: _____

Date: _____

Attachment F
Coordinating Agencies

Provide a list of all agencies you currently coordinate with. For each agency, please tell us how you coordinate with them, specifically noting how this coordination results in transportation efficiencies. Please limit this information to the space provided below.

Attachment G
Letters from Coordinating Agencies

A letter must be provided from each agency listed confirming any current and ongoing coordination efforts. Letters must be submitted together, as one attachment, labeled "Attachment G".

Attachment H

Current Vehicle Inventory (only for applications requesting vehicles and/or preventative maintenance)

Download the current OKI Group Transit Asset Management Plan Inventory and confirm your agencies inventory.

[OKI Group Transit Asset Management Plan Inventory Spreadsheet](#)

Use the inventory table to prepare your agency's Current Vehicle Inventory. Update any of the information on the table as necessary to accurately describe your current inventory. See example table below.

Asset Class	Year	Make	Model	VIN	Vehicle Mileage	Replacement Cost/Value	Replacing
Cutaway Bus	2018	Ford	E350	1FDEE3FS5KDC00001	32,512	\$51,659.00	No

Attachment I
Vehicle Request Form—if applying for vehicle(s)

Please find currently available vehicles at the links below.

Vehicle Selection Guide (under Award Tab on ODOT page):

Available Vehicle Types			
MMV	Modified Minivan	LTV HC	Light Transit Wide Body Honeycomb
LTN	Light Transit Narrow Body	LTL F/S	Light Transit Low Floor Fiberglass over Steel
LTV F/S	Light Transit Wide Body Fiberglass over Steel	AV	Accessible Vans

Fill out the table below. You may only apply for up to five vehicles. Please see **Appendix 1** for further information on calculating this information.

Complete one column for each requested vehicle	VEH 1	VEH 2	VEH 3	VEH 4	VEH 5
Type of vehicle requested					
Number of days per week vehicle will be operated					
Estimated passenger trips to be provided per year*					
Estimated mileage per year					
Estimated hours per year					
Replacement or new?					

Applicant to add more columns as necessary

*Passenger trips: A trip is counted every time a passenger boards a vehicle. For example, 10 people in one vehicle going to and from a location equals 20 passenger trips.

All vehicle requests must fill out a vehicle pricing spreadsheet from the Ohio Department of Transportation Vehicle Terms Contract website (link above) and label as Attachment I. One spreadsheet per vehicle requested. Cost estimate should include vehicle base price plus all optional equipment requested. Pricing estimate should match figures in Attachment E.

Attachment I Reference
Vehicle Usage Calculations—if applying for vehicle(s)

This reference is not meant to be completed or submitted to OKI; it is provided to assist with the preparation of the application.

Using an outline mapping program (Google, MapQuest, etc.), enter your agency's address or vehicle starting point. Using addresses of clients or expected clients, map out a proposed vehicle route. If there are several clients to be picked up, add the mileage from the vehicle starting point to the first client's address. Map the route from the first address to the second client's address and keep repeating until the vehicle reaches its final destination. See the table below for an example.

Adding the mileage and time between each stop will give an approximate estimate of the daily mileage and the time required to complete the trip. Calculate this information for each vehicle trip. Include at least five minutes for boarding ambulatory and 10 minutes for non-ambulatory passengers. If the vehicle will return using the same route but in reverse, double the time and mileage. If it will be using a different route, repeat the procedure above. Only include hours that your agency will be using the vehicle for this application.

Stops	Miles	Drive Time (min)	Boarding Time (min)	Total Time (min)	Clients picked up (LTV-16-2)
Agency to Stop 1	45	60		60	
Stop 1 to Stop 2	6	9	5	14	2
Stop 2 to Stop 3	5	8	5	13	1
Stop 3 to Stop 4	6	9	10	19	3
Stop 4 to Stop 5	10	11	10	21	2
Stop 5 to Stop 6	10	11	5	16	1
Stop 6 to Final Destination	9	13	5	19	7
Subtotal	85	121	40	153	16
Return trip (the same as above for this example)	85	121	40	153	16
Total Daily Usage	170 Miles	242 min/ 4 hours	80 min	306 min/ 5 hours	32 trips

In order to estimate trips for the year, you must first calculate the number of vehicle operating days:

For an agency that operates 5 days per week and picks up the same people each day:
(5 days x 52 weeks) – 6 holidays = 254 operating days

You can then calculate the following for each vehicle:

	Per Day	# of Days	Yearly Total
Trips	32	254	8,128
Miles	170	254	43,180
Hours	5	254	1,270

Attachment J

Preventive Maintenance Request—if applying

- 1) Download and complete the Preventative Maintenance Spreadsheet (multiple tabs)**

[Preventative Maintenance Budget Template](#)

Attachment K
Title VI Data Collection Form

Purpose: The FTA requires OKI and transit systems to provide certain types of demographic information in order to determine the number of minority persons served in its transit service area. OKI has determined it is necessary to collect this data in the form of transit clients served.

Please complete the form using the number of **transportation clients served**. An individual client may be reported as **both** a low-income and minority client. **Only report the transit system's clients served. DO NOT** report US Census percentages or passenger trips. **Use your client database** to determine the number of low income and/or minority clients. Use agency contract data if available. If you don't have that information, provide your best estimate and footnote how you arrived at that estimate at the bottom of the page. **Please use 2019 data.**

For more information concerning Title VI requirements go to Title VI Circular 4702.1B, "Title VI Requirements and Guidelines for FTA Recipients":

<http://www.fta.dot.gov/civilrights/12328.html>

Transportation Clients Served	Category
	<u>Low-Income</u> means a person whose median household income is at or below the Department of Health and Human Services' poverty guidelines.
	<u>Minority Persons</u> include the following:
	American Indian and Alaska Native, which refers to people having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment.
	Asian, which refers to people having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent.
	Black or African American Populations, which refers to people having origins in any of the Black racial groups of Africa.
	Hispanic or Latino Populations, which includes persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
	Native Hawaiian and Other Pacific Islander, which refers to people having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

Attachment L
Title VI Plan

Agencies receiving 5310 funding must have a Title VI Plan. Provide your Title VI Plan labeled "Attachment L".

Subaward Grant Agreement	
(1) Pass-Through Entity	(2) Subrecipient's Name
OKI Regional Council of Governments (OKI)	Enter name of Subrecipient
720 E. Pete Rose Way, Suite 420	
Cincinnati, OH 45202	
Contact: tmiller@oki.org	
(3) Federal Awarding Agency	(4) TRAMS Grant Number
Federal Transit Administration (FTA)	Enter Grant Number
U.S. Department of Transportation	
Contact: stewart.mckenzie@dot.gov	
(5) CFDA Program Number & Name	(6) Project Number
20513 Enhanced Mobility of Seniors and Individuals with Disabilities	Refer to Project Data Sheet
(7) FTA Budget Item	(8) FTA PO#
Refer to Project Data Sheet	Enter PO Number
(9) FTA's Authorization Date	(10) Subrecipient's DUNS Number or CAGE Code
Refer to Project Data Sheet	
(11) Research & Development Subaward	(12) Subrecipient's Indirect Cost Rate
Not R&D Subaward	n/a
(13) Subaward Period of Performance Start Date and End Date	
Refer to Project Data Sheet	
(14) Federal \$ Obligated by this Action by OKI to the Subrecipient	
Refer to Project Data Sheet	
(15) Total Federal \$ Obligated to the Subrecipient by OKI, Including Current Obligation	
Refer to Project Data Sheet	
(16) Total Federal Award \$ Committed to the Subrecipient by OKI	
Enter Amount	
(17) Federal Subaward Project Duration Description, as Required to be Responsive to FTA	
Refer to Contract for Services: Appendix A Scope of Work And Budget	

Project Data Sheet											
Subrecipient's Name:		Enter Subrecipient Name		Funding Source:		Enter Funding Source					
TRAMs Grant Number:		Enter Grant Number		Sec. of Statute:		5310-1C					
Data Sheet Version Date:		Enter Date		CFDA:		20513					
Data Sheet Version #:		1									
TRAMs Grant Number	Project Number	PO#	Budget Item	Federal Authorization Date	Period of Performance Start Date	Period of Performance End Date	FTA Amount	Non-FTA Amount	Total Eligible Amount	FTA Amendment Number	OKI Project Code
Enter Grant #	Enter Project #	Enter PO #	Enter Budget Item	Enter Date	Enter Date	Enter Date	Enter Amount	Enter Amount	Enter Amount	0	Enter OKI Proj Code
						Totals	\$0.00	\$0.00	\$0.00		
							%	%			

(Intentionally left blank)

CONTRACT FOR SERVICES

THIS CONTRACT is executed by and between the Ohio-Kentucky-Indiana Regional Council of Governments (hereinafter called the *Council*) and **Subrecipient Name**, (hereinafter called the *Sub-recipient*) shall be effective and binding upon the parties on the date the last required signature is affixed to this Contract.

RECITALS

The Council is funded by the United States Department of Transportation, Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Ohio Department of Transportation (ODOT), the Kentucky Transportation Cabinet (KYTC), and the Indiana Department of Transportation (INDOT) to act as the Metropolitan Planning Organization (MPO) and performs region-wide transportation planning services for the eight county Cincinnati Region. The Council desires to engage the Sub-recipient and the Sub-recipient desires to be engaged by the Council to provide access to transportation services, as identified in Appendix A – Scope of Work.

GENERAL AGREEMENT PROVISIONS

Item 1. **Services.** The Sub-recipient shall perform services as outlined in Appendix A - Scope of Work (hereinafter called "Program") attached to this Contract.

Item 2. **Term.** The services of the Sub-recipient shall commence as outlined in Appendix B – Payment, Time Schedule & Administrative Provisions and shall be undertaken and completed in such sequence as to assure their expeditious completion in the light of the purposes of this Agreement, but in any event all of the services hereunder shall be completed as defined in Appendix B - Payment, Time Schedule & Administrative Provisions.

Item 3. **Compensation.** The total amount of compensation to be paid by the Council to the Sub-recipient for the services outlined in Appendix A – Scope of Work shall be reimbursed in accordance with the terms and conditions set forth in Appendix B - Payment, Time Schedule & Administrative Provisions attached to this contract.

Item 4. **Other Terms and Conditions.** The terms and conditions set forth in Appendix C - Standard Terms and Condition and Appendix E - Federal Fiscal Year 2018 Certifications and Assurances for Federal Transit Administration Assistance Programs attached to this Contract are hereby made part of this Contract and have the full force and effect as if they were set forth herein.

Item 5. **Certification of Restrictions on Lobbying.** The Sub-recipient is required to sign the Certification of Restrictions on Lobbying and file with the Council, if necessary, a Standard Form- LLL. Such certification is found in Appendix D – Certification of Restrictions on Lobbying, which is hereby made part of this Contract.

Item 6. **Entire Contract.** This Contract, with its Appendices A, Scope of Work and Budget; Appendix B – Payment, Time Schedule & Administrative Provisions, which defines the compensation, timetable of work to be performed, contract budget, and administrative items pertaining to the contract; Appendix C - Standard Terms and Conditions of the contract; and Appendix D - Certification

of Restrictions on Lobbying, which is the Contractor certification of anti-lobbying activities, and Appendix E, FTA Fiscal Year 2021 Certifications and Assurances, contain all the terms agreed upon between the parties with respect to the subject matter hereof and supersedes all prior agreements, arrangements and understandings, either written or oral.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed by its duly authorized officers and shall be effective and binding upon the parties on the date the last required signature is affixed to this Contract.

**OHIO-KENTUCKY-INDIANA REGIONAL
COUNCIL OF GOVERNMENTS**

**MARK R. POLICINSKI
EXECUTIVE DIRECTOR**

SUBRECIPIENT NAME

NAME
TITLE

APPENDIX A SCOPE OF WORK AND BUDGET

Overview:

Enter narrative for project overview

Specific Deliverables:

Enter Deliverables

FY21 Grant Budget:

Enter Grant and Budget information

APPENDIX B

PAYMENT, TIME SCHEDULE & ADMINISTRATIVE PROVISIONS

Item 1. Time Schedule. The services of the Sub-recipient shall be effective **Enter Date**. The services of the Sub-recipient shall be completed on or before **Enter Date**.

Item 2. The Contract Sum. The Council shall compensate the Sub-recipient for Project Cost in performing the Contract in accordance with the Appendix A Work Program Budget and Basic Services, provided further; that the aggregate amount paid under this contract shall not exceed **Enter Amount**.

Item 3. Method of Payment. During the term of this Contract, the Sub-recipient shall submit periodic invoices which conform to the standards established by the Council, not more frequently than monthly, for incremental progress payments covering costs incurred in carrying out this Contract. Unless a smaller amount is requested and subject to the limits otherwise specified herein, the Council shall, subject to the provisions of this Contract, pay the Sub-recipient the total cost incurred by the Sub-recipient pursuant to this Contract as properly certified to the Council for which the Sub-recipient has not previously been reimbursed.

Item 4. Administrative Responsibilities of Council and Sub-recipient. At the conclusion of work, the Sub-recipient shall submit a final invoice for the total of the incurred costs as specified in this Contract less any amounts that have previously been submitted for incremental payment. The amount payable to the Sub-recipient based upon such invoice shall not exceed the amount set forth in Paragraph 2 above. The Council shall, within ninety (90) days of its receipt of the final invoice, notify the Sub-recipient of any deficiencies, or if the Sub-recipient corrects all deficiencies noted by the Council within a reasonable time, the Council shall, subject to the provisions of this Contract, pay such final invoice less the sum of amounts previously paid by the Council to the Sub-recipient.

All costs associated with this project (the "Program") must be reasonable, incurred pursuant to work performed on this Contract, and recorded in a manner consistent with the requirements of this Contract, 2CFR200 – Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, and with sound and generally accepted accounting principles (GAAP). Travel expenditures must be presented and invoiced in accordance with Federal Travel Regulations (FTR) promulgated by the U.S. General Services Administration (GSA). In the event that amounts paid as reimbursement for expenses are disallowed by the FHWA, FTA, ODOT, KYTC, INDOT or related agencies (herein referred to in the Appendices of this Contract as *DOT*), the Council shall have the right to deduct such disallowed amounts from future payments to the Sub-recipient, or in the event no such future payments are owed, the Sub-recipient shall promptly refund to the Council the amount of such disallowed expenses.

Incremental payment request changes other than those specified in this Contract may be requested in writing by the Sub-recipient from the Council Executive Director, who will approve or decline such requests in writing.

- (a) Invoice Processing. The Council shall process the Sub-recipient's invoices within thirty (30) days following receipt, and shall be obligated to pay to the Sub-recipient such amounts as may be approved by the Council and DOT. In the event that an invoice submitted by the

Sub-recipient is not acceptable, the Council shall promptly provide the Sub-recipient with a clear statement regarding its proposed ineligibility, or the deficiencies to be eliminated prior to acceptance and processing.

- b) Eligible Expenditures. No expenditures or charges shall be included in the cost of the Program and no part of the money paid to the Sub-recipient shall be used by the Sub-recipient for expenditures or charges that are (1) contrary to the provisions of the Contract; (2) not directly for the carrying out of the Program; (3) incurred without the consent of the Council after written notice of the suspension or termination of any or all of the Council's obligation under this Contract.
- c) Approved Budget. The Sub-recipient shall carry out the Program and shall incur obligations in connection with the Program only in conformity with the latest approved Budget as defined in Appendix A - Budget and the amount set forth in Item 2 of this Appendix B. The budget may be revised from time to time, but no budget or revision thereof shall be effective unless and until the Executive Director of the Council approves same in writing.

Item 5. Disadvantaged Business Participation. The Council encourages the use of Disadvantaged Business Enterprises, complying with CFR 49, Part 26. In the current year the Council's goal is 3.67%.

APPENDIX C

STANDARD TERMS AND CONDITIONS

Item 1. Definitions. For purposes of this Contract, the following terms shall be defined as set forth in this section:

- (a) "DOT" or "the Secretary" means the Comptroller General of the United States, the United States Department of Transportation or as the context may require, the Secretary of Transportation, or other persons duly authorized to perform the functions to be performed under this Contract including (where applicable) the Federal Transit Administration, the Federal Highway Administration (FHWA), the Ohio Department of Transportation (ODOT), and the Kentucky Transportation Cabinet (KYTC).
- (b) "Approved work program" or "work program" means the approved work program, or any revisions to the work program, approved by the Executive Director of the Council and any designated official of DOT.
- (c) "Approved activities" means those activities described in the approved work program.
- (d) "Program funds" consist of all amounts, including the value of services and contributions other than cash (if specifically stated in proposal and cost analysis), received by the Sub-recipient for the approved activities.
- (e) "Council" means the Ohio-Kentucky-Indiana Regional Council of Governments and its authorized representatives.
- (f) "Costs" include direct labor costs, salary related expenses, general and administrative overhead, other direct costs, Sub-recipient/subSub-recipient costs, and fixed fee or profit of the Sub-recipient.

Item 2. Use of Program Funds. Program funds shall be applied against only those expenditures incurred specifically for approved activities and in conformity with the terms and conditions of this Contract and with the budget approved by a duly authorized official of both the Council and DOT. The Sub-recipient shall comply with the cost allocability provisions contained in 48 C.F.R. Part 31.2.

Item 3. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the States of Ohio and Kentucky. In the event of any proceedings regarding this Contract, the Parties agree that the venue shall be the Ohio Court of Claims, Franklin County or state courts of Kentucky or the U.S. District Court for the Western District of Kentucky, Louisville Division. All parties expressly consent to personal jurisdiction and venue in such Court for the limited and sole purpose of proceedings relating to this Contract or any rights or obligations arising thereunder. Service of process may be accomplished by following the procedures prescribed by law.

Item 4. Ability to Meet Obligations. Sub-recipient affirmatively states that there are no actions, suits or proceedings of any kind pending against Sub-recipient or, to the knowledge of the Sub-recipient, threatened against Sub-recipient before or by any court, governmental body or agency or other tribunal or authority which would, if adversely determined, have a materially adverse effect on the authority or ability of Sub-recipient to perform its obligations under this Contract or which question the legality, validity or enforceability hereof or thereof.

Item 5. Data to be Furnished to Sub-recipient. If the services to be performed are dependent upon the Council's furnishing data and information to the Sub-recipient, all information, data, reports, records, and maps as are existing, available, and necessary for the carrying out of the work shall be furnished to the Sub-recipient without charge by the Council, and the Council shall cooperate with the Sub-recipient in every way possible in the carrying out of the planning work.

Item 6. Council's Obligation. Subject to the other conditions of this Contract, the Council will honor requisitions for costs incurred and budgeted (see Appendix A) in amounts deemed by it and by DOT to be proper to ensure the carrying out of the approved work program and payment of eligible costs. In addition to the Council's right to withhold payment of those items which it or DOT does not deem either proper or consistent with the conditions of this Contract, the Council may elect by notice in writing not to make a payment of grant funds for any of the reasons listed in Section 10 of this document relative to termination or suspension.

Item 7. Establishment and Maintenance of Accounts. The Sub-recipient shall establish for the approved activities, in conformity with such requirements as may be established by the Council or by DOT to facilitate project administration, separate accounts to be maintained within its existing accounting system or set up independently at the convenience of the Sub-recipient. Such accounts are referred to in these conditions collectively as the "program account". The Sub-recipient shall appropriately record in the program account all program funds as that term is defined in Section 1 of these cash conditions.

Item 8. Documentation of Activity Costs. All costs charged to the program account shall be supported by properly executed payrolls, time records, invoices, contracts, and vouchers evidencing in proper detail the nature and propriety of the charges. All accounting records shall readily provide a breakdown of activity costs in accordance with the line items shown on the latest approved budget. Such records, together with supporting documents, shall be kept separately from other documents and records and shall be maintained for a period of three years after receipt of the final reimbursement to the Council of Sub-recipients funds, by DOT.

Item 9. Audits and Inspections. The Sub-recipient will, as often as deemed necessary by DOT, the Comptroller General of the United States, the Council, or any of their duly authorized representatives, allow such entities to have full access to and the right to examine any directly pertinent books, documents, papers, and records of the Sub-recipient involving transactions related to this Contract for three years from the receipt of final payment under this Contract. The Sub-recipient shall include in all its subSub-recipient's contracts, a provision that DOT, the Comptroller General or the Council, or any of their duly authorized representatives, will have full access to and the right to examine any directly pertinent books, documents, papers, and records of any subSub-recipient involving transactions related to the Contract for three years from the final payment under this Contract. The term "Contract" as used in this clause excludes purchase orders not exceeding \$5,000 for materials or services directly utilized.

Item 10. Personnel.

- (a) The Sub-recipient represents that it has, or will secure at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the Council.
- (b) All of the services required hereunder will be performed by the Sub-recipient or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized under State and local law to perform such services.
- (c) None of the work or services covered by this Contract shall be subcontracted to any other Sub-recipients without the prior written approval of the Council.

Item 11. Reports and Information. The Sub-recipient shall, at such times and in such manner as the Council may require, furnish the Council with periodic reports and statements pertaining to the approved activities and work program and other related matters covered hereunder.(a)

Modification. In the event that subsequent to the execution of this Contract, the Council determines that services in addition to those set forth in Appendix A are necessary, the Council may, at its discretion, request those services from the Sub-recipient. Any such request shall be made by the Executive Director of the Council in writing. The Sub-recipient may then, if it chooses, offer in writing to perform the requested services. The Sub-recipient's written offer shall clearly state the additional cost(s) of providing the additional services. If the Council decides to accept the Sub-recipient's written offer, it shall so notify the Sub-recipient by its written acceptance and the terms of this Contract shall thereby be modified. Any payments made by the Council as the result of a modification to this Contract in the manner set forth in this paragraph shall not be included in arriving at the aggregate amount to be paid under this Contract as set forth in paragraph 2 of Appendix B. In addition, any and all such payments shall be subject to the terms and conditions of Appendix B.

Item 12. Termination or Suspension.

- (a) The Council may by written notice mailed not less than five days prior to the effective date thereof, terminate or suspend this Contract in whole or in part, or, without such notice, withhold payment, in the event that it finds that the Sub-recipient has (i) failed to comply in a timely and proper manner with applicable State and Federal law or with any of the provisions of this Contract; (ii) failed to carry out the approved work program; (iii) made unauthorized or improper use of contract funds; (iv) submitted any application, report, or other document which contains a misrepresentation of a material nature or is incorrect or incomplete in any material respect; (v) violated any of the covenants, agreements, or stipulations of this Contract; (vi) if for any reason continuation of the approved work program is rendered improbable, unfeasible, impossible, or illegal; (vii) filing of a bankruptcy petition by or against the Sub-recipient; or (viii) actions that endanger the health, safety or welfare of the Council or citizens of the region. The Sub-recipient shall take such action relative to termination or suspension as may be required by the Council in the notice of termination or suspension or later communication. In such case, termination or suspension shall not affect any otherwise valid and allowable obligations made in good faith prior to receipt of notice of termination or suspension.

In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports or other material prepared by the Sub-recipient under this Contract, shall at the option of the Council, become its property, and the Sub-recipient shall be entitled to receive just and equitable

compensation for any satisfactory work completed on such documents and other materials. The Council shall promptly compensate the Sub-recipient for any satisfactory work completed on those documents, data, studies, surveys, drawings, maps, models, photographs, reports, or other materials that the Council decides to retain as its property.

Notwithstanding the above, the Sub-recipient shall not be relieved of liability to the Council for damages sustained by the Council by virtue of any breach of this Contract by the Sub-recipient, and the Council may withhold any payments to the Sub-recipient for the purpose of set off until such time as the exact amount of damages due the Council from the Sub-recipient is determined.

- (b) The Council or the Sub-recipient may terminate this Contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof, at least 30 days before the effective date of termination. In that event, all finished or unfinished documents and other materials as described in Paragraph 12(a) above shall, at the option of the Council, become its property. If this Contract is terminated by the Council or Sub-recipient as provided herein, the Sub-recipient shall be paid for all properly incurred for services actually performed prior to termination; provided, that such costs are approved by the Council and DOT. Payment for those goods and services shall not be unreasonably withheld. In addition, the Sub-recipient shall be entitled to a portion of its profit or fixed fee which shall be determined by multiplying the total profit or fixed fee figure appearing in line 11 of the Cost Summary (see Appendix A) by the percentage of total work completed by the Sub-recipient under this Contract. For purposes of determining the percentage of total work completed under this Contract, each item within a task shall be considered so that even if the Sub-recipient fails to complete a task, it will be entitled to the portion of its profits attributable to the items within that task that have been completed prior to termination. If this Contract is terminated otherwise than solely for the convenience of the Council, Paragraph 12(a) hereof relative to termination shall apply.

Item 13. Political Activity. No portion of program funds shall be used for any partisan political activity or to further the election or defeat of any candidate for public offices. All employees of the Sub-recipient shall observe the limitations on political activities to which they may be subject under the Hatch Act (5 U.S.C. 1501 et seq., 18 U.S.C. 595).

Item 14. Campaign Finance. If applicable, the Sub-recipient swears under the penalty of perjury, as provided by KRS 523.020, that neither he/she nor the entity which he/she represents has knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky, and that the award of a contract to him/her or the entity which he/she represents will not violate any provisions of the campaign finance laws of the Commonwealth of Kentucky.

Item 15. Anti Lobbying Restrictions. The Sub-recipient is required to sign the Restrictions on Lobbying Certification (Appendix D) and if any Sub-recipient funds are used for purposes of lobbying, Sub-recipient agrees to disclose to Council such lobbying on Standard Form LLL.

Item 16. Interest of Public Officials and Employees. No officer or employee of the Council and no members of its governing body, and no public official of the locality in which the approved work

program or its components will be carried out who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of such program shall (a) participate in any decision relating to any contract negotiated under this Contract which affects his personal interest or the interest of any corporation, partnership, or association in which he is, directly or indirectly, interested, or (b) have any financial interest, direct or indirect, in such contract or in the work to be performed under such contract. The Sub-recipient agrees that neither it, nor any of its employees or agents will make any payment, take any action or permit any person to make any payment or to take any action which may result in a violation of this Section 16.

Item 17. Interest of Certain Federal Officials. No member of or delegate to the Congress of the United State of America, and no resident commissioner, shall be admitted to any share or part hereof or to any benefit arising here from.

Item 18. Covenant Against Contingent Fees. The Sub-recipient warrants that he has not employed or retained any company or person, other than a bona fide employee working solely for the Sub-recipient, to solicit or secure this contract, and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Sub-recipient, any fee, commission, percentage brokerage fee, gifts, or other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, the Council shall have the right to annul this Contract without liability, or at its discretion to deduct from the Contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Item 19. Equal Employment Opportunity.

- (a) The Sub-recipient will not discriminate against any employee or applicant for employment because of race, color, religion, sexual orientation, disability, gender, age, national origin, income, or limited English proficiency. The Sub-recipient shall take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such actions shall include, but not be limited to the following: employment, upgrading, demotions, or transfers, recruitment or recruitment advertising, layoffs or terminations, rates of pay or other forms of compensation, selection for training including apprenticeship, and participation in recreational and educational activities. The Sub-recipient agrees to post in conspicuous places available to employees and applicants for employment notices to be provided setting forth the provisions of this non-discrimination clause. The Sub-recipient will in all solicitation or advertisements for employees placed by or on behalf of the Sub-recipient, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin. The Sub-recipient will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subSub-recipient provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- (b) The Sub-recipient shall keep such records and submit such reports concerning the racial and ethnic origin of applicants for employment and employees as DOT may require.

- (c) The Sub-recipient agrees to comply with such rules, regulations or guidelines as DOT may issue to implement these requirements.

Item 20. Compliance with Title VI of the Civil Rights Act of 1964.

- (a) Compliance with Regulations: The Sub-recipient will comply with the Regulations of the KYTC, where applicable, and the ODOT, where applicable, relative to non-discrimination in Federally-assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.
- (b) Nondiscrimination: The Sub-recipient, with regard to the work performed by it during the contract, shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The Sub-recipient will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contract agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. The Sub-recipient will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
- (c) Solicitations for Subcontracts including procurement of materials and equipment: In all solicitations, either by competitive bidding or negotiations made by the Sub-recipient for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subSub-recipient or supplier shall be notified by the Sub-recipient of the Sub-recipient's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, religion, sex, or national origin. The Sub-recipient will, in all solicitations or advertisements for employees placed by or on behalf of the Sub-recipient, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.
- (d) The Sub-recipient will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Sub-recipient's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (e) The Sub-recipient will comply with all provisions of Executive Order No. 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (f) Information and Reports: The Sub-recipient will furnish all information and reports required by the Regulations, including Executive Order No. 11246 of September 24, 1965, directives and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto and will permit access to its books, records, accounts, other sources of

information, and its facilities by the contracting agency and the Secretary of Labor for purposes of investigation as may be determined by DOT, FHWA or FTA, to be pertinent, to ascertain compliance with such regulations, orders and instructions. Where any information required of a Sub-recipient is in the exclusive possession of another who fails or refuses to furnish this information, the Sub-recipient shall so certify to DOT, FHWA or FTA as appropriate, and shall set forth what efforts it has made to obtain the information.

- (g) Sanctions for Noncompliance: In the event of the Sub-recipient's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, DOT shall impose such contract sanctions as DOT, FHWA or FTA may determine to be appropriate, including but not limited to:
- (1) withholding of payments to the Sub-recipient under the Contract until the Sub-recipient complies and/or
 - (2) cancellation, termination, or suspension of the Contract in whole or in part and the Sub-recipient may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (h) Incorporation of Provisions: The Sub-recipient will include the provisions of Paragraph (a) through (g) in every subcontract, including procurement of materials and leases of equipment, unless exempt by the rules, regulations, order of the Secretary of Labor, or directives issued pursuant Section 204 of Executive Order No. 11246 of Sept 24, 1965. The Sub-recipient will take such action with respect to any subcontract, vendor or procurement as the Council, DOT, FHWA or FTA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Sub-recipient becomes involved in, or is threatened with litigation with a subSub-recipient or supplier as a result of such direction, the Sub-recipient may request the Council to enter into such litigation to protect the interest of the Council and, in addition, the Sub-recipient may request the United States to enter into such litigation to protect the interests of the United States.

Item 21. Occupational Health and Safety: The Sub-recipient agrees to comply with all statutes, rules and regulations governing safe and healthful working conditions, including the Occupational Health and Safety Act of 1970, 29 U.S.C. 650 et.seq., as amended, and KRS Chapter 338. The Sub-recipient also agrees to notify the Council in writing immediately upon detection of any unsafe and/or unhealthful working conditions at the job site. The Sub-recipient agrees to indemnify, defend and hold COUNCIL harmless from all penalties, fines or other expenses arising out of the alleged violation of said laws.

Item 22. Bribery: By the Sub-recipient signature on the Contract, the Sub-recipient certifies that no employee of the Sub-recipient, any affiliate or subSub-recipient, has bribed or attempted to bribe an officer or employee of the Council.

Item 23. Interest of Sub-recipient. The Sub-recipient covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. The Sub-

recipient further covenants that in the performance of this Contract no person having any such interest shall be employed.

Item 24. Violation of and Compliance with Ohio and Kentucky Laws. The Sub-recipient shall reveal any final determination of violation by the Sub-recipient or any subSub-recipient within the previous five (5) year period pursuant to Ohio Revised Code Chapters 5733, 5740, 5747, 4111, 4101, 4141 and 4123 and KRS Chapters 136, 139, 141, 337, 338, 341, and 342 that apply to the Sub-recipient or any subSub-recipient. The Sub-recipient shall be in continuous compliance with the provisions of Ohio Revised Code Chapters 5733, 5740, 5747, 4111, 4101, 4141 and 4123 and KRS Chapters 136, 139, 141, 337, 338, 341, and 342 the apply to the Sub-recipient or any subSub-recipient for the duration of this Contract.

Item 25. Findings Confidential. Any reports, information, data, etc, given to or prepared or assembled by the Sub-recipient under this Contract, which the Council requests to be kept as confidential, shall not be made available to any individual or organization by the Sub-recipient without prior written approval of the Council.

Item 26. Publication, Reproduction, and Use of Material. No material produced in whole or in part under this Contract shall be subject to copyright in the United States or in any other country. The Council and DOT shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, any reports, data, or other materials prepared under this Contract.

Item 27. Waivers or Revisions. To be valid, a waiver of any condition to this Contract, or any revision to the approved work program and budget must be in writing from a duly authorized official of DOT and the Council. No failure or delay by the Council in exercising any right, remedy, power or privilege hereunder, nor any single or partial exercise thereof, nor the exercise of any other right, remedy, power or privilege shall operate as a waiver hereof or thereof. No failure or delay by the Council in exercising any right, remedy, power or privilege under or in respect of this Contract shall affect the rights, remedies, powers or privileges of the Council hereunder or shall operate as a waiver thereof.

Item 28. Safeguarding Operations and Funds. The Sub-recipient will safeguard all funds becoming available to it for approved activities under this Contract (including funds becoming available to it for deposit, or deposited, in the program account) by insurance or fidelity bonds or by taking such other actions as may be approved by DOT and the Council. Such insurance or fidelity bonds, if required, shall be of such types, in such amounts, and with such coverage and otherwise as shall be satisfactory to DOT and the Council and proper and adequate for the purposes of this Contract.

Item 29. Adjustments and Amounts of the Contract. The Council reserves the right to review the progress made by the Sub-recipient in carrying out the approved work program and, on the basis of this review, to renegotiate with the Sub-recipient and decrease (or increase subject to the availability of funds) accordingly the amount of the compensation provided hereunder.

Item 30. Assignment. The Sub-recipient shall not assign, subcontract or transfer any interest in this Contract without the prior written consent of the Council. Any purported assignment or

subcontract in violation hereof shall be void. It is expressly acknowledged that the Council shall never be required or obligated to consent to any request for assignment or subcontract; and further that such refusal to consent can be for any or no reason fully within the sole discretion of the Council. However, in the case of an assignment or transfer of a claim for money due or to become due under this Contract to a bank, trust company or other financial institution as security for the Sub-recipients obligations, the Sub-recipient need not obtain the consent of the Council if the Sub-recipient promptly furnishes notice of any such assignment or transfer.

Item 31. Disputes. The Sub-recipient agrees that all disputes concerning questions of fact in connection with the work, and not otherwise disposed of by the specific terms of this Contract shall be resolved as follows:

The Sub-recipient shall notify the Council's Executive Director, in writing, within sixty (60) days following a determination by the Council, which in the opinion of the Sub-recipient, is in material conflict with the facts concerning the subject matter. In such notification, the Sub-recipient shall present such evidentiary matters as may support the Sub-recipient's position and shall request a review of the previous determination. Within a reasonable time, the Executive Director shall cause the circumstance and facts to be reappraised for the purpose of his determination.

The Sub-recipient agrees that the Executive Director will decide all such questions which may arise: including the quality and acceptability of materials furnished and work performed; the rate of progress of the work; the interpretation of the plans and specifications; the acceptable fulfillment of the Contract on the part of the Sub-recipient; matters concerning compensation and all other matters and disputes relating to facts in connection with this Contract; and the services or work to be performed there-under.

Item 32. Remedies. Except as otherwise provided in this Contract, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement shall be decided by the Council Executive Director, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Sub-recipient. The decision of the Council Executive Director shall be final and conclusive unless within 30 days from the date of receipt of such a copy, the Sub-recipient mails or otherwise furnishes to the Executive Director a written appeal addressed to the Council Executive Committee. The decision of the Executive Committee of the Council Board of Trustees shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Sub-recipient shall be afforded an opportunity to be heard and to offer evidence in support of their appeal. Pending final decision of a dispute hereunder, the Sub-recipient shall proceed diligently with the performance of this Contract in accordance with the Council Executive Director's decision and such continued performance does not in any manner imply acceptance of an agreement with that decision by the Sub-recipient nor does it infringe upon the Sub-recipient's right to appeal that decision.

This "Remedies" clause does not preclude consideration of law questions in connection with decisions provided for in the above paragraph; provided, that nothing in this Contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

Item 33. Responsibility for Claims and Liability. The Sub-recipient shall indemnify and hold harmless the Council and those agencies previously defined as DOT, from and against liabilities, losses, damages, cost, expenses, and disbursements imposed on, asserted against or incurred by the Council, and DOT to the extent that such liabilities resulted from the negligent performance, or negligent acts of its agents or employees.

Item 34. Disadvantaged Business Enterprise. It is the policy of the Council that disadvantaged business enterprises, as defined in 49 CFR Part 26, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Contract. Consequently, the D.B.E. requirements of 49 CFR Part 26 apply to this Contract.

The Sub-recipient agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Contract. The target for such DBE utilization would be 5% of total contract funds. The Sub-recipient shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The Sub-recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

Item 35. Nondiscrimination on the Basis of Handicap. The Sub-recipient agrees to comply with U.S. DOT regulations "Nondiscrimination on the Basis of Handicap in Programs and Activities Benefiting from Federal Financial Assistance," 49 CFR 27.9, which implement the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, prohibiting discrimination against otherwise qualified persons, under this Contract.

Item 36. Authority to do Business. The Sub-recipient must be duly organized and authorized to do business under the laws of Ohio and Kentucky. Sub-recipient must be in good standing and have full legal capacity to provide the services specified under this Contract. The Sub-recipient must have all necessary right and lawful authority to enter into this Contract for the full term hereof and that proper corporate or other action has been duly taken authorizing the Sub-recipient to enter into this Contract. The Sub-recipient will provide the Council with a copy of a corporate resolution authorizing this action and a letter from an attorney confirming that the Sub-recipient is authorized to do business in the State of Ohio and the Commonwealth of Kentucky if requested. All contracts must be signed by a duly authorized officer, agent or employee of the Sub-recipient.

Item 37. Hold Harmless and Indemnification Clause. The Sub-recipient agrees to indemnify, hold harmless, and defend the Council, its elected and appointed officials, employees, agents and successors in interest from all claims, damages, losses and expenses including attorneys' fees, arising out of or resulting, directly or indirectly, from the Sub-recipient's (or Sub-recipient's subSub-recipients if any) performance or breach of the contract provided that such claim, damage, loss, or expense is (1) attributable to the negligent acts, errors or omissions of Sub-recipient (or Sub-recipient's subSub-recipients, if any) and (2) not caused by the negligent act or omission or willful misconduct of the Council or its elected and appointed officials and employees acting within the scope of their employment. This Hold Harmless and Indemnification Clause shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this Contract.

Item 38. Insurance Requirements. Prior to commencing work, Sub-recipient shall obtain at its own cost and expense the following types of insurance through insurance companies licensed in the State of Ohio and the Commonwealth of Kentucky. Insurance written by non-admitted carriers will also be considered acceptable, in accordance with Ohio Revised Code Chapter 3905 and Kentucky Insurance Law (KRS 304.10-040). Workers' Compensation written through qualified group self-insurance programs in accordance with Ohio Revised Code Chapter 4123 and Kentucky Revised Statutes (KRS 342.350) will also be acceptable. The Sub-recipient shall not commence work under this Contract until all insurance required under this Contract has been obtained and until copies of policies or certificates thereof are submitted to and approved by the Council Finance Department. The Sub-recipient shall not allow any subSub-recipient to commence work until the insurance required of such subSub-recipient has been obtained and copies of Certificates of Insurance retained by Sub-recipient evidencing proof of coverages.

Without limiting Sub-recipient's indemnification requirements, it is agreed that Sub-recipient shall maintain in force at all times during the performance of this Contract the following policy or policies of insurance covering its operations, and require subSub-recipients, if subcontracting is authorized, to procure and maintain these same policies. Council may require Sub-recipient to supply proof of subSub-recipient's insurance via Certificates of Insurance, or at the Council's option, actual copies of policies.

A. The following clause shall be added to the Sub-recipient's (and approved subSub-recipient's) Comprehensive General Liability Policies:

1. "The Council's, its elected and appointed officials, employees, agents and successors are added as an "Additional Insured" as respects operations of the Named Insured performed relative to the contract."

B. The insurance to be procured and maintained and the minimum Limits of Liability shall be as follows, unless different Limits are specified by addendum to the Contract:

1. COMMERCIAL GENERAL LIABILITY, via the Occurrence Form, with a \$1,000,000 Combined Single Limit for any one occurrence and \$2,000,000 aggregate for Bodily Injury, Personal Injury and Property Damage, including:
 - a. Premises - Operations Coverage
 - b. Completed Operations
 - c. Contractual Liability
 - d. Broad Form Property Damage
 - e. Independent Sub-recipients Protective Liability
 - f. Personal Injury
2. AUTOMOBILE LIABILITY insuring all Owned, Non-Owned and Hired Motor Vehicles. The minimum coverage Liability Limit is \$1,000,000 Combined Single Limit for any one accident. The Limit of Liability may be subject to increase according to any applicable State or Federal Transportation Regulations.
3. Workers' Compensation insuring the employers' obligations under Kentucky Revised Statutes Chapter 342. Employers' Liability with a \$100,000 Limit of Liability for Each Accident/\$500,000 Disease - Policy Limit/\$100,000 Disease - Each Employee

4. PROFESSIONAL LIABILITY (Errors and Omission Liability) insurance policy, which includes a minimum limit of liability of \$1,000,000 for each Wrongful Act. In the event that the Sub-recipient's policy is written on a "Claims Made" form, the Sub-recipient shall, after work has been completed, furnish evidence that the liability coverage has been maintained for at least one year after completion of work, either by submitting renewal policies with a retroactive date of not later than the date work commenced under this Contract, or by evidence that the Sub-recipient has purchased an Extended Reporting Period Endorsement that will apply to any and all claims arising from work performed under this Contract.
- C. Acceptability: Insurance is to be placed with insurance companies with an A. M. Best Rating of no less than "B+ VI", unless proper financial information relating to the insurer is submitted to and approved by Council's Finance Department.
- D. Miscellaneous
1. The Sub-recipient shall procure and maintain insurance policies as described herein and for which the Council Finance Department shall be furnished Certificates of Insurance upon the execution of the Contract. The Certificates shall include provisions stating that the policies may not be cancelled without Council having been provided at least (30) thirty days written notice. The Certificates shall identify the Contract to which they apply and shall include the name and address of the person executing the Certificate of Insurance as well as the person's signature. If policies expire before the completion of the Contract, renewal Certificates of Insurance shall be furnished to Council's Finance Department before the expiration date.
 2. Certificates of Insurance as required above shall be furnished, as called for:
 - a. No later than five (5) days after the successful submitting firm is notified of award by the Council to:

Ohio-Kentucky-Indiana Regional Council of Governments
Attn: Finance Department
720 East Pete Rose Way, Suite 420
Cincinnati, Ohio 45202
 3. The Sub-recipient agrees that it will not materially alter any of the insurance policies currently in force and relied on under this Contract. Further, the Sub-recipient will not reduce any coverage amount below the limits required in this Contract.
 4. Approval of the insurance by Council shall not in any way relieve or decrease the liability of the Sub-recipient hereunder. It is expressly understood that the Council does not in any way represent that the specified Limits of Liability or coverage or policy forms are sufficient or adequate to protect the interest or liabilities of the Sub-recipient.

Item 39. Provisions to be Incorporated in Subcontracts. The Sub-recipient agrees to incorporate all the provisions of Appendix C, Item 1 through Item 38 and Appendix D in its entirety, in any subcontracts. In addition, if additional contracts are authorized by the Council in writing, the Sub-recipient agrees to incorporate all such Appendix C and D provisions in such contracts.

APPENDIX D

CERTIFICATIONS OF RESTRICTIONS ON LOBBYING

I, **Name and Title**, hereby certify that:

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

Executed _____
(Date)

Name and Title
Subrecipient Name

CERTIFICATION OF SUB-RECIPIENT

I, **Name and Title**, hereby represent that neither I nor the agency has:

(a) employed or retained for a commission, percentage, brokerage contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above Sub-recipient) to solicit or secure this contract,

(b) agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or

(c) paid, or agreed to pay, to any firm, organization, or person (other than a bona fide employee working solely for me or the above Sub-recipient) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract;

except as where expressly state (if any):

I acknowledge that this certificate is to be furnished to the State highway agency and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

Name and Title

Date

CERTIFICATION OF COUNCIL

I hereby certify that I am the Executive Director of the Council, and that the above Sub-recipient or his representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying this contract to:

(a) employ or retain, or agree to employ or retain, any firm or person, or

(b) pay, or agree to pay, to any firm person, or organization, any fee, contribution, donation, or consideration of any kind.

Mark R. Policinski, Executive Director

Date

APPENDIX E
FTA Fiscal Year 2021 Certifications and Assurances

(Intentionally left blank)

Not every provision of every certification will apply to every applicant or award. If a provision of a certification does not apply to the applicant or its award, FTA will not enforce that provision. Refer to FTA's accompanying Instructions document for more information.

Text in italics is guidance to the public. It does not have the force and effect of law, and is not meant to bind the public in any way. It is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

CATEGORY 1. CERTIFICATIONS AND ASSURANCES REQUIRED OF EVERY APPLICANT.

All applicants must make the certifications in this category.

1.1. Standard Assurances.

The certifications in this subcategory appear as part of the applicant's registration or annual registration renewal in the System for Award Management (SAM.gov) and on the Office of Management and Budget's standard form 424B "Assurances—Non-Construction Programs". This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.

As the duly authorized representative of the applicant, you certify that the applicant:

- (a) Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
- (b) Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
- (c) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
- (d) Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
- (e) Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).

- (f) Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:
- (1) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin, as effectuated by U.S. DOT regulation 49 CFR Part 21;
 - (2) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex, as effectuated by U.S. DOT regulation 49 CFR Part 25;
 - (3) Section 5332 of the Federal Transit Law (49 U.S.C. § 5332), which prohibits any person being excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance from FTA because of race, color, religion, national origin, sex, disability, or age.
 - (4) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps, as effectuated by U.S. DOT regulation 49 CFR Part 27;
 - (5) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age;
 - (6) The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
 - (7) The comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
 - (8) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
 - (9) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;
 - (10) Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and,
 - (11) the requirements of any other nondiscrimination statute(s) which may apply to the application.
- (g) Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“Uniform Act”) (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. The requirements of the Uniform Act are effectuated by U.S. DOT regulation 49 CFR Part 24.

- (h) Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
- (i) Will comply, as applicable, with the provisions of the Davis–Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.
- (j) Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
- (k) Will comply with environmental standards which may be prescribed pursuant to the following:
 - (1) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;
 - (2) Notification of violating facilities pursuant to EO 11738;
 - (3) Protection of wetlands pursuant to EO 11990;
 - (4) Evaluation of flood hazards in floodplains in accordance with EO 11988;
 - (5) Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.);
 - (6) Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.);
 - (7) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and
 - (8) Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93–205).
- (l) Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- (m) Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a-1 et seq.).
- (n) Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
- (o) Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded

- animals held for research, teaching, or other activities supported by this award of assistance.
- (p) Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
 - (q) Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 CFR Part 200, Subpart F, “Audit Requirements”, as adopted and implemented by U.S. DOT at 2 CFR Part 1201.
 - (r) Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the program under which it is applying for assistance.
 - (s) Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104) which prohibits grant award recipients or a sub-recipient from:
 - (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect;
 - (2) Procuring a commercial sex act during the period of time that the award is in effect; or
 - (3) Using forced labor in the performance of the award or subawards under the award.

1.2. Standard Assurances: Additional Assurances for Construction Projects.

This certification appears on the Office of Management and Budget’s standard form 424D “Assurances—Construction Programs” and applies specifically to federally assisted projects for construction. This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.

As the duly authorized representative of the applicant, you certify that the applicant:

- (a) Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency; will record the Federal awarding agency directives; and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
- (b) Will comply with the requirements of the assistance awarding agency with regard to the drafting, review, and approval of construction plans and specifications.
- (c) Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work confirms with the approved plans and specifications, and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

1.3. Procurement.

The Uniform Administrative Requirements, 2 CFR § 200.324, allow a recipient to self-certify that its procurement system complies with Federal requirements, in lieu of submitting to certain pre-procurement reviews.

The applicant certifies that its procurement system complies with:

- (a) U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 200, particularly 2 CFR §§ 200.317–200.326 “Procurement Standards;
- (b) Federal laws, regulations, and requirements applicable to FTA procurements; and
- (c) The latest edition of FTA Circular 4220.1 and other applicable Federal guidance.

1.4. Suspension and Debarment.

Pursuant to Executive Order 12549, as implemented at 2 CFR Parts 180 and 1200, prior to entering into a covered transaction with an applicant, FTA must determine whether the applicant is excluded from participating in covered non-procurement transactions. For this purpose, FTA is authorized to collect a certification from each applicant regarding the applicant’s exclusion status. 2 CFR § 180.300. Additionally, each applicant must disclose any information required by 2 CFR § 180.335 about the applicant and the applicant’s principals prior to entering into an award agreement with FTA. This certification serves both purposes.

The applicant certifies, to the best of its knowledge and belief, that the applicant and each of its principals:

- (a) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any Federal department or agency;
- (b) Has not, within the preceding three years, been convicted of or had a civil judgment rendered against him or her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;

- (c) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any offense described in paragraph (b) of this certification;
- (d) Has not, within the preceding three years, had one or more public transactions (Federal, State, or local) terminated for cause or default.

1.5. Coronavirus Response and Relief Supplemental Appropriations Act, 2021, and CARES Act Funding.

The applicant certifies that, to the maximum extent possible, and consistent with the Consolidated Appropriations Act, 2021 (Public Law 116–260):

- (a) Funds made available under title IV of division M of the Consolidated Appropriations Act, 2021 (Public Law 116–260), and in title XII of division B of the CARES Act (Public Law 116–136; 134 Stat. 599) shall be directed to payroll and operations of public transit (including payroll and expenses of private providers of public transportation); or
- (b) The applicant certifies that the applicant has not furloughed any employees.

CATEGORY 2. PUBLIC TRANSPORTATION AGENCY SAFETY PLANS

This certification is required of each applicant under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), each rail operator that is subject to FTA’s state safety oversight programs, and each State that is required to draft and certify a public transportation agency safety plan on behalf of a small public transportation provider pursuant to 49 CFR § 673.11(d). This certification is required by 49 CFR § 673.13.

This certification does not apply to any applicant that receives financial assistance from FTA exclusively under the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310), the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or combination of these two programs.

If the applicant is an operator, the applicant certifies that it has established a public transportation agency safety plan meeting the requirements of 49 CFR Part 673.

If the applicant is a State, the applicant certifies that:

- (a) It has drafted a public transportation agency safety plan for each small public transportation provider within the State, unless the small public transportation provider provided notification to the State that it was opting-out of the State-drafted plan and drafting its own public transportation agency safety plan; and
- (b) Each small public transportation provider within the state has a public transportation agency safety plan that has been approved by the provider’s Accountable Executive

(as that term is defined at 49 CFR § 673.5) and Board of Directors or Equivalent Authority (as that term is defined at 49 CFR § 673.5).

CATEGORY 3. TAX LIABILITY AND FELONY CONVICTIONS.

If the applicant is a business association (regardless of for-profit, not for-profit, or tax exempt status), it must make this certification. Federal appropriations acts since at least 2014 have prohibited FTA from using funds to enter into an agreement with any corporation that has unpaid Federal tax liabilities or recent felony convictions without first considering the corporation for debarment. E.g., Consolidated Appropriations Act, 2021, Pub. L. 116-260, div. E, title VII, §§ 744–745. U.S. DOT Order 4200.6 defines a “corporation” as “any private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association”, and applies the restriction to all tiers of subawards. As prescribed by U.S. DOT Order 4200.6, FTA requires each business association applicant to certify as to its tax and felony status.

If the applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, the applicant certifies that:

- (a) It has no unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
- (b) It has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months.

CATEGORY 4. LOBBYING.

If the applicant will apply for a grant or cooperative agreement exceeding \$100,000, or a loan, line of credit, loan guarantee, or loan insurance exceeding \$150,000, it must make the following certification and, if applicable, make a disclosure regarding the applicant’s lobbying activities. This certification is required by 49 CFR § 20.110 and app. A to that part.

This certification does not apply to an applicant that is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 49 CFR Part 20.

4.1. Certification for Contracts, Grants, Loans, and Cooperative Agreements.

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

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or

an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

4.2. Statement for Loan Guarantees and Loan Insurance.

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CATEGORY 5. PRIVATE SECTOR PROTECTIONS.

If the applicant will apply for funds that it will use to acquire or operate public transportation facilities or equipment, the applicant must make the following certification regarding protections for the private sector.

5.1. Charter Service Agreement.

To enforce the provisions of 49 U.S.C. § 5323(d), FTA's charter service regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following Charter Service Agreement. 49 CFR § 604.4.

The applicant agrees that it, and each of its subrecipients, and third party contractors at any level who use FTA-funded vehicles, may provide charter service using equipment or facilities acquired with Federal assistance authorized under the Federal Transit Laws only in compliance with the regulations set out in 49 CFR Part 604, the terms and conditions of which are incorporated herein by reference.

5.2. School Bus Agreement.

To enforce the provisions of 49 U.S.C. § 5323(f), FTA's school bus regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following agreement regarding the provision of school bus services. 49 CFR § 605.15.

- (a) If the applicant is not authorized by the FTA Administrator under 49 CFR § 605.11 to engage in school bus operations, the applicant agrees and certifies as follows:
 - (1) The applicant and any operator of project equipment agrees that it will not engage in school bus operations in competition with private school bus operators.
 - (2) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Mass Transit Regulations, or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
- (b) If the applicant is authorized or obtains authorization from the FTA Administrator to engage in school bus operations under 49 CFR § 605.11, the applicant agrees as follows:
 - (1) The applicant agrees that neither it nor any operator of project equipment will engage in school bus operations in competition with private school bus operators except as provided herein.
 - (2) The applicant, or any operator of project equipment, agrees to promptly notify the FTA Administrator of any changes in its operations which might jeopardize the continuation of an exemption under § 605.11.
 - (3) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Transit Administration regulations or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
 - (4) The applicant agrees that the project facilities and equipment shall be used for the provision of mass transportation services within its urban area and that any other

use of project facilities and equipment will be incidental to and shall not interfere with the use of such facilities and equipment in mass transportation service to the public.

CATEGORY 6. TRANSIT ASSET MANAGEMENT PLAN.

If the applicant owns, operates, or manages capital assets used to provide public transportation, the following certification is required by 49 U.S.C. § 5326(a).

The applicant certifies that it is in compliance with 49 CFR Part 625.

CATEGORY 7. ROLLING STOCK BUY AMERICA REVIEWS AND BUS TESTING.

7.1. Rolling Stock Buy America Reviews.

If the applicant will apply for an award to acquire rolling stock for use in revenue service, it must make this certification. This certification is required by 49 CFR § 663.7.

The applicant certifies that it will conduct or cause to be conducted the pre-award and post-delivery audits prescribed by 49 CFR Part 663 and will maintain on file the certifications required by Subparts B, C, and D of 49 CFR Part 663.

7.2. Bus Testing.

If the applicant will apply for funds for the purchase or lease of any new bus model, or any bus model with a major change in configuration or components, the applicant must make this certification. This certification is required by 49 CFR § 665.7.

The applicant certifies that the bus was tested at the Bus Testing Facility and that the bus received a passing test score as required by 49 CFR Part 665. The applicant has received or will receive the appropriate full Bus Testing Report and any applicable partial testing reports before final acceptance of the first vehicle.

CATEGORY 8. URBANIZED AREA FORMULA GRANTS PROGRAM.

If the applicant will apply for an award under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), or any other program or award that is subject to the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310); “flex funds” from infrastructure programs administered by the Federal Highways Administration (see 49 U.S.C. § 5334(i)); projects that will receive an award authorized by the Transportation Infrastructure Finance and Innovation Act (“TIFIA”) (23 U.S.C. §§ 601–609) or State Infrastructure Bank Program (23 U.S.C. § 610) (see 49 U.S.C. § 5323(o)); formula awards or competitive awards to urbanized areas under the Grants for

Buses and Bus Facilities Program (49 U.S.C. § 5339(a) and (b)); or low or no emission awards to any area under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(c)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5307(c)(1).

The applicant certifies that it:

- (a) Has or will have the legal, financial, and technical capacity to carry out the program of projects (developed pursuant 49 U.S.C. § 5307(b)), including safety and security aspects of the program;
- (b) Has or will have satisfactory continuing control over the use of equipment and facilities;
- (c) Will maintain equipment and facilities in accordance with the applicant's transit asset management plan;
- (d) Will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—
 - (1) Senior;
 - (2) Individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and
 - (3) Individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. §§ 401 et seq., and 1395 et seq.);
- (e) In carrying out a procurement under 49 U.S.C. § 5307, will comply with 49 U.S.C. §§ 5323 (general provisions) and 5325 (contract requirements);
- (f) Has complied with 49 U.S.C. § 5307(b) (program of projects requirements);
- (g) Has available and will provide the required amounts as provided by 49 U.S.C. § 5307(d) (cost sharing);
- (h) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning);
- (i) Has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;
- (j) Either—
 - (1) Will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least

- 1 percent of the amount the recipient receives for each fiscal year under 49 U.S.C. § 5336; or
- (2) Has decided that the expenditure for security projects is not necessary;
- (k) In the case of an applicant for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census, will submit an annual report listing projects carried out in the preceding fiscal year under 49 U.S.C. § 5307 for associated transit improvements as defined in 49 U.S.C. § 5302; and
- (l) Will comply with 49 U.S.C. § 5329(d) (public transportation agency safety plan).

CATEGORY 9. FORMULA GRANTS FOR RURAL AREAS.

If the applicant will apply for funds made available to it under the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), it must make this certification. Paragraph (a) of this certification helps FTA make the determinations required by 49 U.S.C. § 5310(b)(2)(C). Paragraph (b) of this certification is required by 49 U.S.C. § 5311(f)(2). Paragraph (c) of this certification, which applies to funds apportioned for the Appalachian Development Public Transportation Assistance Program, is necessary to enforce the conditions of 49 U.S.C. § 5311(c)(2)(D).

- (a) The applicant certifies that its State program for public transportation service projects, including agreements with private providers for public transportation service—
 - (1) Provides a fair distribution of amounts in the State, including Indian reservations; and
 - (2) Provides the maximum feasible coordination of public transportation service assisted under 49 U.S.C. § 5311 with transportation service assisted by other Federal sources; and
- (b) If the applicant will in any fiscal year expend less than 15% of the total amount made available to it under 49 U.S.C. § 5311 to carry out a program to develop and support intercity bus transportation, the applicant certifies that it has consulted with affected intercity bus service providers, and the intercity bus service needs of the State are being met adequately.
- (c) If the applicant will use for a highway project amounts that cannot be used for operating expenses authorized under 49 U.S.C. § 5311(c)(2) (Appalachian Development Public Transportation Assistance Program), the applicant certifies that—
 - (1) It has approved the use in writing only after providing appropriate notice and an opportunity for comment and appeal to affected public transportation providers; and
 - (2) It has determined that otherwise eligible local transit needs are being addressed.

**CATEGORY 10. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS AND THE
EXPEDITED PROJECT DELIVERY FOR CAPITAL INVESTMENT GRANTS
PILOT PROGRAM.**

If the applicant will apply for an award under any subsection of the Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), including an award made pursuant to the FAST Act's Expedited Project Delivery for Capital Investment Grants Pilot Program (Pub. L. 114-94, div. A, title III, § 3005(b)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5309(c)(2) and Pub. L. 114-94, div. A, title III, § 3005(b)(3)(B).

The applicant certifies that it:

- (a) Has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
- (b) Has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
- (c) Will maintain equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan; and
- (d) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning).

**CATEGORY 11. GRANTS FOR BUSES AND BUS FACILITIES AND LOW OR NO
EMISSION VEHICLE DEPLOYMENT GRANT PROGRAMS.**

If the applicant is in an urbanized area and will apply for an award under subsection (a) (formula grants) or subsection (b) (competitive grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 8 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5339(a)(3) and (b)(6), respectively.

If the applicant is in a rural area and will apply for an award under subsection (a) (formula grants) or subsection (b) (competitive grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 9 for Formula Grants for Rural Areas (49 U.S.C. § 5311). This certification is required by 49 U.S.C. § 5339(a)(3) and (b)(6), respectively.

If the applicant, regardless of whether it is in an urbanized or rural area, will apply for an award under subsection (c) (low or no emission vehicle grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 8 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5339(c)(3).

Making this certification will incorporate by reference the applicable certifications in Category 8 or Category 9.

CATEGORY 12. ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS.

If the applicant will apply for an award under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program (49 U.S.C. § 5310), it must make the certification in Category 8 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5310(e)(1). Making this certification will incorporate by reference the certification in Category 8, except that FTA has determined that (d), (f), (i), (j), and (k) of Category 8 do not apply to awards made under 49 U.S.C. § 5310 and will not be enforced.

In addition to the certification in Category 8, the applicant must make the following certification that is specific to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program. This certification is required by 49 U.S.C. § 5310(e)(2).

The applicant certifies that:

- (a) The projects selected by the applicant are included in a locally developed, coordinated public transit-human services transportation plan;
- (b) The plan described in clause (a) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public;
- (c) To the maximum extent feasible, the services funded under 49 U.S.C. § 5310 will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services; and
- (d) If the applicant will allocate funds received under 49 U.S.C. § 5310 to subrecipients, it will do so on a fair and equitable basis.

CATEGORY 13. STATE OF GOOD REPAIR GRANTS.

If the applicant will apply for an award under FTA's State of Good Repair Grants Program (49 U.S.C. § 5337), it must make the following certification. Because FTA generally does not review the transit asset management plans of public transportation providers, this certification is necessary to enforce the provisions of 49 U.S.C. § 5337(a)(4).

The applicant certifies that the projects it will carry out using assistance authorized by the State of Good Repair Grants Program, 49 U.S.C. § 5337, are aligned with the applicant's most recent

transit asset management plan and are identified in the investment and prioritization section of such plan, consistent with the requirements of 49 CFR Part 625.

CATEGORY 14. INFRASTRUCTURE FINANCE PROGRAMS.

If the applicant will apply for an award for a project that will include assistance under the Transportation Infrastructure Finance and Innovation Act (“TIFIA”) Program (23 U.S.C. §§ 601–609) or the State Infrastructure Banks (“SIB”) Program (23 U.S.C. § 610), it must make the certifications in Category 8 for the Urbanized Area Formula Grants Program, Category 10 for the Fixed Guideway Capital Investment Grants program, and Category 13 for the State of Good Repair Grants program. These certifications are required by 49 U.S.C. § 5323(o).

Making this certification will incorporate the certifications in Categories 8, 10, and 13 by reference.

CATEGORY 15. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

If the applicant will apply for an award under FTA’s Urbanized Area Formula Grants Program (49 U.S.C. § 5307), Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339) programs, the applicant must make the following certification. The applicant must make this certification on its own behalf and on behalf of its subrecipients and contractors. This certification is required by 49 CFR § 655.83.

The applicant certifies that it, its subrecipients, and its contractors are compliant with FTA’s regulation for the Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations, 49 CFR Part 655.

CATEGORY 16. RAIL SAFETY TRAINING AND OVERSIGHT.

If the applicant is a State with at least one rail fixed guideway system, or is a State Safety Oversight Agency, or operates a rail fixed guideway system, it must make the following certification. The elements of this certification are required by 49 CFR §§ 659.43, 672.31, and 674.39.

The applicant certifies that the rail fixed guideway public transportation system and the State Safety Oversight Agency for the State are:

- (a) Compliant with the requirements of 49 CFR Part 659, “Rail Fixed Guideway Systems; State Safety Oversight”;
- (b) Compliant with the requirements of 49 CFR Part 672, “Public Transportation Safety Certification Training Program”; and
- (c) Compliant with the requirements of 49 CFR Part 674, “State Safety Oversight”.

CATEGORY 17. DEMAND RESPONSIVE SERVICE.

If the applicant operates demand responsive service and will apply for an award to purchase a non-rail vehicle that is not accessible within the meaning of 49 CFR Part 37, it must make the following certification. This certification is required by 49 CFR § 37.77.

The applicant certifies that the service it provides to individuals with disabilities is equivalent to that provided to other persons. A demand responsive system, when viewed in its entirety, is deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

- (a) Response time;
- (b) Fares;
- (c) Geographic area of service;
- (d) Hours and days of service;
- (e) Restrictions or priorities based on trip purpose;
- (f) Availability of information and reservation capability; and
- (g) Any constraints on capacity or service availability.

CATEGORY 18. INTEREST AND FINANCING COSTS.

If the applicant will pay for interest or other financing costs of a project using assistance awarded under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), the Fixed Guideway Capital Investment Grants Program (49 U.S.C. § 5309), or any program that must comply with the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310), “flex funds” from infrastructure programs administered by the Federal Highways Administration (see 49 U.S.C. § 5334(i)), or awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the following certification. This certification is required by 49 U.S.C. §§ 5307(e)(3) and 5309(k)(2)(D).

The applicant certifies that:

- (a) Its application includes the cost of interest earned and payable on bonds issued by the applicant only to the extent proceeds of the bonds were or will be expended in carrying out the project identified in its application; and
- (b) The applicant has shown or will show reasonable diligence in seeking the most favorable financing terms available to the project at the time of borrowing.

CATEGORY 19. CONSTRUCTION HIRING PREFERENCES.

If the applicant will ask FTA to approve the use of geographic, economic, or any other hiring preference not otherwise authorized by law on any contract or construction project to be assisted with an award from FTA, it must make the following certification. This certification is required by the Consolidated Appropriations Act, 2021, Pub. L. 116-260, div. L, title I, § 199(b).

The applicant certifies the following:

- (a) That except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the work that the contract requires resides in the jurisdiction;
- (b) That the grant recipient will include appropriate provisions in its bid document ensuring that the contractor does not displace any of its existing employees in order to satisfy such hiring preference; and
- (c) That any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Statewide Transportation Improvement Program or Transportation Improvement Program.

CATEGORY 20. CYBERSECURITY CERTIFICATION FOR RAIL ROLLING STOCK AND OPERATIONS.

If the applicant operates a rail fixed guideway public transportation system, it must make this certification. This certification is required by 49 U.S.C. § 5323(v), a new subsection added by the National Defense Authorization Act for Fiscal Year 2020, Pub. L. 116-92, § 7613 (Dec. 20, 2019). For information about standards or practices that may apply to a rail fixed guideway public transportation system, visit <https://www.nist.gov/cyberframework> and <https://www.cisa.gov/>.

The applicant certifies that it has established a process to develop, maintain, and execute a written plan for identifying and reducing cybersecurity risks that complies with the requirements of 49 U.S.C. § 5323(v)(2).

CATEGORY 21. PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS FORMULA AND DISCRETIONARY PROGRAM (TRIBAL TRANSIT PROGRAMS).

Before FTA may provide Federal assistance for an Award financed under either the Public Transportation on Indian Reservations Formula or Discretionary Program authorized under 49 U.S.C. § 5311(c)(1), as amended by the FAST Act, (Tribal Transit Programs), the applicant must select the Certifications in Category 21, except as FTA determines otherwise in writing.

Tribal Transit Program applicants may certify to this Category and Category 1 (Certifications and Assurances Required of Every Applicant) and need not make any other certification, to meet Tribal Transit Program certification requirements. If an applicant will apply for any program in addition to the Tribal Transit Program, additional certifications may be required.

FTA has established terms and conditions for Tribal Transit Program grants financed with Federal assistance appropriated or made available under 49 U.S.C. § 5311(c)(1). The applicant certifies that:

- (a) It has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award.
- (b) It has or will have satisfactory continuing control over the use of its equipment and facilities acquired or improved under its Award.
- (c) It will maintain its equipment and facilities acquired or improved under its Award, in accordance with its transit asset management plan and consistent with FTA regulations, “Transit Asset Management,” 49 CFR Part 625. Its Award will achieve maximum feasible coordination with transportation service financed by other federal sources.
- (d) With respect to its procurement system:
 - (1) It will have a procurement system that complies with U.S. DOT regulations, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 1201, which incorporates by reference U.S. OMB regulatory guidance, “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,” 2 CFR Part 200, for Awards made on or after December 26, 2014,
 - (2) It will have a procurement system that complies with U.S. DOT regulations, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,” 49 CFR Part 18, specifically former 49 CFR § 18.36, for Awards made before December 26, 2014, or
 - (3) It will inform FTA promptly if its procurement system does not comply with either of those U.S. DOT regulations.
- (e) It will comply with the Certifications, Assurances, and Agreements in:
 - (1) Category 05.1 and 05.2 (Charter Service Agreement and School Bus Agreement),
 - (2) Category 06 (Transit Asset Management Plan),
 - (3) Category 07.1 and 07.2 (Rolling Stock Buy America Reviews and Bus Testing),
 - (4) Category 09 (Formula Grants for Rural Areas),
 - (5) Category 15 (Alcohol and Controlled Substances Testing), and
 - (6) Category 17 (Demand Responsive Service).

**FEDERAL FISCAL YEAR 2021 CERTIFICATIONS AND ASSURANCES FOR FTA
ASSISTANCE PROGRAMS**

(Signature pages alternate to providing Certifications and Assurances in TrAMS.)

Name of Applicant: _____

The Applicant certifies to the applicable provisions of categories 01–21. _____

Or,

The Applicant certifies to the applicable provisions of the categories it has selected:

Category	Certification
01 Certifications and Assurances Required of Every Applicant	_____
02 Public Transportation Agency Safety Plans	_____
03 Tax Liability and Felony Convictions	_____
04 Lobbying	_____
05 Private Sector Protections	_____
06 Transit Asset Management Plan	_____
07 Rolling Stock Buy America Reviews and Bus Testing	_____
08 Urbanized Area Formula Grants Program	_____
09 Formula Grants for Rural Areas	_____
10 Fixed Guideway Capital Investment Grants and the Expedited Project Delivery for Capital Investment Grants Pilot Program	_____
11 Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs	_____

- 12 Enhanced Mobility of Seniors and Individuals with Disabilities Programs
- 13 State of Good Repair Grants
- 14 Infrastructure Finance Programs
- 15 Alcohol and Controlled Substances Testing
- 16 Rail Safety Training and Oversight
- 17 Demand Responsive Service
- 18 Interest and Financing Costs
- 19 Construction Hiring Preferences
- 20 Cybersecurity Certification for Rail Rolling Stock and Operations
- 21 Tribal Transit Programs

FEDERAL FISCAL YEAR 2021 FTA CERTIFICATIONS AND ASSURANCES SIGNATURE

PAGE

(Required of all Applicants for federal assistance to be awarded by FTA in FY 2021)

AFFIRMATION OF APPLICANT

Name of the Applicant: _____

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in federal fiscal year 2021, irrespective of whether the individual that acted on his or her Applicant's behalf continues to represent it.

FTA intends that the Certifications and Assurances the Applicant selects on the other side of this document should apply to each Award for which it now seeks, or may later seek federal assistance to be awarded during federal fiscal year 2021.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to any certification, assurance or submission made to

FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

Signature _____ Date: _____

Name _____ Authorized Representative of Applicant

AFFIRMATION OF APPLICANT'S ATTORNEY

For (Name of Applicant): _____

As the undersigned Attorney for the above-named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA assisted Award.

Signature _____ Date: _____

Name _____ Attorney for Applicant

Each Applicant for federal assistance to be awarded by FTA must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its electronic signature in lieu of the Attorney's signature within TrAMS, provided the Applicant has on file and uploaded to TrAMS this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.

Risk Assessment

Has your agency run an operating deficit over the past two years?

Do you anticipate **budget** cutbacks in the near future?

Have you reduced 5310 vehicle transport service to your clients over the past year?

Do you anticipate **service** cutbacks in the near future?

Are you utilizing your 5310 vehicles for the specified purposes stated in your original grant application to OKI?

Have you had to decline service to your clients due to lack of operating vehicles?

Has your ridership declined over the past year? If so, please explain.

On average, what percentage of your 5310-supported vehicle fleet is in active operation on a daily basis?

Do you have a sufficient number of qualified vehicle operators (drivers) to fully operate your 5310 fleet to meet client service demand?

Have any accidents involving 5310-funded vehicles occurred over the past year?

If so, were there concerns regarding lack of proper training or substance abuse by the vehicle operator as a causative factor?

Financial Management

Has your agency received any negative audit findings related to the management of federal or state grant funds in the past three years?

Describe your internal control process by which invoices submitted by vendors for purchases to be reimbursed by federal grants are approved and paid?

Is the individual who approves the invoice the same person who issues the check for payment and/or records the expense in the General Ledger?

How long do you retain records of expenditures made under grant-funded agreements?

Are these records safely stored in a secure location?

Do you have sufficient funding in place to support the full operation of your 5310 vehicle passenger service?

If you receive grant funds for Preventive Maintenance, are you submitting your reimbursement requests to SORTA or OKI on a regular timely basis?

Do you have adequate local funds in place to match the FTA funds used for preventive maintenance?

Debarment and Suspension

Has your agency been debarred or sanctioned/suspended by any Federal agency since the time you were awarded your 5310 award?

Satisfactory Continuing Control

Have any 5310 vehicles been stolen or damaged by vandalism over the past year?

Is the insurance coverage for your 5310-funded vehicles up to date and in full force?

Have you experienced any problems with your insurance carrier?

Maintenance

Have your 5310 passenger vehicles undergone the recommend level and frequency of preventive maintenance inspections?

If not, please explain

Do any of your 5310-funded vehicles experience frequent breakdowns?

If so, please explain

How do you ensure that only qualified drivers operate your 5310 vehicles in passenger service?

ADA

Are the wheelchair lifts on your vehicles operating properly?

How often do you perform maintenance on your wheelchair lifts

Have you had any ADA-related complaints filed over the past two years?

Title VI


Does your agency have a current Title VI Program Plan?

Have you received any Title VI discrimination complaints over the past two years?

If so, please describe the complaint and how it was resolved?

If required by your Plan, how do you inform your clients of their rights under Title VI?

APPENDIX 4 – Annual Vehicle Report
OKI Program Management Plan – Section 5310 Program

		REPORT DATE:			
		Vehicle Type:		Make:	
		Vehicle Year:		Model:	
5310 Program – Annual Vehicle Monitoring Report		Vehicle License #:			
AGENCY CONTACT:					
E-mail Address:					
AGENCY NAME:					
ADDRESS:		<i>Street</i>			
		<i>City</i>	<i>State</i>	<i>Zip Code</i>	
County:					
Contract No.				Acquisition Year:	
Project Number:		PNP-		Date Last Inspected	
Total number of agency clients:				Mileage on last annual report:	
Vehicle Serial #:				CURRENT MILEAGE:	

	Report all information below for calendar year	Period: mm/yyyy – mm/yyyy
1.	Odometer reading at the end of calendar year	
2.	Total passenger trips for older Americans (over 60)	
3.	Total passenger trips for persons with disabilities (under 60)	
4.	Total trips for other passengers	
5.	Total number of unduplicated older Americans (over 60) and persons with disabilities (under 60) afforded mobility	
6.	Total vehicle maintenance costs	
7.	Days in use (calendar year)	
8.	Days in use (weekly average)	
9.	Accidents during period (yes or no)	

10. Describe gaps in service filled by this vehicle

11. Other comments regarding this vehicle

Agency Representative Completing Form:			
Signature:		Date:	