

OVERVIEW
OF THE
FEDERAL TRANSIT PROGRAM



OVERVIEW OF THE FEDERAL TRANSIT PROGRAM

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 the users of transit through fares and 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 for public transit is provided through grants authorized by Congress in the Urban Mass Transportation Act of 1964. This program provides transit systems with up to 80% federal assistance for major capital purchases. Federal operating assistance grants are also available, amounting on a national basis to approximately 10% of the industry's operating needs, ranging from 6% to over 30% on an individual transit system basis.

There are three major grant programs through which this 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), and (3) the section 18 formula grant program for non-urbanized areas (areas with population under 50,000). The major features of each of these programs is 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"). UMTA is an agency of the Department of Transportation with headquarters in Washington, D. C. UMTA has 10 Regional Offices headed by Regional Administrators which 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 (i.e. new fixed guideway systems and extensions to existing fixed guideway systems including rolling stock);
- rail modernization projects (i.e. modernization of existing fixed guideway systems including rolling stock); and
- bus projects (i.e. acquisition, construction, and improvement of buses and bus-related facilities).

Source of Funding: Funding for the Section 3 discretionary grant program comes from one-cent of the five-cent per gallon increase in the gasoline tax authorized by the Surface Transportation Assistance Act of 1982. The transit portion of the gasoline tax is paid into the Mass Transit Account of the Highway Trust Fund and may only be spent on public transit projects. It is, therefore, a dedicated source of funds, providing a degree of stability and reliability for the program.

Amount of Funding: The table below shows on a national basis the level of funding for Section 3 grants that Congress has authorized through Fiscal Year 1986 together with the amount budgeted by the Administration and actually appropriated by Congress in Fiscal Years 1984 and 1985.

	Authorization	Administration Budget	Appropriation
Section 3 Discretionary Grant Program (in millions)			
Fiscal Year 1984	1,250	1,100	1,220
Fiscal Year 1985	1,100	1,100	1,120
Fiscal Year 1986	1,100		

Federal Share: The federal share of a Section 3 project is 75% and a 25% 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, environmental impact analysis, a description of the source and financing arrangements for the 25% 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 75% 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 V 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 through the annual appropriations process has become commonplace. The earmarking takes place on two levels. First, Congress allocates funding among the major types of projects--bus, rail modernization, and new starts. Then, Congress in effect orders the Secretary to approve specific new start projects at identified levels of funding.

UMTA Criteria for Major Investments: With respect to new start projects, UMTA has published proposals for criteria upon which it proposes to base funding decisions for these major projects. Recently, Congress had directed UMTA to further discuss these proposals with all interested parties before the criteria become effective.

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%. 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 1986 together with the amount budgeted by the Administration and actually appropriated by Congress in Fiscal Years 1984 and 1985.

	Authorization	Administration Budget	Appropriation
Interstate Substitution Public Transit Projects (in millions)			
Fiscal Year 1984	380	380	295
Fiscal Year 1985	390	250	250
Fiscal Year 1986	400		

III. Section 9: Formula Grant Program for Urbanized Areas

Program Description: Section 9 creates a formula grant program in which each urbanized area is entitled to receive financial assistance for public transit at levels determined annually under formulas adopted as part of the Surface Transportation Assistance Act of 1982. 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 also provides 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.

A provision authorizing the trade in of capital funds for operating funds on a three-for-two basis expired with the close of Fiscal Year 1984. Utilizing this provision, a transit system in Fiscal Year 1983 and 1984 could bring its total operating aid up to 1982 levels.

Source of Funding: Funding for the section 9 formula grant program comes from the General Fund of the U. S. Treasury.

Amount of Funding: The Table below shows on a national basis the level of section 9 grants that Congress has authorized through Fiscal Year 1986 together with the amount budgeted by the Administration and actually appropriated by Congress in Fiscal Years 1984 and 1985.

	Authorization	Administration Budget	Appropriation:
Section 9: Formula Grant Program (in millions)*			
Fiscal Year 1984			
Capital	1,875	1,699	1,514
Operating	875	275	875
Total	2,750	1,974	2,389
Fiscal Year 1985			
Capital	2,075	1,844	1,575
Operating	875	545	875
Total	2,950	2,389	2,450
Fiscal Year 1986			
Capital	2,175		
Operating	875		
Total	3,050		

* Includes funding for the section 18 program, described in Part IV of this report.

Federal Share: For capital projects, the federal share is 80% and for operating assistance projects the maximum federal share is 50% of the deficit after farebox revenues are taken out. As a practical matter, limitations on the availability of funds have meant that the 50% maximum is never attained and, on a national basis, the operating assistance program supplies approximately 10% of the industry's operating needs. Funds under section 9 are also available for public transit planning projects with an 80% federal share. A special provision permits 80% federal funding of the purchase of "associated capital maintenance items," which are replacement and repair items costing at least one 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 after which they may be used by other urbanized areas.

Application Requirements: The intent of section 9 was to create a block grant program, reducing 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." This program of projects may combine planning, capital and operating assistance projects.

For urbanized areas over 200,000 in population, section 9 funds are provided to "designated recipients." Designated recipients must be public bodies and must be designated by the 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 under 200,000 in population, section 9 funds are made available to the governor or his designee.

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 description, 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 conditions either 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 Governor: With notification to UMTA, the governor is permitted to transfer funds made available to urbanized areas with a population less than 200,000 to non-urbanized areas or to other urbanized areas with a population less than 300,000. These transfers may be made only after consultation with local officials and public transit operators in the areas that would otherwise have received the funds.

IV. 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 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% 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 program.

Amount of Funding: The Table below shows on a National basis the level of section 18 grants that Congress has authorized through Fiscal Year 1986 together with the amount budgeted by the Administration and actually appropriated by Congress in Fiscal Years 1984 and 1985.

	Authorization	Administration Budget	Appropriation
Section 18 Formula Grant Program (in millions)			
Fiscal Year 1984	81	58	70
Fiscal Year 1985	86	70	72
Fiscal Year 1986	89		

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

Funds available under section 18 remain available to the governor for two years 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 indian reservations, and must be coordinated with other federal programs 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 necessary 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 conditions 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 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 less than 200,000.

V. UMTA Grant Conditions and Regulations

Background: Almost all federal grant programs come with "strings attached" in the form of grant conditions that 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. Although by no means an exhaustive list, several of the most noteworthy of these conditions and regulations are summarized in alphabetical order below:

1. 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 not available in sufficient quantities or quality, or where there is a price differential of 25% or more (10% for rolling stock). The Buy America provision also does not apply to rolling stock purchases if 50% of the components are produced domestically and final assembly takes place in the United States. UMTA has published implementing regulations, which should be consulted for details.
2. Charter Bus: Recipients must agree not to engage in charter bus operations outside the urban area within which they provide public transit service except in accordance with limitations set out in UMTA's implementing regulations.
3. Disadvantaged Business Enterprise ("DBE"): Recipients of highway and transit funds must agree to expend at least 10% of the funds made available for contracting with disadvantaged business enterprises, e.g. generally minority owned business. The Department of Transportation has published implementing regulations, which should be consulted for details. These regulations also contain requirements on the participation of minority business enterprises ("MBE") and women business enterprises ("WBE") in grant projects.
4. Elderly and Handicapped Transportation: Recipients must agree not to discriminate against handicapped persons under section 504 of the Rehabilitation Act and must make special efforts under section 16 of the Urban Mass Transportation Act to

make public transit services available to elderly and handicapped persons. Under Department of Transportation implementing regulations, transit systems may satisfy this requirement by making their regular buses accessible with wheelchair lifts, by providing special services, or a combination of these approaches.

5. Environmental Protection: Under the National Environmental Policy Act and section 14 of the Urban Mass Transportation Act, recipients must prepare environmental analysis for every proposed project and an Environmental Impact Statement for major projects significantly affecting the quality of the human environment.
6. Fare Increases: Recipients of section 9 funds must have a locally developed process to solicit and consider public comment prior to raising fares.
7. Fares for Elderly and Handicapped Persons: Recipients of section 9 funds must let elderly and handicapped persons ride at half fare during off-peak hours.
8. 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.
9. Non-Discrimination: Under Titles VI and VII of the Civil Rights Act, and section 19 of the Urban Mass Transportation Act, recipients must not discriminate against any person on the basis of race, color, creed, national origin, sex, or age.
10. Planning: Proposals for public transit grants are required by section 8 of the Urban Mass Transportation Act to be developed through a "continuing, cooperative, and comprehensive" transportation planning process. Under Department of Transportation 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 TIP.
11. Private Enterprise Participation: The Transportation Improvement Program developed through the planning process is required "to the maximum extent feasible" to provide for the participation of private mass transportation companies.
12. Procurement: Recipients must agree to use competitive procurement procedures in carrying out projects and must agree not to use "exclusionary and discriminatory" specifications. UMTA has published implementing regulations, which should be consulted for details.

13. Relocation Assistance: Under the Uniform Relocation Assistance Act and section 7 of the Urban Mass Transportation Act, each recipient must comply with detailed Department of Transportation and UMTA regulations on relocation assistance to persons or businesses displaced as a result of a public transit project.
14. 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 records established by UMTA under section 15 of the Urban Mass Transportation Act.
15. 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."
16. School Bus: Recipients must agree not to engage in school bus operations in competition with private school bus operators except in accordance with limitations set out in UMTA's implementing regulations.
17. Service Reduction: Recipients of section 9 funds must have a locally developed process to solicit and consider public comment prior to reducing service.
18. 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 complied with statutory and administrative requirements and whether the recipient has carried out its program of projects adequately.

New Proposals for Grant Conditions: Currently, UMTA is considering changes to several of its implementing regulations. Among these are the charter bus, elderly and handicapped transportation, school bus, and non-discrimination regulations. In addition, UMTA is actively considering new grant conditions in several areas, including limitations on how many spare buses a transit system may have, when a transit system may replace rolling stock, when a transit system may rehabilitate existing rolling stock, and private enterprise participation.

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

American Public Transit Association
1225 Connecticut Avenue, N.W.
Washington, D. C. 20036