

20.509

NONURBANIZED AREA FORMULA PROGRAM

State Project/Program: **COMMUNITY TRANSPORTATION PROGRAM (PUBLIC
TRANSPORTATION FOR NONURBANIZED AREAS)**
STATEWIDE MATCH – DOT-11
RURAL CAPITAL – DOT-14

U. S. DEPARTMENT OF TRANSPORTATION

Federal Authorization: **Formula Grants for Rural Areas Program
49 U.S.C 5311**

State Authorization:

Agency Contact Person – Program

Heather Hildebrandt, Interim Director
Integrated Mobility Division
N.C. Department of Transportation
1550 Mail Service Center
Raleigh, NC 27699-1550
Phone: (919) 707-2601
Fax: (919) 733-1391
hjhildebrandt@ncdot.gov

Address Confirmation Letters To:

Pam Nelms, Grant Accountant
NC Department of Transportation
Financial Management Division
1514 Mail Service Center
Raleigh, NC 27699-1514
(919) 707-4245
Fax (919) 715-8718
pknelms1@ncdot.gov

The auditor should not consider the Supplement to be “safe harbor” for identifying audit procedures to apply in a particular engagement, but the auditor should be prepared to justify departures from the suggested procedures. The auditor can consider the supplement a “safe harbor” for identification of compliance requirements to be tested if the auditor performs reasonable procedures to ensure that the requirements in the Supplement are current. The grantor agency may elect to review audit working papers to determine that audit tests are adequate.

The Single Audit Compliance Unit within the NCDOT Office of Inspector General reviews single audits, financial audits, and management letters of all NCDOT “grantees”. OIG examines the presentation of program information including the grantor, program title, NCDOT identification numbers (WBS number), and reported Federal pass-through and/or State expenditures.

Grants must be properly identified by program name (“Public Transportation for Nonurbanized Areas”), CFDA number (“20.509”), and WBS number on the Schedule of Expenditures of Federal and State Awards. This information is available from the agreement with NCDOT; program name is on the first page. Grantor and/or pass-through grantor should also be included. Some of the capital funded under the Community Transportation Program is funded with state and local funds. If the capital is state funded, the State Capital Program is the sources of funds. Please do not combine like projects into one-dollar amount since we would need to call you for the breakdown; please report award amount, Federal Pass-through, State share, and local share. On NCDOT’s confirmation from the Grant Master List (GML), these funds are shown as part of CFDA number 20.509.

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I. PROGRAM OBJECTIVES

The objectives of the Section 5311 Program under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) are to enhance the access of people in nonurbanized areas to health care, shopping, education, employment, public services and recreation; to assist in the maintenance, development, improvement and use of public transportation systems in rural and small urban areas; plan, develop and improve public mass transportation systems in rural and small urban areas; to encourage and facilitate the most efficient use of all federal funds used to provide passenger transportation in nonurbanized areas through the coordination of programs and services; to assist in the development and support of inter-city bus transportation; and to provide for the participation of private transportation providers in nonurbanized transportation to the maximum extent feasible. Grants made under the Section 5311 Program are available to States who in turn, provide capital, operating, planning, and administrative assistance to public transportation systems in non-urbanized areas through a statewide program of projects. The Rural Transit Assistance Program (RTAP) provides funds to support state and local training activities.

II. PROGRAM PROCEDURES

Annual formula apportionments are made to States who apply for funds on behalf of local recipients and administer the program. The North Carolina Department of Transportation is designated by the G.S. 136-44.20 to apply for and administer federal and state public transportation funds. Eligible local applicants may be state agencies, local public bodies, private nonprofit organizations, Indian tribes and groups, and private operators of public transit services. The Community Transportation Program is funded with Section 5311 – Nonurbanized Area Formula Program funds. Transportation services must be provided to the general public to receive funding. The newly developed Community Connectivity Plan (CCP) planning process replaces the Five (5) Year Community Transportation Service Plan (CTSP) planning process. The CTSP was completed for FTA Section 5311 grant recipients including state funded human services agencies with the help of professional consultants. The new CCP planning process stresses performance, regional connectivity, flexibility and continuous planning. PTD has established two (2) categories (Category 1 and Category 2) associated with the size and level of complexity of the agencies. The Category 1 CCP will be conducted in-house by the assigned MDS in collaboration with agency's staff based on a PTD schedule. As part of the annual application process, applicants are required to sign federal certifications and assurances called Annual Certifications.

The State's coordinated approach to service delivery allows a single applicant agency within each service area. All 100 counties within the State have transportation systems; however, not all systems provide service to the general public. An approved Community Transportation Services Plan is a prerequisite for funding. The plan identifies the applicant agency for the service area, describes the types and levels of service to be provided, addresses vehicle needs and establishes the general public fare structure.

All applicants are reviewed for program eligibility and approved applicant's programs and budgets are submitted to the NCDOT Board of Transportation for approval. The agreement identifies all federal and State requirements for receipt of the funds. The agreements are updated as changes in federal, state and local regulations occur. Annual approved project budgets are transmitted to the local organization following approval of the statewide application by the Federal Transit Administration.

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Tribal Transit Program

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Pub. L. No. 109-59) created a new Tribal Transit Program under the Nonurbanized Area Formula Program and funded it as a takedown under the Section 5311 program. Under the Tribal Transit Program, federally recognized Indian tribes are eligible direct recipients. Based on an annual national competitive selection process conducted by FTA, FTA awards Tribal Transit grants directly to eligible Indian tribes. Recipients of Tribal Transit Program funds may use these funds for any purpose that is eligible under Section 5311. Only federally recognized tribes are eligible recipients under the Tribal Transit Program.

Subrecipients

The State selects subrecipients and monitors their compliance with Federal requirements. FTA does not directly monitor the subrecipients but checks the State's procedures for monitoring during the State Management Review. The State may impose program criteria in addition to those imposed by the FTA and may require additional reports from subrecipients. These State requirements are included in the State Management Plan.

Availability of Program Information

Additional program information is provided in the following:

[Urbanized Area Formula Program: 49 USC 5311](#)

[NCDOT Connect – Urban Grants: 5303 Application Documents](#)

[NCDOT Public Transportation Business Guide](#)

III. COMPLIANCE REQUIREMENTS

The federal granting agency has issued a compliance supplement that should be used in conjunction to this compliance supplement issued by the State Agency. Please refer to [2 CFR Part 200](#) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards: Final Rule.

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to [Subpart F](#) of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

A. ACTIVITIES ALLOWED OR UNALLOWED

Compliance Requirement - Eligible uses of the funds are limited to the subrecipient's approved application as defined in the approved Board of Transportation agenda for the Program. Projects must provide local transportation service (transit service available to the public) in a rural area (49 USC 5311(d)) or support of intercity bus transportation (49 USC 5311(f)). Also, coordination of public transportation assisted under this section with transportation service assisted by other United States Government sources is permitted and encouraged (49 USC 5311(b)).

Planning, operating, and capital projects (49 USC 5911(b)(1)) are allowed in addition to Job access and reverse commute projects, and the acquisition of public transportation services, including service agreements with private providers of public transportation (49 USC 5311(b)(1)).

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Audit Objective – Determine whether Federal funds were spent for only allowable activities approved in the subrecipient's application.

Suggested Audit Procedures –

1. Review the approved application to determine activities allowed categorized by G-Codes
2. Select a sample of transactions charged to approved G-codes and perform procedures to verify that:
 - a. Activities were allowable.
 - b. Individual transactions were properly classified and accumulated into the activity

B. ALLOWABLE COSTS/COST PRINCIPLES

Compliance Requirement – Costs must be reasonable, necessary, allowable and allocable and conform to any limitation or exclusion set forth by FTA and NCDOT laws, agreements or circulars. A list of required documentation for each G-code is provided in the [External Procedures - Appendix EX-302-1](#).

Audit Objective – Determine whether costs charged are allowable, accurately and adequately documented.

Suggested Audit Procedure – Select a sample of transactions charged to approved G-codes and perform procedures to verify that expenditures are accurate, properly allocated to the award, and adequately documented. Examine supporting documentation required to be submitted by all grantees with requests for reimbursement (claims) and verify the accuracy of information provided.

C. CASH MANAGEMENT

Compliance Requirement - Project Agreements specify that this is a cost reimbursement program. If the subrecipient receives payment of federal and State funds in advance of incurring the cost, which is an exception to the general method of payment and only in extenuating situations, the funds must be paid to the vendor within three (3) days of receipt from the department. NCDOT relies on the Federal Compliance Supplement, Part 3, Cash Management for guidance.

Audit Objective – Determine if advanced funds were disbursed within three days and that remaining costs were reimbursed following grantee expenditure.

Suggested Audit Procedure - Ascertain that funds received in advance of incurring the cost were disbursed to the vendor within three (3) days of receipt from NCDOT.

D. RESERVED

E. ELIGIBILITY

Eligible subrecipients are State or local governmental authorities, nonprofit organizations, and operators of public transportation or intercity bus service that receive funds through a recipient (49 USC 5311(a)(2)). MDS staff reviews application documents to determine the type of entity an applicant is classified as during the

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application process. Applicants are required to submit proof of a current DUNS registration number. In reviewing the DUNS Registration Summary, the Business Type is listed under the Entity Registration Summary. If it is determined the applicant does not meet the requirement above as being classified as one of the three (3) types, the applicant is ineligible to apply for grant funding.

No testing required

F. EQUIPMENT AND REAL PROPERTY MANAGEMENT

Vehicle Maintenance

1. **Compliance Requirement** - The grantee shall maintain all project equipment at a high level of cleanliness, safety, and mechanical soundness in accordance with the minimum maintenance requirements recommended by the manufacturer. The grantee shall register all vehicle maintenance activities in a Comprehensive Maintenance Record or an electronic version of same. Vehicles and equipment acquired under the Community Transportation Program (Section 5311) may be used only by:

- organization(s) as described in its application,
- organization(s) in coordinated services for a variety of elderly and/or persons with disabilities,
- operators under lease or other contractual agreement to provide only the services identified in the grant application or with the **prior** written approval of the NC Department of Transportation. Vehicles and equipment may be used for other purposes provided that these other uses are consistent with uses outlined in the Community Transportation Services Plan (the grantee has a copy) and do not interfere with the primary purpose of service provision to elderly and disabled persons.

Audit Objective – Determine the records were established as required by the agreement and that the agency has met the manufacturer's minimum maintenance requirements.

Suggested Audit Procedure - Inspect the maintenance records to determine if the recipient's maintenance program meets the minimum requirements as established by NCDOT and the agreement.

Disposal of Equipment and Realty

2. **Compliance Requirement** - Disposals of realty and related transit equipment must be in accordance with procedures established by the Department of Transportation and a portion of the funds received, as applicable, must be returned to the State and FTA in proportion to the original percentage of funds contributed ([FTA Circular 9030.1E](#) dated January 16, 2014; 2016 State Management Plan, and [FTA Circular 5010.1E](#), Grant Management Requirements, dated September 10, 2018). These circulars may be accessed at www.fta.dot.gov.

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Audit Objective - Determine that the disposals of realty and equipment followed NCDOT procedures.

Suggested Audit Procedure

1. Interview responsible officials and review disposition records and determine whether there were any disposals of realty or related transit equipment.
2. Select a sample of disposed vehicles to verify proper disposal steps were implemented.
3. Determine whether disposition approval was received from the NCDOT.
4. Ascertain disposal prices for disposed realty and equipment.
5. Determine whether dispositions received a Fair Market Value (FMV) assessment prior to disposal.
6. Review financial records and determine amounts credited or returned to the state, as applicable.

Proceeds from the Disposition of Vehicles and Equipment

3. **Compliance Requirement** - Proceeds retained from the disposition of vehicles and related equipment as established by the Department of Transportation must be used for transportation purposes. The funds cannot go to the general fund; a separate account is required. The Asset Management/Maintenance & Disposition Sections of the 2016 State Management Plan addresses disposition of equipment.

Audit Objective - Determine if the proceeds from the disposition of vehicles and equipment were deposited to the proper account, reported to PTD and if the proceeds were used to further public transportation activities correctly.

Suggested Audit Procedure - Ascertain that proceeds from the disposition of vehicles and equipment were deposited to the proper account, reported to PTD and used for public transportation purposes.

G. MATCHING, LEVEL OF EFFORT, EARMARKING

I. Matching

1. **Compliance Requirement** - For administrative, operating, planning and capital projects, the Federal and State participation cannot exceed the amount stated in the agreement or the renewal letter (approved project budget).
 - a. Operating assistance requires a 50 percent match, half of which must be non-Federal. Capital and administration require a 20 percent non-Federal match. No match is required for State administration or RTAP. Revenues from providing mass transportation (e.g., fare box revenue) may not be used for the match. Amounts received under a service agreement with a State or local social service agency or a private social service organization may be used to

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match operating assistance. Recipients may use funds from other Federal agencies (non-DOT) for the entire local match if the other agency makes the funds available to the recipient for the purposes of the project. The only DOT funds that States can use as local match for Section 5311 projects are from the Federal Lands Highway Program (49 USC 5311(g)).

Audit Objective – Determine whether the minimum percentage of contributions for matching funds was provided. Auditor should report amount received from NCDOT as well as total subrecipient expenditures.

Suggested Audit Procedure

1. Examine the agreement renewal letter and any subsequent budget revisions and amendments.
 2. Ascertain the total project costs, including those eligible for NCDOT participation.
 3. Review financial records and determine the amount which can be claimed as the Federal and State share. The Uniform Public Transportation Accounting System (UPTAS), revised May 22018, defines eligible reimbursable line item expenditures. (This is available from the Subrecipient or NCDOT.)
 4. Verify that the match is from the allowable source as identified in the approved local share certification form submitted to PTD.
2. **Compliance Requirement** - The Federal share of net operating expenditures cannot exceed the smaller of the following: (1) the percentage of participation in total operating expenditures as stated in the applicable grant contract or grant renewal letter, or (2) the balance of unrecovered operating expenditures after deducting all farebox and service contract revenues.

NOTE: Operating expenditures do not include administrative expenses and employee development costs positions such as for the director, assistant coordinator building rent, and administrative supplies, etc. Operating expenditures do include salaries for drivers, vehicle maintenance and repairs, fuel, etc.

Audit Objective – Determine whether Federal share was at or below allowable amount.

Suggested Audit Procedures

1. Verify total operating expenditures, farebox revenues, and revenues from service contracts. (This should include confirmation with selected agencies.)
2. Ascertain the amount of the Federal/State/local shares and test documentation to determine contribution.
3. Verify that that the Federal share was below allowable amount.

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II. Level of Effort – Not Applicable

III. Earmarking – Requirements are not passed down to the local level. No testing required.

H. PERIOD OF PERFORMANCE

Compliance Requirement - Funds are made available to subrecipients based on the terms of each Grant Agreement. With approval of NCDOT, the period of performance may be extended an additional three months through September 30 for allowable tasks that have been initiated, but not completed. Expenses incurred beyond the PTD approved end date, usually September 30, are ineligible for reimbursement by the division. Period of Performance extensions are granted on a case by case basis under eligibility requirements established in [PTD's External Procedures](#) in Section EX-202.

Audit Objective – Determine whether subrecipients charged only allowable costs incurred during the period of performance.

Suggested Audit Procedures –

1. Review the grant agreement and determine the period of performance.
2. Test transactions for costs recorded during the beginning of the period of performance and verify that the costs were not incurred prior to the start of the period of performance.
3. Test transactions for costs recorded during the latter part and after the period of performance and verify costs were incurred within the period of performance. If transactions were incurred outside the period of performance, determine if a performance extension was executed between PTD and the grantee.

I. PROCUREMENT AND SUSPENSION AND DEBARMENT

Compliance Requirement – Subrecipients must comply with the federal and State procurement guidelines. All procurements in excess of \$10,000 must be approved by NCDOT. Procurement guidelines are developed by the NCDOT based on the requirements. Nonprofit agencies must develop written procurement policy and guidelines as required by [FTA Circular 4220.1F](#). The guidelines must be approved by NCDOT. An award term is required in all awards for construction, alteration, maintenance, or repair of a public building or public work (2 CFR section 176.140). Further information about this requirement, including applicable definitions, is found in 2 CFR part 176, Subpart B.

1. *Buy America*

All steel, iron, and manufactured products used in the project must be produced in the U.S., as demonstrated by a Buy America certificate, but, in the case of rolling stock, the cost of components produced in the United States is more than 60 percent of the cost of all components of the rolling stock and final assembly of the vehicle takes place in the U.S. (49 CFR part 661).

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- a. The FTA Administrator may grant specific waivers following case-by-case determinations that: (1) applying the requirement would be inconsistent with the public interest; (2) the goods are not produced in the U.S. in a sufficient and reasonably available quantity and of satisfactory quality; or (3) the inclusion of the domestically produced material will increase the overall project cost by more than 25 percent (49 CFR sections 661.7(b) through (d)).
- b. Appendix A to 49 CFR section 661.7 provides general waivers for the following items.
 - (1) Those articles, materials, and supplies listed in 48 CFR section 25.104;
 - (2) Microprocessors, computers, microcomputers, or software, or other such devices, which are used solely for the purpose of processing or storing data; and
 - (3) All “small purchases” (under \$150,000) made by FTA recipients with capital, planning, or operating assistance.
- c. Appendix A to 49 CFR section 661.11 provides a general Buy America waiver when foreign-sourced spare parts for buses and other rolling stock (including train control, communication, and traction power equipment) whose total cost is 10 percent or less of the overall project contract cost are being procured as part of the same contract for the major capital item.

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- d. A recipient that purchases rolling stock for transportation of passengers in revenue service must conduct, or cause to be conducted, a pre-award audit before entering into a formal contract for the purchase of rolling stock, and certify that a post-delivery audit is complete before title to the rolling stock is transferred to the recipient, or the rolling stock is put into revenue service, whichever occurs first. Pre-award and post-delivery audits verify the accuracy of the Buy America certification, purchaser's requirements certification, and certification of compliance with or inapplicability of Federal motor vehicle safety standards in 49 CFR part 571 (49 CFR part 663).

2. *Disadvantaged Business Enterprises (DBE)*

Recipients shall require that each transit vehicle manufacturer certify that it has complied with the requirements of 49 CFR section 26.49, as a condition to bid on a transit vehicle procurement in which FTA funds are involved. Recipients may, with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles that a transit vehicle manufacturer must meet (49 CFR section 26.49(d)).

3. *Procurement of Vehicles and Facilities*

In prohibiting discrimination in the provision of transportation services against persons with disabilities, the Americans with Disabilities Act of 1990 requires that vehicles purchased or leased after August 25, 1990, and new and altered facilities designed and constructed (as marked by the notice to proceed) after January 25, 1992, must comply with the applicable standards of accessibility in 49 CFR parts 37 and 38 (42 USC 12101-12213).

Audit Objective - Determine whether procurements and contracts were approved by PTD and followed the appropriate policies and procedures.

Suggested Audit Procedure

1. Interview responsible officials and review purchasing records to determine whether there were any purchases or outside contracts.
2. Verify that appropriate policies/procedures were followed when making purchases or entering into contracts as prescribed in the compliance requirement above.

4. *Debarment*

Compliance Requirement – No recipient is allowed to procure goods or services from a company, firm or organization that has been suspended or debarred by the State of North Carolina or Federal Government.

Audit Objective – Determine that the entity has not entered into any agreements with parties that have been debarred by any government agency.

Suggested Audit Procedures

1. Review the contract between the subrecipient and the subcontractor to identify language which prohibits a subrecipient from procuring goods or services from a

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company, firm or organization that has been suspended or debarred by the State of North Carolina or Federal Government.

2. Ascertain if the required suspension and debarment certifications were received for covered contracts.

Please refer to the DOT Cross-Cutting Supplement for additional testing procedures

J. PROGRAM INCOME

Compliance Requirement – Payments made directly to the transportation provider by human service agencies and university fees passed on to the transit provider would be considered “program income” and may be used to reduce the net operating cost of the service or may be used as local match on the existing grant. Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide local match for Section 5311 operating assistance (treated as program income). In either case, the cost of providing the contract service is included in the total project cost. Unlike other forms of program income, income from contracts to provide human service transportation may be used as the local match for the grant in which the income is generated

Audit Objective: Determine whether program income is accurately determined, recorded, reported, and used in accordance with program requirements.

Suggested Audit Procedures: Examine payments, support documents, farebox collection procedures, farebox reconciliation procedures to verify that program income was properly determined, recorded, and used, and amounts collected and classified as program income were from allowable sources. Verify that program income was accurately reported to PTD in the quarterly program income reports due on the 15th of the month following the end of the quarter. Unlike other forms of program income, income from contracts to provide human service transportation may be used as the local match for the grant in which the income is generated.

K. RESERVE

L. REPORTING

National Transit Database (NTD) (OMB No. 2132-0008) - Recipients are required to submit an annual report containing financial and operating information. The State agency administering the 5311 program is responsible for submitting the rural report on behalf of the State and its subrecipients. The NTD web site is located at <https://www.transit.dot.gov/ntd>. Data to be reviewed is on the Rural General Public Service Transit form (RU-20).

Key line items: The following line items contain critical information:

- a. Line 05 - Total Annual Operating Expenses
- b. Line 08 - Local Operating Assistance
- c. Line 13 - Annual Capital Costs

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d. Lines 25a, 25b, 25c (Mode), Column g - Total Trips

1. **Compliance Requirement** - The Annual Operating Statistics Report must be submitted for designated public transportation systems receiving administrative, operating and capital funds.

Audit Objective – Determine that reports were submitted timely, accurately and are adequately supported.

Suggested Audit Procedure - Trace operating statistics reflected in the Annual Report to underlying accounting records.

2. **Compliance Requirement** - Grantees must submit an annual updated Transportation Asset Management (TAM) inventory.

Audit Objective – Determine if the inventory was submitted accurately.

Suggested Audit Procedure

1. Examine the PTMS for any application submitted.
2. Examine the PTMS for consistency with grantee's fixed asset inventory. The PTMS should include all rolling stock, equipment in the vehicle (mobile radios, cell phones, mobile data terminals, etc.) and facilities.
3. **Compliance Requirement** - Grantees must submit an annual Drug and Alcohol Report to the NCDOT in the manner prescribed and by the required deadline. Non-submission of the required report will result in payment suspension and potential loss of federal funds.

Audit Objective – Determine that required reports were submitted accurately and timely.

Suggested Audit Procedure

1. Examine the annual report for accuracy.
2. Review files for correspondence from NCDOT to determine if report was accepted or delinquent.
4. **Compliance Requirement** - Grantees must submit quarterly DBE Report of Awards and Report of Payments documenting actual utilization (CFR Parts 23 and 26 and FTA Circular 4716.1A, and the U.S. DOT DBE Final Rule, Federal Register dated February 2, 1999 - Participation by Disadvantaged Business Enterprises in Department of Transportation Programs). Additional required reports include Project Progress Reports and reports of significant events (FTA Circular 5010.1C). Based on the level of FTA funding, exclusive of transit vehicle purchases, recipients are required to implement a DBE program. To monitor the progress of the DBE program, recipients are required to submit quarterly reports based on a record keeping system (49 CFR Section 23.49, 23.11).

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Audit Objective - Determine DBE reports are supported by adequate documentation.

Suggested Audit Procedure

1. Review grantee's DBE contract expenditures (as opposed to contract awards) as outlined in FTA Circular 5010.1D and 49 CFR Part 26.
2. Review the reports and trace the information to underlying data to determine completeness and accuracy.

5. Nongovernmental Reports

Compliance Requirement – North Carolina General Statute 143C-6-23 "Use of State Funds by Non-State Entities," and North Carolina Administrative Code Chapter 9, Subchapter 03M "Uniform Administration of State Grants" addresses reporting requirements for nongovernmental entities.

Audit Objective – Determine if the organization is subject to G.S. 143C-6-23 and the type of filing/report that should be made with the NCDOT.

Suggested Audit Procedure

1. Determine the entity's reporting level and applicable reports that should be submitted to NCDOT to comply with 09 NCAC 03M.
2. Determine whether reports were accurately prepared and filed timely.

M. SUBRECIPIENT MONITORING

NCDOT passes this grant to its subrecipients who can then pass the funds down further to another subrecipient. If this situation occurs, refer to Part 3 of the Uniform Guidance Compliance Supplement (2 CFR Part 200, Appendix XI) for Sub-recipient Monitoring suggested audit procedures. If the subrecipient does not pass this money down to another subrecipient, no testing is required at the local level.

N. SPECIAL TEST AND PROVISIONS

1. Charter Service

Compliance Requirement - As part of the annual certifications and assurances required by the FTA, a recipient must execute an agreement with the FTA which provides that neither the recipient nor any of its subrecipients will provide charter service that uses equipment or facilities acquired with FTA funds, unless: (a) there are no willing and able private charter service operators or (b) one or more of the exceptions listed in 49 CFR part 604 are met and the charter service is incidental to the provision of mass transportation. Charter service is defined as transportation, using buses or vans (funded in whole or in part by FTA), of a group of persons pursuant to a common purpose, under a single contract at a fixed charge for the vehicle or service, which has acquired the

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exclusive use of the vehicle or service to travel together under an itinerary either specified in advance or modified after leaving the place of origin. This definition includes the incidental use of FTA-funded equipment for the exclusive transportation of school students, personnel and equipment, and the housing of charter vehicles in FTA-funded facilities. Incidental charter service is defined as service that does not:

(a) interfere with or detract from the provision of the mass transportation service for which the facilities or equipment were funded under the Act or (b) shorten the mass transportation life of the equipment or facilities ([49 CFR part 604](#)).

Audit Objective - Determine whether the use in charter service of equipment and facilities acquired with FTA funds conformed to 49 [CFR part 604](#).

Suggested Audit Procedures

1. Ascertain if the recipient provides charter service with FTA-funded equipment by:
 - (1) obtaining written representation from the recipient;
 - (2) reviewing revenue accounts for indications of charter bus revenue statements; and
 - (3) reviewing the charter service report submitted to NCDOT
 - (4) reviewing the recipient's web site and local business "Yellow Pages" for indications of charter service operations.
2. Review the recipient's policies and procedures for charter, rental, or lease of its transit equipment.
3. Test transactions that meet the definition of charter service and ascertain if:
 - (1) FTA-assisted equipment or facilities (e.g., parking lots and maintenance garages) were used;
 - (2) Documentation was available evidencing the absence of a willing and able private operator or an exception provided in [49 CFR part 604](#);
 - (3) Documentation was available evidencing a charter fee that recovers the entire operating and capital costs of equipment used; and
 - (4) Inventory records were adjusted to extend the useful life of the FTA subsidized transit equipment by the amount of charter service.

2. School Bus Operation

Compliance Requirement - As part of the annual certifications and assurances required by FTA, a recipient must enter into an agreement with the FTA Administrator stating that the recipient will not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators, unless it demonstrates to the FTA Administrator any one of the exceptions listed in 49 CFR section 605.11 and the Administrator concurs. Indicators of exclusive school bus service are:

- a. Bus schedules that only operate one way to schools in the morning and the other way from schools in the afternoon.
- b. Destination signs that say "school bus" "school special" or a school name are indicative of prohibited exclusive school bus service.
- c. Buses that have flashing lights and swing arms like standard yellow school buses are indicative of prohibited exclusive school bus service.

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- d. Bus stop signs that say “school” are indicative of prohibited exclusive school bus service.
- e. Bus stops that are located on school property away from general public thoroughfares are indicative of prohibited exclusive school bus service.
However, all recipients can operate “Tripper Service,” which is defined as regularly scheduled mass transportation service that is open to the public, and designed or modified to accommodate the needs of school students and personnel, using various fare collections or subsidy systems. Buses used in “Tripper Service” are required to be clearly marked as open to the public and should not carry designations such as “school bus” or “school special.” All routes traveled by tripper buses must be within a grantee or operator’s regular route service as indicated in their published schedules (49 CFR part 605).

Policy Guidance for School Transportation Service

This policy clarification is guidance to public transportation systems regarding federal/state requirements related to exclusive public school transportation service. Federal law does not provide exceptions to regulations for discipline problem students being transported to alternative schools or to special needs students. Charter schools are also included in this policy. These guidelines relate directly to transportation services to or from instructional programs that are provided during the regularly organized school day. This policy also applies to transportation services provided during the day other than to and from home for students to go from their base school to another school or program facility such as mental health, vocational rehabilitation, day care center, etc. Note that Head Start is not defined as a school by the Federal Transit Administration (FTA). Transportation to Child Development Centers is classified as human service transportation and therefore is not affected by the exclusive school transportation service regulations.

Federal and state requirements prohibit the use of vehicles, facilities and equipment funded by federal or state grant programs for the provision of exclusive school transportation service. Exclusive school transportation service is defined as any trip provided by a transportation system for which passengers are restricted only to students being transported to or from school or to or from school activities. The transportation system must immediately cease operating any exclusive public-school transportation service operated with federal or state funded vehicles, equipment or facilities. The leasing of vehicles for the purpose of public-school transportation will not be allowed. Future federal and state grant-funding eligibility may be denied if exclusive school transportation service is not ceased immediately.

Community Transportation Systems are to review any current exclusive public-school transportation service(s) to ensure that no federal or state funded vehicles, equipment, and facilities are used for the provision of such service(s). Review existing and pending contracts with public schools to ensure that contract language does not limit the service exclusively to the public school(s). There are three statutory exemptions under which an FTA grantee may operate exclusive bus service:

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

A grantee wishing to engage in school bus operations must provide an opportunity for public comment including:

- Providing written notice to all private school bus operators
- Publishing notice in the local newspaper

The FTA Administrator makes the determination whether to permit a grantee to operate exclusive school bus service under one of the statutory exemptions. Upon notice of approval by the Administrator, the subrecipient enters into an agreement with the Administrator.

Exclusive school bus service operated under an approved exemption must use locally owned vehicles that are not housed or maintained in a federally funded facility. FTA funded equipment and facilities cannot be used for exclusive school bus service under any circumstances. As verified by the Federal Transit Administration, any transportation service provided to or from a public school must be open to the general public and advertised as such. FTA has advised that any services that do not meet these conditions must cease immediately.

The National Highway Traffic Safety Administration (NHTSA) and the National Transportation Safety Board (NTSB) emphasize that school buses are one of the safest forms of transportation in the country, and therefore strongly recommend that all vehicles used to transport school children be certified as meeting NHTSA's school bus safety standards. Passenger vans are not required to be manufactured to the same federal motor vehicle safety standards as traditional yellow school buses. Using passenger vans that do not meet NHTSA's school bus standards to transport students could result in increased liability in the event of a crash as the risk of a serious injury or fatality is significantly higher.

Audit Objective - Determine whether school bus service provided with FTA-funded equipment was approved by FTA or that FTA-assisted equipment and facilities used to accommodate students conformed to the definition of "Tripper Service."

Suggested Audit Procedures

1. Ascertain if the recipient operates any transit service exclusively for school children through: (1) a review of bus schedules, published fares, and service contracts; (2) discussions with recipient officials; and (3) reviews of school district or individual school web sites for information on bus transportation of school students.
2. Ascertain if FTA-funded equipment (e.g., buses or vans) or facilities (e.g., bus maintenance garages) were used to provide school service by reviewing inventory

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- records, maintenance logs, parking sites, names on bus and van destination signs, school facilities, or by performing other appropriate procedures.
3. If exclusive school bus service is identified, review documentation that the service was approved by the FTA.

Policy Guidance for Transporting Passenger to Church and Religious Services

Federal and state funded vehicles may not be utilized for transportation to church and religious services if the transportation is provided exclusively for this purpose and the service is not open to the general public. The service must be provided in an open-door manner and marketed as such. The service must adhere to federal and state guidelines regarding charter restrictions. Note, however, that the system cannot restrict to whom the service is provided based on religious affiliation.

Policy Guidance for Transporting Passengers to Vote

Federal and state funded vehicles may not be utilized for transportation to a place of voting or voter registration when the express purpose of the trip is to carry voters or potential registrants. The reason for this policy is that the grants are not provided for this purpose and there are potential partisan political activities that could occur that are beyond the legitimate scope of the services offered by the grantee and beyond the capability of the grantee, FTA, and the State to monitor.

Transportation to a place of voting or voter registration is allowed when provided under the normal route structure/ service design of the system, with the service open to any member of the general public, and not provided exclusively for the purpose of voting or voter registration.

Audit Objective - Determine if the equipment is being used in a manner consistent with the Community Transportation Services Plan, approved project application, and NCDOT policy guidance.

Suggested Audit Procedure - Examine trip data records and service-related records for compliance.

Policy Guidance on Vehicle Leasing and Charter Service

The Public Transportation Division established policy guidance regarding the transfer and use of federal and state funded vehicles to other North Carolina designated 5311 recipients/public transit providers.

The Public Transportation Division established policy guidance (NC DOT Public Transportation Business Guide) regarding the use of federal and state funded vehicles for Charter service. Policy EX 1302 Compliance explains Charter services may be provided with 5307, 5311, 5310, and 5339 federally funded if it is for program purposes or demand responsive service for the aging, disabled or low-income individuals. Charter service is only allowed under the Charter rule exceptions as it relates to a local policy matter and is subject to federal procedures and regulations. Subrecipients should have a charter service policy that describes any service restrictions or limitations, afterhours safety procedures, and cost of service details etc. if Charter service is provided in accordance with the exceptions rule

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Exceptions: Charter service may be provided based on the following exceptions:

- The service is for official government business, which can include non-transit purposes and does not exceed 80 hours.
- The service is provided for a qualified Human Service Organization that provides human services programs for aging, disabled or low-income individuals.
- Equipment and drivers may be leased under certain conditions involving the private operator contracted to provide a charter service.
- No registered charter provider responds to a notice within 72 hours or 14 days depending on the time of the request before the event.
- All registered charter providers within the transit system's geographic service area have an agreement to allow the system to provide the charter service.
- An exception may be requested from the FTA Administrator for events of regional or national significance. Regional applies to a portion of the United States, not a portion of the State of North Carolina. Requests for charter services for local fairs, festivals, or other events must go thru the FTA notification process to registered private providers.

Referenced Documents

1. Federal Transit Administration (FTA) [Circular 9040.1G](#) Formula Grants for Rural Area Program under 49 U.S.C 5311.
2. [NC DOT Public Transportation Business Guide](#)
3. [49 CFR 604 Charter Service](#)

Audit Objective - Determine if Vehicle Leasing and Charter Service are being used in a manner consistent with the current NC DOT/PTD policy guidance.

Suggested Audit Procedure - Examine subrecipient policies and procedures, trip data records, service-related records, and vehicle transfer (through PTD to other designated 5311 recipients/Public Transportation Providers) agreements and Charter service documentation for compliance.