

APRIL 2023

20.526

## BUS AND BUS FACILITIES FORMULA

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<b>State Project/Program:</b>	<b>FEDERAL TRANSIT ADMINISTRATION (FTA) CAPITAL PROGRAM RURAL CAPITAL – 14 URBAN STATE MATCH – DOT-19</b>
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### U. S. Department of Transportation

**Federal Authorization:** Bus and Bus Facilities Formula & Discretionary Programs 49 U.S.C. 5339

**State Authorization:**

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**Agency Contact Person – Program**

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The auditor should not consider the Supplement to be “safe harbor” for identifying audit procedures to apply in an 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.

**Auditors may request documentation of monitoring visits by the State Agencies.**

This compliance supplement must be used in conjunction with the OMB 2023 Compliance Supplement which will be issued in the summer. This includes “Part 3 - Compliance Requirements,” for the types that apply, “Part 6 - Internal Control,” and “Part 4 - Agency Program” requirements if the Agency issued guidance for a specific program. The OMB Compliance Supplement is Section A of the State Compliance Supplement.

The Single Audit Compliance Unit at NCDOT’s Office of Inspector General (OIG) reviews all single audits, financial audits, and management letters of all “grantees”. We are looking at both the presentation (information as to program, pass-through and State funding, and NCDOT identification numbers) and the dollar amounts presented versus our records. Any reports not received will be requested.

Grants must be properly identified by program name (FTA-Capital Program), CFDA number (“20.526”), and WBS number on the Schedule of Expenditures of Federal and State Awards. This information is available in the agreement with NCDOT; the funding program name, project number, FAIN, UEI, and total amount of the award are on the first page of the Agreement. The WBS number, grantor and/or pass-through grantor, program funding title and CFDA number (20.526) are included in the Agreement. 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 the NCDOT’s confirmation from the Grant Master List (GML), these funds are shown as part of CFDA Number 20.526.

## FEDERAL TRANSIT ADMINISTRATION (FTA) CAPITAL PROGRAM

### I. PROGRAM OBJECTIVES

#### Bus Program (Section 5339)

The objective of the Bus Program (5339 program) is to provide financial assistance to replace, rehabilitate, and purchase buses and related equipment as well as construct bus-related facilities through both formula and competitive selection procedures. The Bus program includes three tiers. The 5339-formula tier provides funds based on population, ridership, and vehicle mileage. The 5339(b) portion of the bus program is dedicated to a discretionary competition for buses, bus facilities and bus related equipment. The 5339(c) portion of the bus program is dedicated to the Low or No Emissions discretionary competitions for low or no emissions buses, bus facilities, and bus related equipment.

### II. PROGRAM PROCEDURES

Pursuant to [49 U.S.C. 5339](#), Federal Transit Administration (FTA) awards grants under this section to the designated recipients in the large urbanized areas (UZAs) and states to finance capital bus and bus-related projects that will support the continuation and expansion of public transportation services in the United States. Grants are awarded to public agencies on approval of applications for specific programs or projects submitted to the Federal Transit Administration (FTA). FTA monitors the progress of those projects through on-site inspections, telephone contacts, correspondence, quarterly progress and financial status reports, and, where applicable, Triennial Reviews. FTA is required to perform reviews and evaluations of 49 USC 5339 grant activities at least every 3 years.

### III. COMPLIANCE REQUIREMENTS

Below on the matrix are the types of compliance requirements are applicable to the federal program, noted as "Y," as determined by the federal granting agency if the federal program is listed in Part 2 of the OMB 2023 Compliance Supplement. A State agency may have added a Type. If the program is not listed in Part 2, the State Agency has determined the applicable Types. If a Type, applicable by OMB, does not apply at the local level or if the State has modified the federal requirements at the local level, this should be explained in the supplement under the Type. A Type that is not applicable at the local level is noted by "N."

If a particular Type is noted as "Y," the auditor must determine if the Type has a direct and material effect on the federal program for the auditee. For each Type of compliance requirement, the auditor must use the OMB 2023 Compliance Supplement, Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and Part 4 (which includes any program-specific requirements) to perform the audit.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/ Cost Principles	Cash Management	Eligibility	Equipment/ Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	N	Y	Y	Y	N	Y	Y	N

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### A. Activities Allowed or Unallowed

Eligible uses of grant funds are limited to the subrecipient's approved application and signed grant award as defined in the approved Board of Transportation agenda for the Program. Applications are reviewed by IMD staff to determine if eligible projects are proposed. If ineligible projects are proposed, IMD staff informs applicants and applications are denied.

#### 1. *Activities Allowed*

Eligible capital projects include projects to replace, rehabilitate, and purchase buses and related equipment, and projects to construct bus-related facilities. This includes but is not limited to:

- a. The acquisition of buses for fleet and service expansion;
- b. Bus maintenance and administrative facilities;
- c. The acquisition of vans for fleet and service expansion, including specialized vans and related facilities used to provide ADA complementary paratransit service;
- d. Transfer facilities;
- e. Bus malls;
- f. Transportation centers;
- g. Intermodal terminals;
- h. Intercity facilities which are part of a joint development project;
- i. Park-and-ride stations;
- j. Acquisition of replacement vehicles;
- k. Bus rebuilds;
- l. Bus overhauls;
- m. Passenger amenities such as passenger shelters and bus stop signs;
- n. Accessory and miscellaneous equipment such as:
  - (1) mobile radio units;
  - (2) supervisory vehicles;
  - (3) fare boxes;
  - (4) computers; and
  - (5) shop and garage equipment.

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- o. Clean Fuels Projects. Purchases under this category are passenger vehicles used to provide public transportation and powered by compressed natural gas (CNG), liquefied natural gas (LNG), biodiesel fuels, batteries, alcohol-based fuels, hybrid electric, fuel cell, clean diesel (ultra-low sulfur content), or other low or zero emissions technology. Eligible activities also include constructing or leasing clean fuel buses, constructing electrical recharging facilities for such buses, and constructing new or improving existing public transportation facilities to accommodate clean fuel buses.
  
- p. Introduction of New Technology. Section 5339 funds may be used for transit-related technology, such as innovative and improved products that provide benefits to transit, including Intelligent Transportation Systems (ITS). ITS refers to the use of electronics, communications, or information processing used as a single component or in combination to improve efficiency or safety of a transit or highway system. Examples of transit related ITS projects include:
  - (1) real-time bus arrival information available to passengers through electronic displays at bus stops;
  - (2) automatic vehicle locators;
  - (3) automated passenger counters;
  - (4) vehicle component monitoring (diagnostics)
  - (5) advanced fare payment methods
  - (6) computer-aided dispatching and real-time ridesharing; and
  - (7) automated information for travelers using more than one mode of transportation.
  
- q. Costs associated with environmental compliance including engineering and design activities are eligible capital expenses. This includes the preparation of environmental documents.

**NOTE:** Planning activities, preventive maintenance activities (other than bus overhauls), and mobility management activities are not eligible under the section 5339 Bus Program.
  
- r. Design and Art in Transit. Under MAP-21 federal transit funds are no longer available to support public art in transit facilities. Art can be incorporated into facility design, landscaping, and historic preservation; for example, by floor or wall tiles that contain artistic designs or patterns, use of color, use of materials, lighting, and the overall design of a facility. In addition, eligible capital projects include incidental expenses related to acquisition or construction, including design costs. Therefore, the incidental costs of incorporating art into facilities and including an artist on a design team continue to be eligible expenses.
  
- s. Leasing of Capital Assets. When a recipient leases capital assets from another party, leasing costs are eligible for capital assistance, provided leasing is more cost effective than purchase or construction. Leasing costs eligible for capital

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assistance include finance charges and ancillary costs such as delivery and installation charges. Leasing of capital assets requires compliance with 49 CFR part 639, "Capital Leases," and Office of Management and Budget (OMB) Circular A-94 which prescribes the discount rates.

- t. **Capital Cost of Contracting.** Some FTA recipients turn to an outside source to obtain public transportation service, maintenance service, or vehicles that the recipient will use in public transportation service. When a recipient enters a contract for such service, FTA will aid with the capital consumed in the course of the contract. In the case of a contractor providing vehicles for public transportation service, the capital consumed is equivalent to the depreciation of the vehicles in use in the public transportation service during the contract period. In the case of a maintenance contract, the capital consumed may be, for example, depreciation of the maintenance garage, or depreciation of the machine that lifts the vehicle. Capital consumed may also include a proportionate share of the interest the contractor might pay out as the contractor purchases and makes available to the recipient these capital assets. FTA refers to the concept of assisting with capital consumed as the "capital cost of contracting."

Only the costs attributable to the privately owned assets are eligible under this policy. FTA does not provide assistance for any preventive maintenance activities under the Section 5339 Bus Program. With one exception, items purchased with federal, state, or local government assistance are not eligible.

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

**Suggested Audit Procedures –**

Review the approved application to determine executed project activities were allowable under the funding program guidance.

### B. ALLOWABLE COSTS/COST PRINCIPLES

**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. The costs must be reasonable, necessary, allowable and allocable and conform to any limitation or exclusion set forth by 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 the 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 submitted by all grantees with requests for reimbursement (claims) to determine the claims are adequately supported.

### C. CASH MANAGEMENT

**Compliance Requirement** - Agreements specify that this is a cost reimbursement program. If the subrecipient receives payment of federal and state funds in advance of

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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 paid to the vendor within three (3) days of the grantee receiving reimbursement from the Department.

**Suggested Audit Procedure** – Examine documentation of transactions related to an advance to ensure it was approved by the Department and properly disbursed to the vendor.

### **D. RESERVED**

### **E. ELIGIBILITY**

**Compliance Requirement** - There are three categories of eligible subrecipients of these program funds:

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

Regional Grant Specialist (RGS) staff reviews application documents to determine the type of entity an applicant is classified as during the application process. Applicants are required to submit proof of a current UEI registration number. In reviewing the UEI 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 at the local level.

### **F. EQUIPMENT AND REAL PROPERTY MANAGEMENT**

**Compliance Requirement** - Title to equipment acquired by a non-Federal entity with Federal awards vests with the non-Federal entity. Equipment means tangible nonexpendable property, including exempt property, charged directly to the award having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. However, consistent with a non-Federal entity's policy, lower limits may be established. Local governments and Indian tribes shall follow the A-102 Common Rule for equipment acquired under Federal awards received directly from a Federal awarding agency. Institutions of higher education, hospitals, and other non-profit organizations shall follow the provisions of OMB Circular A-110. Basically, the A-102 Common Rule and OMB Circular A-110 require that equipment be used in the program for which it was acquired or, when appropriate, other Federal programs. Equipment records shall be maintained, a physical inventory of equipment also called the transportation Asset Management list (TAM) maintained, updated at least once every 2 years and reconciled to the equipment records, an appropriate control system shall be used to safeguard equipment, and equipment shall be adequately maintained. When equipment with a current per unit fair market value of \$5,000 or more is no longer

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needed for a Federal program, it may be donated, retained or sold with the Federal agency having a right to a proportionate (percent of Federal participation in the cost of the original project) amount of the current fair market value. Proper sales procedures shall be used that provide for competition to the extent practicable and result in the highest possible return.

### **Audit Objectives**

1. Determine whether the non-Federal entity maintains proper records for equipment and adequately safeguards and maintains equipment.
2. Determine whether disposition or encumbrance of any equipment or real property acquired under Federal awards is in accordance with Federal requirements and that the awarding agency was compensated for its share of any property sold or converted to non-Federal use.

### **Suggested Audit Procedures**

1. Obtain entity's policies and procedures for equipment management and ascertain if they comply with the State's policies and procedures.
2. Select a sample of equipment transactions and test for compliance with the State's policies and procedures for management and disposition of equipment.

## **G. MATCHING, LEVEL OF EFFORT, EARMARKING**

### **1. Matching**

- a. Under the 5339 program, the maximum Federal share is 80 percent of the net project cost (49 USC 5339(f)(1)).

### **2. Level of Effort – Not Applicable**

### **3. Earmarking**

- a. Under the 5339 program, not more than 0.5 percent of funds may be spent for workforce development (see III.A.1.g, above) (49 USC 5314(b)).

**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

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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 IMD.

### H. PERIOD OF PERFORMANCE

**Compliance Requirement** - Non-Federal entities may charge to the Federal award only allowable costs incurred during the period of performance and any costs incurred before the Federal awarding agency or pass-through entity made the Federal award that were authorized by the Federal awarding agency or pass-through entity (2 CFR section 200.309). 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 IMD 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 [External Procedures - EX-202](#).

Unless the Federal awarding agency or pass-through entity authorizes an extension, a non-Federal entity must liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award (2 CFR section 200.343(b)). When used with a non-Federal entity's utilization of funds under a Federal award, "obligations" means orders placed for property and services, contracts and sub-awards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period (2 CFR section 200.71).

### Audit Objectives

1. Determine whether the Federal award was charged only for: (a) allowable costs incurred during the period of performance; or (b) costs incurred prior to the date the Federal award was made that were authorized by the Federal awarding agency or pass-through entity.
2. Determine whether obligations were liquidated within the required time period.

**Suggested Audit Procedures** - Examine support documentation submitted by all subrecipients with requests for reimbursement (claims). A list of required documentation for each G-code is provided in the [External Procedures - Appendix EX-302-1](#). Test the instructions below regarding documentation each subrecipient is required to follow:

1. Group invoices and receipts by object code.
2. Clearly write the G-code on the invoice as it pertains to the claim.
3. Clearly circle or highlight the eligible expenses on each invoice and receipt (refer to UPTAS for detailed descriptions of eligible expenses). Documents must clearly indicate subtotals before taxes. *Subrecipients may file to receive reimbursement of sales tax with the North Carolina Department of Revenue; therefore, IMD does not reimburse sales tax.*



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### I. PROCUREMENT AND SUSPENSION AND DEBARMENT

**Compliance Requirement** – Subrecipients must comply with federal and state procurement guidelines. Procurement guidelines are developed by NCDOT based on the requirements. Nonprofit agencies must develop a 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](#).

**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).

1. 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)).
2. Appendix A to 49 CFR section 661.7 provides general waivers for the following items:
  - a. Those articles, materials, and supplies listed in 48 CFR section 25.104;
  - b. Microprocessors, computers, microcomputers, or software, or other such devices, which are used solely for processing or storing data; and
  - c. All “small purchases” (under \$150,000) made by FTA recipients with capital, planning, or operating assistance.
  - d. 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.
  - e. 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).

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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 that procurement documentation (including appropriate vendor certifications, attestation of compliance with vendor debarment procedures, independent cost estimates, etc.) were submitted by the required deadlines, accurately completed, and adequately supported with measurable evidence and other documents, as necessary.

**Suggested Audit Procedure** - Examine Procurement Checklist and Procurement History to account for compliance procedures. Maintain complete procurement records for all eligible transit systems.

J. PROGRAM INCOME – IMD monitors at the local level.

No testing is required.

K. RESERVED

L. REPORTING

### **Program Reports**

**Compliance Requirement** - Subrecipients are required to submit program reports along with monthly or quarterly claims for reimbursement, periodic reporting as outlined in the annual [NCDOT IMD Calendar](#) outlined in the annual call for projects. Periodic reporting is required for 5339 program funded projects.

**Audit Objective** – Determine that reports were submitted by the required deadlines, accurately completed and adequately supported with measurable evidence and other documents, as necessary.

**Suggested Audit Procedure** - Examine program reports and operating statistics against accounting records. Review Non-profit reporting requirements and submittals.

### **Financial Reporting**

- a. SF-270, Request for Advance or Reimbursement – Not Applicable
- b. SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable
- c. SF-425, Federal Financial Report – Not Applicable

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**Compliance Requirement** - Subrecipients are required to submit monthly or quarterly claims for reimbursement, periodic reporting as outlined in the annual [NCDOT IMD Calendar](#) outlined in the annual call for projects.

**Audit Objective** – Determine that eligible costs were submitted for reimbursement, accurately and adequately supported with supporting documentation.

**Suggested Audit Procedure** - Examine support documentation and EBS submittal dates to determine compliance.

M. SUBRECIPIENT MONITORING

NCDOT passes these grants to eligible subrecipients who can then pass the funds down further to another subrecipient. If this situation occurs, NCDOT relies on the Federal Compliance Supplement, Part 3, Section M. Subrecipient Monitoring, for guidance. 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 – Not applicable