

Title: Notice of Funding Availability and Solicitation of Applications for Grants under the Railroad Safety Technology Grant Program.

OMB Control Number: 2130-0587.

Abstract: The Rail Safety Technology Program is a newly authorized program under the Rail Safety Improvement Act of 2008 (RSIA) (Pub. L. 110-432; October 16, 2008). The program was directed by Congress and passed into law in the aftermath of a series of major rail accidents that culminated in an accident at Chatsworth, California, in 2008. Twenty-five people were killed and 135 people were injured in the Chatsworth accident. This event turned the Nation's attention to rail safety and the possibility that new technologies, such as PTC, could prevent such accidents in the future. The RSIA ordered installation of PTC by all Class I railroads on any of their mainlines carrying poisonous inhalation hazard (PIH) materials and by all passenger and commuter railroads on their main lines not later than December 31, 2015.

As part of the RSIA, Congress provided \$50 million to FRA to award,

in one or more grants, to eligible projects by passenger and freight rail carriers, railroad suppliers, and State and local Governments. Funds will be awarded to projects that have a public benefit of improved railroad safety and efficiency, with priority given to projects that make PTC technologies interoperable between railroad systems; projects that accelerate the deployment of PTC technology on high-risk corridors, such as those that have high volumes of hazardous material shipments; and for projects over which commuter or passenger trains operate, or that benefit both passenger and freight safety and efficiency.

Funds provided under this grant program may constitute a maximum of 80 percent of the total cost of a selected project, with a minimum of 20 percent of costs funded from other sources. The funding provided under these grants will be made available to grantees on a reimbursement basis. FRA anticipates awarding grants to multiple eligible participants. FRA may choose to award a grant or grants within the available funds in any amount. Funding made

available through grants provided under this program, together with funding from other sources that is committed by a grantee as part of a grant agreement, must be sufficient to complete the funded project and achieve the anticipated technology development. FRA will begin accepting grant applications 10 days after publication of the separate Notice of Funds Availability, which will be published on March 29, 2010, in the **Federal Register** detailing the terms of the Railroad Safety Technology Grant Program. Applications may be submitted until July 1, 2010. Selection announcements will be made on or around September 3, 2010.

Form Number(s): FRA F 6180.146; SF-269; SF-270.

Other Instruments: Information Published with the Notice of Funds Availability (NOFA) to be published shortly in the **Federal Register**.

Affected Public: Businesses.

Respondent Universe: 50 railroads.

Frequency of Submission: On occasion.

REPORTING BURDEN

Grant program	Respondent universe	Total annual responses	Average time per response	Total annual burden hours
Pre-Application Process:				
—Certification Statements (Form FRA F 6180.146).	50 Railroads	50 statements/forms	2 minutes	2
—Application Process	50 Railroads	50 grant applications	250 hours	12,500
—Meeting requests with FRA Associate Administrator.	50 Railroads	25 meeting requests	30 minutes	13
—Face to Face Meetings with Associate Admin.	50 Railroads	25 project meetings	2 hours	50
—Revisions to Grant Applications ..	50 Railroads	10 grant application revisions.	40 hours	400
—Execution Process (Progress Reports).	50 Railroads	120 progress reports	1 hour	120
—Close-Out Procedures:				
—Financial Status Report (SF-269)	50 Railroads	10 forms	30 minutes	5
—Audit (OMB A-133 or 49 CFR 19.26).	50 Railroads	10 audit documents	34 hours	340
—Audit Correction Plan	50 Railroads	1 plan	24 hours	24
—Final Progress Report	50 Railroads	10 reports	3 hours	30
—Final Request for Payment (SF-270).	50 Railroads	10 forms	1 hour	10
—Federal Owner Property Report ..	50 Railroads	5 reports	3 hours	15
—Final Technical Report	50 Railroads	10 reports	40 hours	400

Total Responses: 336.

Estimated Total Annual Burden 13,909 hours.

Status: Re-Approval under Regular Clearance Procedures

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it

displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501-3520.

Issued in Washington, DC on March 26, 2010.

Donna Alwine,
Acting Director, Office of Financial Management, Federal Railroad Administration.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Urbanized Area Formula Program: Notice of Final Circular

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of Availability of Final Circular.

SUMMARY: The Federal Transit Administration (FTA) is issuing Circular 9030.1D to provide comprehensive assistance to grantees in implementing the Urbanized Area Formula Program (Section 5307) for capital, planning, and some operating grants in urbanized areas.

DATES: The effective date of this circular is May 1, 2010.

ADDRESSES: A copy of the circular and comments and material received from the public, as well as any documents indicated in the preamble as being available in the docket, are part of docket FTA-2009-0010 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Ave., SE., West Building Ground Floor, Room W12-140, Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may also review the circular, comments, and supporting documents online through the Federal Document Management System (FDMS) at Web site: <http://regulations.gov>. Enter the docket number FTA-2009-0010 in the search field. The FDMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site.

This notice does not include the final circular. Electronic versions of the final circular will be posted on <http://regulations.gov> as well as on the FTA Web site <http://www.fta.dot.gov>. Paper copies of the final circular may be obtained by contacting FTA's Administrative Services Help Desk, at 202-366-4865.

FOR FURTHER INFORMATION CONTACT: Henrika Buchanan-Smith, Office of Program Management, Federal Transit Administration, 1200 New Jersey Ave., SE., East Building, Fourth Floor, Washington, DC 20590, phone: (202) 366-5080, fax: (202) 366-7951, or e-mail, Henrika.Buchanan-Smith@dot.gov; or Richard Wong, Office of Chief Counsel, Federal Transit Administration, 1200 New Jersey Ave., SE., East Building, Fifth Floor, Washington, DC 20590, phone: (202) 366-0675, fax: (202) 366-3809, or e-mail, Richard.Wong@dot.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Overview
- II. Chapter-by-Chapter Analysis
 - A. Chapter I—Introduction and Background
 - B. Chapter II—Program Overview
 - C. Chapter III—General Program Information

- D. Chapter IV—Program Development
- E. Chapter V—Coordinated Planning
- F. Chapter VI—Program Management and Administrative Requirements
- G. Chapter VII—Other Provisions
- H. Appendices

I. Overview

This notice provides a summary of changes to FTA Circular 9030.1C, Urbanized Area Formula Program: Program Guidance and Grant Application Instructions and addresses comments received in response to FTA's September 30, 2009 **Federal Register** publication announcing the availability of the proposed circular (74 FR 50273). The final Circular 9030.1D supersedes FTA Circular 9030.1C. Readers familiar with the former FTA Circular 9030.1C will notice that FTA is proposing a complete reorganization to make this circular consistent with the style of other circulars FTA has updated. Substantive changes in content are discussed in the chapter-by-chapter analysis.

Seven commenters responded to the notice of availability, including a public transportation trade association, a vanpool operator, two large metropolitan transit agencies, a member of the public, and one who wished to remain anonymous.

One commenter asked that FTA extend the comment period for an additional 45 to 60 days. FTA declined this request, as FTA specified in the Notice of Availability that "[l]ate-filed comments will be considered to the extent practicable," and FTA has considered all comments received after the November 20, 2009, deadline. Several commenters asked that FTA withhold publication of the circular until new surface transportation reauthorization legislation had been enacted. FTA believes that such an approach is not feasible, given uncertainty concerning the reauthorization process and the need to implement changes mandated by the 2005 reauthorization bill.

One commenter objected to the language in section 6 of the title page where FTA reserved the right to update the circular to reflect changes in revised or new guidance or regulation. FTA disagrees with this objection, noting that FTA is already obligated to include an opportunity for notice and comment when revising a circular or regulation, and there is no need to duplicate that effort when updating each circular affected by that revision.

A. Chapter I—Introduction and Background

Chapter I of the revised circular is the introductory chapter containing general

information about FTA, including contact information. It briefly addresses the current authorizing legislation for the Urbanized Area Formula program (a.k.a. "Section 5307 program"), provides information about Grants.gov, includes definitions applicable to the program and provides a brief program history. A "Definitions" section has been added to this circular, defining common terms used in the Section 5307 program.

Chapter I contains a number of topics that have been reorganized in the new circular. The former section "Other Funds Available for Transit Projects" is now renamed "Relationship to Other Programs" to be consistent with other FTA circulars, and moved to Chapter II. We have also moved the section titled "Flexible Funds" to the "Relationship to Other Programs" section in Chapter II, and transferred information on apportionments and local and Federal share to Chapter III. In addition, we have incorporated the information in the section titled "Grant Application Process" into other sections of the revised circular.

Several commenters suggested that the term "direct recipient" be deleted in favor of the term "designated recipient." FTA declines to adopt that change, as the two terms are not identical. A "designated recipient" is an entity officially designated by the Governor through the planning process to receive and apportion funds. A direct recipient, in contrast, is any entity that receives funds directly from FTA. In some cases, the designated recipient may also be a direct recipient, although a direct recipient may not necessarily be the designated recipient.

One commenter suggested that content be added to address the National Transit Database (NTD) and the Uniform System of Accounts (USOA). FTA has accepted and incorporated those changes in Chapter I, under the section titled "Definitions." Another suggested that administrative costs be defined and addressed in the Circular, which FTA has done in Chapter III, section 6, "Eligible Capital Projects." One commenter asked FTA to address force account plans, which FTA has done in Appendix E, "Preventive Maintenance."

B. Chapter II—Program Overview

Chapter II of the former circular, "Applicant Eligibility" has been augmented to contain additional detail about the Urbanized Area Formula program. Chapter II addresses the statutory authority for the Urbanized Area Formula program, followed by the goals of the program, recipient designation, the respective roles of the

designated recipient and FTA, a discussion about transportation management areas, FTA oversight, and the relationship of the Urbanized Area Formula Program to other FTA programs. This format conforms to Chapter II in the other circulars FTA has recently updated. In discussions regarding Transportation Management Areas in Chapter II and Apportionments in Chapter III, to conform to revisions of the joint planning regulation issued in February 2007, we deleted references to the expanded planning areas of a Transportation Management Area when referring to the Governor authority to reallocate funds apportioned to the Governor for urbanized areas under 200,000 in population. The Governor's authority is restricted only in the case of small urbanized areas officially designated as Transportation Management Areas.

One commenter, a large metropolitan transportation agency, objected to FTA's attempt to meet GPRA (Government Performance and Results Act) requirements by setting performance targets, using program measures to determine grant funding levels, or using those measures in a punitive manner. The commenter suggested that FTA provide additional clarification in the final circular as to the measurement of fleet condition and specifically recommends that FTA require recipients to report "average fleet age" information. FTA acknowledges the commenter's concerns, but ridership and condition data are long-standing national data measures and submitted to the National Transit Database on a regular basis. With regard to their use as determinants, formulas such as the fixed guideway tier of the 5307 formula are determined by Congress and implemented by FTA. Finally, FTA believes that comprehensive fleet age and condition statistics are necessary for FTA to estimate fleet condition on a national level with a reasonable degree of accuracy.

C. Chapter III—General Program Information

Chapter III continues to address eligible capital, operating and planning activities, as well as advance capital project authority, reflecting changes made by Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for users (SAFETEA-LU). Transportation development credits (formerly referred to as toll revenue credits) have been added to Chapter III to provide a calculation method that is consistent with the method used by the Federal Highway Administration (FHWA). FTA has moved and

supplemented information about "Preventive Maintenance" into a new Appendix E due to the length and complexity of the topic. FTA has moved pre-award authority and letters of no prejudice to Chapter IV. Additional information addressed in Chapter III includes apportionments, funds availability, and local and Federal share. All of these sections have been updated to be consistent with the law and with the format of other recently revised FTA circulars.

One commenter asked FTA to support a definition of Mobility Management that included employer-oriented Transportation Management Organizations. FTA has included language in Chapter III, section 6f(5) to implement this request. The same commenter asked that FTA revise Chapter III to address eligibility that takes into account emissions benefits for purposes of compliance with the Clean Air Act. Emissions benefits, while a factor under the Congestion Management and Air Quality (CMAQ) program, are not statutory factors for consideration under the section 5307 program. Finally the same commenter asked that the circular include stronger provisions to include private providers and operators in the local planning and programming process. FTA does not get involved in the details of the local public participation process, and instead defers to the local Metropolitan Planning Organizations (MPOs) to determine their locally-developed processes and procedures.

D. Chapter IV—Program Development

The sections of former Chapter IV, "Apportionments," describing how funds are apportioned under the urbanized area formula program and apportionments are transferred to other eligible programs, are now in the first sections of Chapter III. FTA has added a new Chapter IV, "Program Development," to address the role of the designated recipient and the metropolitan planning organization (MPO), applicants other than designated recipients; pass-through arrangements (formerly found in Chapter II); subarea allocation and transfer of funds for highway projects (formerly found in Chapter IV); planning requirements (formerly in Appendix A); program of projects and public participation requirements; certifications and assurances (formerly found in Chapter V); undertaking projects in advance; a catch-all section for pre-award authority; and letters of no prejudice (formerly found in Chapter III).

FTA has revised each of these sections to reflect changes in statutes,

regulations, and FTA policy. We are also streamlining some sections, such as planning, while expanding others, such as certifications and assurances, to provide more detailed guidance to our recipients.

One commenter noted that the draft circular did not account for the various roles of designated recipients vis-à-vis Metropolitan Planning Organizations (MPO) throughout the country. Given the wide variation of these roles among the various urbanized areas (UZA), the commenter stated that the circular must be flexible. The commenter perceived that Chapter IV of the draft assumes a Metropolitan Planning Organization (MPO) is the sole designated recipient for the UZA. This structure is impractical in some communities where the Metropolitan Planning Organization (MPO) is not staffed sufficiently to undertake the duties of a designated recipient or others where the independence of local governments is more pronounced and, as a result, a single Metropolitan Planning Organization (MPO) function is primarily to coordinate the activities of multiple designated recipients. FTA agrees with this commenter and has revised Chapter IV accordingly to clarify the relationship between Metropolitan Planning Organization (MPO), Designated Recipient and other recipients. Chapter IV has also been revised to clarify that the Metropolitan Planning Organization (MPO) and the designated recipient can be two separate entities.

Another commenter, a large metropolitan transportation agency operating across state boundaries, asked that the circular specifically address transit agencies that must work with multi-state Metropolitan Planning Organization (MPO)s, acknowledging them as designated recipients. Consistent with statute, however, designated recipients are determined by local officials, not FTA, and FTA believes language in a circular would have no effect on that process.

One commenter asked why "toll revenue credits" had been renamed "transportation development credits" in the revised circular. FTA is making this change to reflect statutory changes in the 2005 reauthorization law.

Several commenters suggested that the planning justification be removed from the Transportation Electronic Award Management (TEAM) system as redundant, because by virtue of their inclusion in a Statewide Transportation Improvement Plan (STIP), they already have been through the Metropolitan Planning Organization (MPO) planning process. FTA does not agree with this

suggestion, as Transportation Electronic Award and Management (TEAM) is the official administrative record for FTA-funded projects and the data must be included with the Transportation Electronic Award and Management (TEAM) file. The justification to be included with the application is more project-specific.

Finally, one commenter suggested that the discussion of joint development address private investment and provide additional guidance on how retail space can qualify as incidental space. FTA believes that FTA's publication "Final Agency Guidance on the Eligibility of Joint Development Improvements Under Federal Transit Law" (72 FR 5788, Feb. 7, 2007) provides adequate direction, but interested parties may contact FTA's headquarters or regional offices for specific questions not addressed by the Final Agency Guidance document.

E. Chapter V—Coordinated Planning

The revised Chapter V addresses the coordinated planning process required under the Section 5310, Elderly Individuals and Individuals with Disabilities formula program; the Section 5316, Job Access and Reverse Commute (JARC) program; and the Section 5317, New Freedom program. Often the designated recipient for the Urbanized Area Formula program will also be the designated recipient for one or more of these human services transportation programs. The revised Chapter V contains substantially the same information as that found in FTA Circular 9040.1F, Nonurbanized Area Formula Program Guidance and Grant Application Instructions.

The information found in the former Chapter V, "Requirements Associated with Urbanized Area Formula Program Grants" has been reorganized into other chapters. For example, the section, "National Transit Database Reporting System" has been updated and moved to the new Chapter VI. We are also providing a link to the FTA Web site as well as to the TEAM system, where applicants can find the instructions. FTA has moved the section titled "Certification Procedures" to the rewritten Chapter IV. The section titled "FTA Oversight" has been updated and moved to the new Chapter II. The section titled "Certifications Particular to the Urbanized Area Formula Program" has been renamed "Certifications Required by 49 U.S.C. 5307" and moved to Chapter IV. Updated information on program of projects and public participation requirements have also been moved to Chapter IV. Finally, FTA is eliminating the "Alphabetical List of Other

Requirements" as the content of that section is already addressed in other chapters. Updated information related to "Associated Capital Maintenance Items," "New Technology Introduction" and "Lease vs. Buy Considerations" can be found in Chapter III under "Capital Projects;" updated information on "Buses," "Bus Facilities," and "Fixed Guideway Rolling Stock," has been consolidated into Chapter IV's section titled, "Requirements Related to Rolling Stock and Equipment." The section on "New Starts" has been removed because information on the relationship between the New Starts program and the Urbanized Area Formula program is already addressed in Chapter II. Other provisions in the former Chapter V can be found in the revised Chapter VII, "Other Provisions."

F. Chapter VI—Program Management and Administrative Requirements

The content of the former Chapter VI, "Application Instructions," has been updated, streamlined, and moved to Appendix A. The revised Chapter VI contains information on the TEAM system, Electronic Clearing House Operation (ECHO) system, and, as previously discussed, information on the National Transit Database, requirements related to vehicles and equipment, and requirements related to facilities. The information in this chapter is consistent with that found in other recently updated FTA circulars.

Several commenters stated that the estimation of useful service life in Chapter VI, section 5, for facilities was impractical, given variations in climate, geography, and usage. They claimed that such an exercise would result in additional investments of time and costs on transit agencies and FTA alike with no practical benefit. FTA does not agree with these commenters—by establishing a standard useful life for facilities, FTA can ensure consistency across projects and regions.

G. Chapter VII—Other Provisions

Chapter VII of the former circular contained instructions for preparing a project budget. This information has been updated and moved to Appendix B, consistent with other recently revised FTA circulars. The revised Chapter VII conforms to the "Other Provisions" chapters in other FTA circulars, and addresses common Federal requirements that FTA grantees are held to in addition to the program-specific requirements. As previously stated, some of the information has been relocated from the former Chapter V's "Alphabetical Listing of Other Requirements." Other sections, such as

the Presidential Coin Act, are new to this circular. Recipients should use this chapter, in conjunction with FTA's Master Agreement and the current fiscal year Certifications and Assurances to assure that they have met all requirements. Recipients may contact FTA HQ or Regional Counsel if they have additional questions concerning these requirements.

Once commenter asked FTA to include explicit language excluding vanpool drivers from FTA's drug and alcohol testing requirements. Consistent with prior legal opinions from FTA's Chief Counsel, FTA has included specific language in Chapter VII, section 7 of the revised circular.

H. Appendices

The appendices are intended as tools for developing a grant application. Appendix A specifically addresses steps and instructions for preparing a grant application, including pre-application and application stages. This information is comparable to Chapter VI, "Application Instructions," in the former circular, although it has been updated and reorganized. Appendix A also includes an application checklist. Appendix B provides budgetary information, including a sample budget, replacing the information formerly found in Chapter VII, "Instructions for Preparing a Project Budget." Appendix C consists of the content of the former Appendix D, "Operating Assistance Projects." Appendix D contains the content of the former Appendix F, "Forms and Representative Documents," with the exception of documents we have removed that are now readily available online. Appendix E contains a description of the preventive maintenance program, and is new to this circular. Appendix F contains updated contact information for FTA's regional and metropolitan offices, which was previously contained in Chapter VIII of the former circular.

Several commenters opined that the "Engineering Review" required in the revised Appendix A would unnecessarily add time and costs without likely improvement of project management. One commenter claimed that this proposal raises the bar for new projects and will increase the cost of project development, grant management, and FTA oversight. Another commenter added that state of good repair projects and routine replacement investments should not be subjected to more extensive oversight. FTA responds that this is not a new requirement, but rather, is currently required under Chapter VI, section 9c, of the outgoing FTA Circular 9030.1C,

and remains an effective management tool. The commenter perhaps misunderstood that the “Engineering Review” was performed by FTA in reviewing the grant application and that the grantee simply had to provide sufficient information in the grant

application about the proposed project for FTA to review. In the final circular the review has been renamed “Engineering/Technical” review to clarify the nature of the review is relative to the complexity of the project.

Issued in Washington, DC, this 23rd day of March 2010.

Peter Rogoff,

FTA Administrator.

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