

OVERVIEW OF THE FEDERAL TRANSIT PROGRAM

Prepared For

by the American Public Transit Association



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I. BACKGROUND

Sources of Public Transit Funding: Obtaining sufficient financing is one of the most important challenges facing public transit agencies. Funding for this essential public service comes in part from assistance provided by the three levels of government: local, state and federal.

The Urban Mass Transportation Act: While local and state assistance programs vary considerably from area to area, almost all federal financial assistance to public transit is provided through grants authorized by Congress in the Urban Mass Transportation Act of 1964, as amended. The most recent amendment was the Federal Mass Transportation Act (FMTA) of 1987, Public Law 100-17.

The federal transit program provides transit systems with up to 80 percent federal assistance for major capital purchases. Federal operating assistance grants are also available, amounting on a national basis to approximately six percent of the industry's operating needs.

The two sources of federal funding for transit are the Mass Transit Account of the Highway Trust Fund and general revenues of the U.S. Treasury. The Mass Transit Account is supported by one-cent of the nine-cent per gallon federal tax on motor fuels. It is a dedicated source of funds, providing a degree of stability and reliability for the program.

There are four major grant programs through which federal assistance is provided: 1) the Section 3 discretionary grant program; 2) the Section 9 formula grant program for urbanized areas (areas with population over 50,000); 3) the Section 9(B) program, essentially a supplementary, capital-only Section 9 program; and 4) the Section 18 formula grant program for non-urbanized areas (areas with population under 50,000). The major features of each of these programs are summarized in this paper.

The Urban Mass Transportation Administration (UMTA): Responsibility for administering the federal grant program has been assigned by Congress to the Secretary of the U.S. Department of Transportation. The Secretary's authority has been delegated to the Administrator of the Urban Mass Transportation Administration. UMTA is an agency of the Department of Transportation with offices in Washington, D.C. UMTA has 10 regional offices headed by regional administrators. These regional offices are the first point of contact between grant recipients and the federal program.

II. SECTION 3: DISCRETIONARY GRANT PROGRAM

Program Description: Section 3 of the Urban Mass Transportation Act authorizes grants to be made on a discretionary basis by the Secretary of Transportation "on such terms and conditions as the Secretary may prescribe" to assist state and local public transit agencies in financing major capital projects including:

- new start projects (new fixed guideway systems and extensions to existing fixed guideway systems, including rolling stock);
- rail modernization projects (modernization of existing fixed guideway systems, including rolling stock); and
- major bus projects (acquisition, construction and improvement of buses and bus-related facilities).

Source of Funding: Funding for the Section 3 discretionary grant program comes from the Mass Transit Account of the Highway Trust Fund.

Amount of Funding: The FMTA of 1987 authorizes the following split of Section 3 funds: 40 percent available for new starts; 40 percent for rail modernization; 10 percent for bus projects and 10 percent for discretionary use by the Secretary.

The table below shows the level of funding for Section 3 grants that Congress has authorized nationally through Fiscal year 1991 together with annual budget requests by the Administration and funds actually made available by Congress.

SECTION 3 DISCRETIONARY GRANT PROGRAM* (in millions)

	Authorization	Administration Budget Request	Obligation Limitation
Fiscal Year 1986	\$1,100.0	\$75.0**	\$1,000.5
Fiscal Year 1987	1,097.0	65.5**	1,002.5
Fiscal Year 1988	1,200.0	70.0**	1,065.3
Fiscal Year 1989	1,250.0	70.0**	1,070.0
Fiscal Year 1990	1,300.0		
Fiscal Year 1991	1,400.0		

* Amounts include funding for Sections 4(i), 8 and 16(b)(2) and are subject to annual limitation by Appropriations Committees.

** Funding for Sections 8 and 16(b)(2) only.

Federal Share: The federal share of a Section 3 project is up to 75 percent. At least 25 percent local match must be provided by the applicant from non-federal sources.

Application Requirements: The applicant's governing board must authorize the submission of the grant application and must authorize the applicant's chief executive to sign the grant contract on behalf of the applicant when the project is approved.

The application must contain a wide range of information, including a description of the project and its impact on the community, an environmental impact analysis, a description of the source and financing arrangements for the local share, a public hearing transcript, labor protective information, civil rights information, various assurances and certifications, and information to support required findings that the applicant has or will have:

- the legal, financial, and technical capacity to carry out the project;
- satisfactory continuing control over the facilities and equipment purchased; and
- sufficient capacity to maintain the facilities and equipment.

Grant Contract: Following approval of a grant, UMTA will forward a grant contract to be signed by the recipient. The grant contract commits the federal government to provide its share of the project cost and obligates the applicant to carry out the project substantially as described in the application. In addition, the applicant agrees to adhere to various grant conditions either set out in the contract or contained in various UMTA regulations. The grant conditions are described in more detail in Part VII of this paper.

Letter of Intent: In addition to approving a grant under Section 3, the Secretary may issue a "letter of intent" for a project. A letter of intent serves as an advance indication that the Secretary intends to approve a project pending the availability of funds. The letter of intent, however, falls short of a legal commitment. At least 30 days before a letter of intent is issued, it must be provided to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate.

Earmarking of Funds: In recent years, Congressional "earmarking" of Section 3 funds in the annual appropriations process has become commonplace. Congress in effect directs the Secretary to approve specific new start and extension projects at identified levels of funding.

UMTA Criteria for Funding New Fixed Guideways: A new start must be based on the results of an alternatives analysis and preliminary engineering, must be cost-effective and must be supported by an acceptable degree of local financial commitment. Exempt projects include those under full-funding contract or letters of intent by April 2, 1987 and those in preliminary engineering, final design or construction as of January 1, 1987. The Department of Transportation is required to issue further guidelines.

Interstate Substitution: The Interstate Substitution program, administered in many respects like Section 3, is another source of funding for major capital projects. This program is authorized by the Urban Mass Transportation Act and the Federal Aid Highway Act, and permits state and local elected officials to withdraw proposed interstate highway segments and substitute instead a public transit project. The federal share of an Interstate Substitution project is 85 percent. Highway Trust Fund money available for the withdrawn Interstate segment is returned to the Trust Fund and a comparable amount of money from the General Fund of the U.S. Treasury is made available for the substitute transit project. The table below shows the level of funding for these projects authorized by Congress through Fiscal Year 1991 together with the budget requests by the Administration and funds actually appropriated by Congress.

INTERSTATE SUBSTITUTION TRANSIT PROJECTS
(in millions)

	Authorization	Administration Budget Request	Appropriation
Fiscal Year 1986	\$400.0	*	\$210.0
Fiscal Year 1987	200.0	*	200.0
Fiscal Year 1988	200.0	*	123.5
Fiscal Year 1989	200.0	*	200.0
Fiscal Year 1990	200.0		
Fiscal Year 1991	200.0		

* To be funded only from the Highways Account of the Highway Trust Fund.

III. SECTION 9: FORMULA GRANT PROGRAM FOR URBANIZED AREAS

Program Description: Section 9 is a formula grant program in which each urbanized area is entitled to receive financial assistance for public transit. The Section 9 formulas are based on an urbanized area's population, population density, levels of existing fixed guideway service, and levels of existing bus service and ridership.

As opposed to the Section 3 program, which is designed to assist in meeting extraordinary capital needs, the Section 9 program is designed to meet routine capital needs and to provide funding for operating expenses. The program limits the level of operating assistance that may be received to a percentage of operating assistance available in Fiscal Year 1982. For urbanized areas that became such as a result of the 1980 Census or later, the limitation is two-thirds of their Fiscal Year 1984 Section 9 apportionment.

Source of Funding: Funding for the Section 9 formula grant program comes exclusively from general funds of the U.S. Treasury.

Amount of Funding: The table below shows, on a national basis, the level of Section 9 funding that Congress has authorized through Fiscal Year 1991 together with recent annual budget request of the Administration and funds actually appropriated by Congress.

SECTION 9 FORMULA GRANT PROGRAM*
(in millions)

	Authorization	Administration Budget Request	Appropriation**
Fiscal Year 1986	\$3,050.0	\$1,025.0	\$2,057.6
Fiscal Year 1987	2,000.0	1,108.2	2,000.0
Fiscal Year 1988	2,100.0	1,254.3	1,801.7
Fiscal Year 1989	2,100.0	1,281.5	1,675.0
Fiscal Year 1990	2,100.0		
Fiscal Year 1991	2,100.0		

* Includes funding for the Section 18 program described in Part V.

** For Fiscal Year 1988 and later, the totals include Section 9(B) funds from the Mass Transit Account (see Section IV).

Federal Share: For capital projects, the federal share is a fixed 80 percent. For operating assistance the maximum federal share is 50 percent of the deficit after farebox revenues are taken out. As a practical matter, limitations on the availability of funds have meant that the 50 percent maximum is never attained. On a national basis, the operating assistance program supplies approximately six percent of the industry's operating needs. Funds under Section 9 also are available for public transit planning projects with an 80 percent federal share.

A special provision permits 80 percent federal funding of the purchase of "associated capital maintenance items," which are replacement and repair items (including tires, tubes and materials) costing at least one-half percent of the cost of the rolling stock in which the item will be used.

Funds available under Section 9 remain available to an urbanized area for three years following the year of apportionment. Afterwards, they are to be reapportioned by UMTA to other urbanized areas. Reapportionment of formula funds must occur within 30 days of lapsing.

Application Requirements: The intent of Section 9 is to create a block grant program to reduce red tape and unnecessary federal intrusion into local affairs. Under Section 9, a single grant application may be submitted based on a locally developed "program of projects." A program of projects may combine planning, capital and operating assistance projects. Grants under Section 9 may be made for a partial program of projects.

For urbanized areas greater than 200,000 in population, Section 9 funds are provided to "designated recipients." Designated recipients must be public bodies and must be designated by a governor, responsible local officials and public transit operators. Where a statewide or regional agency is responsible under state law for financing, constructing or operating public transit, that agency must be the designated recipient. For urbanized areas of less than 200,000 in population, Section 9 funds are made available to the governor or his or her designee. Individual urbanized area allocations are, however, published by UMTA at the time of apportionment.

As with the Section 3 program, the designated recipient's governing board must authorize the submission of the grant application and must authorize the applicant's chief executive to sign the grant contract when the application is approved. The application must also include a description of the projects included in the program of projects and in most instances, must also include labor protection information, private enterprise data, an environmental impact analysis, civil rights information and various assurances and certifications.

Grant Contract: The grant contract commits the federal government to provide the funds necessary to carry out the program of projects and obligates the designated recipient to see that the program is carried out. In addition, the designated recipient agrees to adhere to various grant condition either set out in the contract or contained in various UMTA regulations. These grant conditions are described in more detail in Part VII.

Transfer of Funds by the Governor: With notification to UMTA, a governor is permitted to transfer funds within a state made available to any urbanized areas following consultation with local officials and transit operators. When funds are within 90 days of lapsing, a governor may make transfers without consultation.

IV. SECTION 9(B): SUPPLEMENTARY FORMULA GRANTS PROGRAM

Program Description: Section 9(B) of the Urban Mass Transportation Act authorizes a capital grants only program similar to the Section 9 program. This program is authorized for Fiscal Years 1988-1991.

Source of Funding: Funding for the Section 9(B) program comes from the Mass Transit Account of the Highway Trust Fund.

Amount of Funding: Funding for the Section 9(B) program is available only when more than \$1 billion is made available by Congress in any given year from the Mass Transit Account. Of funds in excess of \$1 billion, 50 percent are available for the Section 9(B) program and are apportioned under the Section 9 formula. Fifty percent is available for the Section 3 discretionary capital grants program.

Federal Share: Eighty percent for capital projects only.

Application Requirements: Same as for Section 9.

V. SECTION 18: FORMULA GRANT PROGRAM FOR NON-URBANIZED AREAS

Program Description: Section 18 creates a formula grant program for public transit projects in non-urbanized or rural areas. Under this program, the governor of each state is entitled to receive financial assistance on the basis of the state's population that is located in non-urbanized areas. The governor, in turn, makes the funds available to local public agencies based on locally-prepared applications for planning, operating or capital assistance projects. In addition, up to 15 percent of the state's annual apportionment may be used to pay the state's cost of administering the Section 18 program.

Source of Funding: Funding for the Section 18 formula grant program comes from the General Fund of the U.S. Treasury as a fixed percentage of the funding made available for the Section 9 and 9(B) programs. In recent years, Congress has supplemented the fixed percentage with a bonus appropriation (see following table).

Amount of Funding: The table below shows, on a national basis, the level of Section 18 grants that Congress has authorized through Fiscal Year 1991 together with the amount requested by the Administration and funds actually appropriated by Congress.

SECTION 18 FORMULA GRANT PROGRAM
(in millions)

	Authorization*	Administration Budget Request	Appropriation
Fiscal Year 1986	\$89.0	\$31.0	\$60.0
Fiscal Year 1987	58.6	32.5	75.0**
Fiscal Year 1988	64.5	36.8	64.6**
Fiscal Year 1989	65.2	67.0	66.4**
Fiscal Year 1990	65.9		
Fiscal Year 1991	67.4		

* Includes full availability of Mass Transit Account funds.

** Includes bonus appropriation of \$16.9 million (1987), \$12.4 million (1988) and \$18 million (1989).

Federal Share: For planning or capital projects, the federal share is 80 percent. For operating assistance projects, the maximum federal share is 50 percent of the deficit after farebox revenues are taken out.

Funds available under Section 18 remain available to the governor for two years following the year of apportionment after which they may be used by other states.

Application Requirements: Section 18 funds are made available to the governor based on the submission, at least annually, of an application which includes a statewide program of public transit projects to be carried out in non-urbanized areas. The statewide program must provide for "fair and equitable" distribution of funds within the state including Native American reservations, and must be coordinated with other federal program providing for transportation assistance. Typically, the governor designates the state department of transportation as the agency responsible for administering the Section 18 program.

The statewide application is based on locally-prepared applications by rural and small urban communities submitted to the state. Each state application submitted to UMTA must contain a description of the projects in the program of projects, private enterprise description, a labor protection warranty, a description of efforts to coordinate with social service agencies in the area, a description of the extent of public involvement in preparing the local application and various assurances and certifications. The various assurances and certifications are based on information contained in the locally-prepared application such as evidence that the local applicant's governing board has authorized the submission of the application.

Grant Contract: The grant contract commits the federal government to provide the funds to the state agency to carry out the various projects. The state agrees to adhere to various grant conditions and to see that local applicants also abide by various grant condition set out in the contract or contained in various UMTA regulations. These grant conditions are described in more detail in Part V of this paper.

Transfer of Funds by the Governor: With notification to UMTA, the governor is permitted to transfer Section 18 funds to supplement Section 9 funds for urbanized areas with a population of less than 200,000.

VI. OTHER GRANT PROGRAMS

There are a number of smaller federal grant programs which promote and support mass transit. These programs are briefly described below.

The Section 4(i) program authorizes the Secretary of Transportation to make grants for the deployment of innovative techniques and methods in the management and operation of public transportation services.

Section 6 authorizes the Secretary to independently or by grant or contract undertake research, development and demonstration projects in all phases of urban mass transportation.

Section 10 authorizes the Secretary to make grants to states, local public bodies and agencies thereof (and operators of public transportation services) to provide fellowships for training of personnel employed in managerial, technical and professional positions in the public transportation field.

Section 11 authorizes the Secretary to make grants to public and private non-profit institutions of higher learning to assist in establishing or carrying out comprehensive research into the problems of transportation in urban areas.

Section 18(h) authorizes the Secretary to make grants and to enter into direct contracts for transit research, technical assistance, training and related support services in non-urbanized areas.

Section 20 authorizes the Secretary to undertake or provide financial assistance, by grant or contract, for national and local programs that address human resource needs as they apply to public transportation activities.

Under the Section 16 (b)(2) program, the Secretary is authorized to make grants and loans for the provision of mass transportation services which are planned, designed and carried out to meet the special needs of elderly and disabled persons.

VII. UMTA GRANT CONDITIONS AND REGULATIONS

Background: Almost all federal grant programs come with "strings attached" in the form of grant conditions which a recipient of assistance must follow in return for receiving the grant. Frequently, grant-making agencies write detailed regulations implementing broad statements of Congressional policy covering these grant conditions. All grant conditions must be authorized by Congress and those that are imposed by an agency without Congressional authority may be challenged and overturned in the courts.

Grant Conditions in the Transit Program: There are numerous grant conditions and implementing regulations associated with the program of financial assistance for public transit under the Urban Mass Transportation Act, as amended. As of this date, UMTA is developing implementing regulations as a result of the enactment of the Federal Mass Transportation Act of 1987. The Federal Register will publish the latest regulations stemming from the Act.

Although by no means an exhaustive list, several of the most noteworthy of grant conditions and regulations are summarized in alphabetical order below:

Buy America: Unless an exception applies, recipients must use steel, cement and manufactured products made in the United States. Exceptions include instances where there is a finding by the Secretary that application of the Buy America requirements would be inconsistent with the public interest, that products are available in sufficient quantities or quality or where there is a price differential of 25 percent or more. Domestic content requirement for transit rolling stock will increase from the current 50 percent to 55 percent for contracts entered into after Fiscal Year 1989 and to 60 percent after Fiscal Year 1991. Any company that has met the existing Buy America requirements is exempt from the increase for all contracts entered into before April 1, 1992. The term "subcomponent" is added to the law, and it is intended that U.S. subcomponents incorporated into foreign components should be counted toward meeting the domestic content requirement. Final assembly must take place in the United States.

Charter Operations: Recipients must agree not to engage in charter operations unless by exception in accordance with limitations set out in UMTA regulation.

Disadvantaged Business Enterprise (DBE): Recipients of highway and transit funds must agree to expend at least 10 percent of the funds made available for contracting with disadvantaged business enterprises, e.g., generally minority or women-owned business.

Elderly and Disabled Transportation: Recipients must agree not to discriminate against disabled persons under Section 504 of the Rehabilitation Act and must make special efforts under Section 16 of the UMTA Act, as amended, to make public transit services available to elderly and disabled persons.

Under Department of Transportation implementing regulations, each locality may choose the type of service it wants to meet the regulatory requirements. The service must satisfy six service criteria.

Environmental Protection: Under the National Environmental Policy Act and Section 14 of the UMTA Act, as amended, recipients must prepare an environmental analysis for every proposed project and an Environmental Impact Statement for major projects significantly affecting the quality of the human environment.

Fare Increases: Recipients of Section 9 funds must have a locally developed process to solicit and consider public comment prior to raising fares.

Fares for Elderly and Disabled Persons: Recipients of Section 9 funds must let elderly and disabled persons ride at at least half-fare during off-peak hours.

Labor Protective Provisions: Under Section 13(c), recipients must make fair and equitable arrangements, as determined by the Secretary of Labor, to protect workers from a worsening of their position as a result of a federal grant. This usually means that a recipient must negotiate a "13(c) agreement" with unions representing its workers as part of the grant process.

Non-Discrimination: Under Titles VI and VII of the Civil Rights Act, and Section 19 of the UMTA Act, recipients must not discriminate against any person on the basis of race, color, creed, national origin, sex or age.

Planning: Proposals for public transit grants are required by Section 8 of the UMTA Act to be developed through a "continuing, cooperative and comprehensive" transportation planning process and must include the development and analysis of long-term financial plans incorporating the revenue from current and potential sources to implement them. Under DOT implementing regulations, local, elected officials designate a Metropolitan Planning Organization to carry out this planning process. Proposed projects are included in an overall Transportation Improvement Program (TIP), and the projects proposed for implementation in the upcoming year are listed in the Annual Element of the the TIP.

Private Enterprise Participation: The Transportation Improvement Program (TIP) developed through the planning process is required "to the maximum extent feasible" to provide for the participation of private mass transportation companies.

Procurement: Recipients must agree to use competitive procurement procedures in carrying out projects and must agree not to use "exclusionary and discriminatory" specifications. In procuring associated capital maintenance items, recipients may contract directly with the original manufacturer or supplier of the item to be placed without prior Secretarial approval if the recipient first certifies to the Secretary that the manufacturer or supplier is the only source of the item and that the price is no higher than that paid for such item by like customers.

Relocation Assistance: Under the Uniform Relocation Assistance Act and Section 7 of the UMTA Act, each recipient must comply with detailed DOT and UMTA regulations on relocation assistance to persons or businesses displaced as a result of a public transit project.

Reporting System: Recipients must agree to provide statistical information about the financing and operation of public transit based on a uniform system of accounts and record established by UMTA under Section 15 of the UMTA Act.

Safety: Under Section 22 of the Urban Mass Transportation Act, the Secretary has authority to investigate conditions in any "facility, equipment or manner of operation" financed under the Act "which the Secretary believes creates a serious hazard of death or injury."

School Bus: Recipients must agree not to engage in school bus operations except in accordance with limitations set out in UMTA's implementing regulations.

Service Reduction: Recipients of Section 9 funds must have a locally-developed process to solicit and consider public comment prior to reducing service.

Triennial Audits: Recipients of Section 9 funds must permit the Secretary at least every three years to conduct a "full review and evaluation" of whether the recipient has carried out its program of projects adequately.

NOTE: For further information about the federal program of financial assistance for public transit, please contact:

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