



FEDERAL TRANSIT ADMINISTRATION

# Shared Mobility and TNCs – Legal Considerations for Public Transit

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# Introduction

- Transportation Network Companies (TNCs) seeking to partner with transit
- Transit agencies seeking to partner with TNCs
- Legal issues include -
  - Eligibility for FTA funds
  - Applicability of federal requirements
    - Civil rights issues, e.g., ADA and Title VI
    - Drug and alcohol testing

# Types of Service

- First mile last mile, in particular to rail stations
- Replacing fixed route service when demand is low (e.g., late night)
- Supplementing ADA paratransit service
- Provision of new demand response service
- Non-service partnerships: Linking to TNC apps, Marketing

# Eligibility for FTA funds

- FTA funds may be used to support the capital and operating costs of shared ride service that is open to the general public or a segment of the public defined by age, disability, or low-income
  - Not every ride must be shared ride, but the service generally must be considered shared ride
  - Most TNCs are exclusive ride service and thus not eligible for FTA funds
  - If not shared ride, may be eligible for programs that allow alternatives to public transportation (e.g., 5310, JARC)

# Civil Rights

- Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability
- Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin
  - Disparate impact – neutral policy that results in unintentional discrimination
  - Disparate treatment – intentional discrimination

# Basic Principles - ADA

- ADA applies regardless of Federal funding
- DOT ADA regulations apply to public and private entities
- Service must be provided in the most integrated setting
- “Stand in the Shoes”
  - Private entities entering into a contract or other arrangement or relationship with public entities are subject to public entity provisions

# Service Under Contract

(or Other Arrangement or Relationship)

- Private entities that acquire vehicles for use, or in contemplation of use under contract or other arrangement or relationship with a public entity, must acquire accessible vehicles under the same circumstances (49 CFR 37.23(b))

# Fixed Route Service

- All vehicles must be accessible to and usable by individuals with disabilities, including wheelchair users (49 CFR 37.71)
- Interaction between passenger and service does not make otherwise fixed route service demand responsive
  - Flag stops



# Demand Responsive Service

- Inaccessible vehicles may be acquired if the system, when viewed in its entirety, provides a level of service to individuals with disabilities, including wheelchair users, that is equivalent to service provided to individuals without disabilities
- Equivalent service standards (49 CFR 37.77(c)):
  - Response time
  - Fares
  - Geographic area of service
  - Hours and days of service
  - Restrictions or priorities based on trip purpose
  - Availability of information and reservations capability
  - Any constraints on capacity or service availability

# TNCs – Demand Responsive

- When partnering with a TNC, the public transit agency has the obligation to meet the equivalent service standard.
- This can be met with accessible vehicles provided by:
  - The TNC operator
  - Another operator (e.g., taxis with accessible vehicles)
  - Use of transit agency assets

# ADA Paratransit

- FTA permits use of sedans as long as accessible vehicles are dispatched for those who need them
- All paratransit service criteria apply
  - Origin-to-destination service
  - Service area (3/4-mile)
  - Response time (next-day)
  - Fares (2x fixed route fare)
  - No restrictions on trip purpose
  - Hours and days of service (same as fixed route)
  - No capacity constraints

# ADA Paratransit

- TNC partnerships represent potential opportunity to reduce paratransit costs
- Disability Community Concerns:
  - TNCs may offer better service as an incentive, but only for ambulatory persons with disabilities
  - Next-day paratransit becomes segregated, second-class service for wheelchair users unless sufficient accessible vehicles are available

# Title VI Considerations

- TNC services tend to rely on smartphones and credit cards, which can be a barrier for low-income and limited English proficient (LEP) individuals
  - Low-income not a protected class, but minority communities are disproportionately low-income
- Consider LEP communities when linking to TNC apps
- Consider Title VI implications when establishing locations of pilot programs

# Drug and Alcohol Rules

- DOT's drug and alcohol rules apply to recipients and subrecipients of 5307, 5309 and 5311 funds, as well as their contractors and subcontractors.
  - TNC is likely to be a contractor providing a safety-sensitive function (operating a revenue vehicle), even if not providing public transportation (shared ride service)
  - Private operators are not exempt from the rule
  - Taxicab exception may apply to TNCs

# Taxicab Exception

- When a public transit passenger randomly chooses from among a number of taxicab companies providing service, the testing regulations do not apply.
  - practical difficulty of trying to administer a drug and alcohol testing program in connection with multiple companies.
  - example: guaranteed ride home program, in which the transit agency contracts with multiple (two or more) taxicab companies in the area and a passenger may choose which taxicab company to contact to get a ride home.

# Taxicab Exception

- The taxicab exception does not apply when a passenger does not choose the taxicab company providing the service.
  - For example, many ADA paratransit agencies contract with taxicab companies and other entities to provide ADA paratransit service to ambulatory passengers. In those situations, when the ADA paratransit provider (not the passenger) contacts the taxicab company to schedule the ride, the drug and alcohol rules apply to the taxicab company providing the service.
  - If a public transit agency provides vouchers to passengers to use for one taxicab company, the passenger does not have a choice of which company to contact, so the drug and alcohol rules apply.



# Application of Taxicab Exception to TNCs

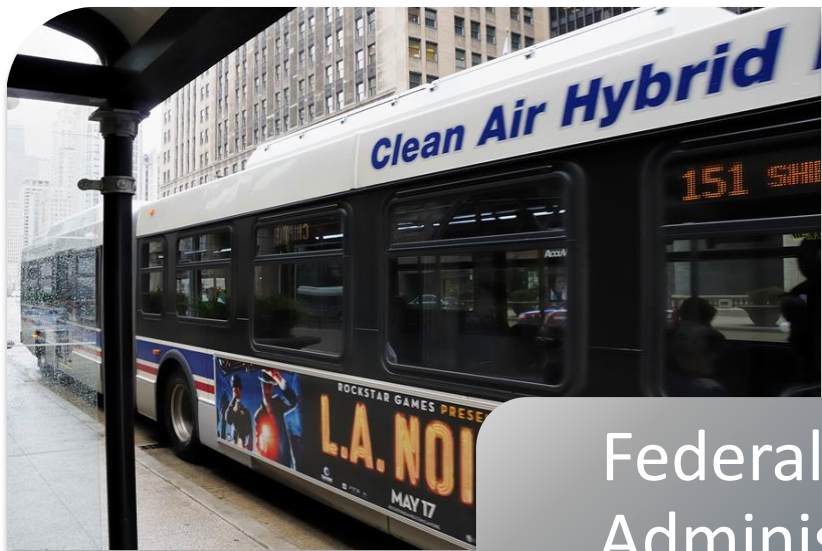
- When a public transit agency has a contractual or other arrangement with two or more TNCs or taxicab companies to provide a specific service or type of service, and the public transit passenger chooses among the providers, the exception applies (drug and alcohol testing not required).
- A transit agency may contract with two or more TNCs plus a taxi company to ensure access to all passengers.
  - Taxi company may be only entity that has accessible vehicles, or that can schedule trips over the phone and accept cash.
  - Some passengers only have one choice, but this does not change the fact that many passengers have more than one choice, so the taxicab exception will apply to all of the providers.

# Application of Taxicab Exception to TNCs

- Drug and alcohol rules do not apply to section 5312 research funds, even if recipient also receives 5307, 5309 or 5311 funds.
- Drug and alcohol rules do not apply to pilot programs that do not use any FTA funds.
  - if a public transit agency is subsidizing first mile/last mile service, offering same day ADA paratransit service, or other service as a pilot program (for up to one year) and there are no FTA funds in either the vehicles or the operations of the service, then the drug and alcohol rules do not apply, even if the public transit agency is contracting with only one TNC or one taxicab company.

# TCRP Report

- Coming soon:  
TCRP Project J-05/ Topic 17-03, Legal Considerations in Relationships Between Transit Agencies and Ride-Sourcing Service Providers



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