



This document is scheduled to be published in the Federal Register on 02/13/2013 and available online at <http://federalregister.gov/a/2013-03335>, and on FDsys.gov

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Federal Fiscal Year 2013 Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of availability.

SUMMARY: The Federal Transit Administration (FTA) is directed to publish annually a list of all certifications required under 49 U.S.C. Chapter 53. For Federal Fiscal Year 2013 (FY 2013), FTA consolidated and updated the various pre-award Certifications and Assurances required to be submitted by an Applicant seeking an award of Federal public transportation assistance (funding) during FY 2013. This notice announces the availability of the FY 2013 Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements and the FTA Master Agreement, both of which are available at the FTA web site, <http://www.fta.dot.gov>. This notice also highlights the changes made to FTA's Certifications and Assurances for FY 2013 that differ from previous provisions and also provides instructions on how and when to submit Certifications and Assurances for FY 2013.

EFFECTIVE DATE: These FY 2013 Certifications and Assurances are effective October 1, 2012, the first day of Federal Fiscal Year (FY) 2013.

FOR FURTHER INFORMATION CONTACT: The appropriate Regional or Metropolitan Office listed in this Notice. For copies of related documents and information, see our Web site at <http://www.fta.dot.gov> or contact our Office of Administration at 202-366-4007.

Region 1: Boston

States served: Connecticut, Maine,
Massachusetts, New Hampshire,
Rhode Island, and Vermont
Telephone # 617-494-2055

Region 2: New York

States served: New York, and New Jersey
Telephone # 212-668-2170

Region 3: Philadelphia

States served: Delaware, Maryland,
Pennsylvania, Virginia, and
West Virginia
Telephone # 215-656-7100

Region 4: Atlanta

States served: Alabama,

Florida, Georgia, Kentucky,
Mississippi, North Carolina,
South Carolina, Tennessee,
Territories served: Puerto Rico and
the U.S. Virgin Islands
Telephone # 404-865-5600

Region 5: Chicago

States served: Illinois,
Indiana, Michigan, Minnesota,
Ohio, and Wisconsin
Telephone # 312-353-2789

Region 6: Dallas/Ft. Worth

States served: Arkansas,
Louisiana, New Mexico,
Oklahoma, and Texas
Telephone # 817-978-0550

Region 7: Kansas City

States served: Iowa, Kansas,
Missouri, and Nebraska
Telephone # 816-329-3920

Region 8: Denver

States served: Colorado, Montana,

North Dakota, South Dakota,

Utah, and Wyoming

Telephone # 720-963-3300

Region 9: San Francisco

States served: Arizona,

California, Hawaii, Nevada,

Territories served: Guam,

American Samoa, and

the Northern Mariana Islands

Telephone # 415-744-3133

Region 10: Seattle

States served: Alaska, Idaho,

Oregon, and Washington

Telephone # 206-220-7954

Chicago Metropolitan Office

Area served: Chicago Metropolitan Area

Telephone # 312-886-1616

Los Angeles Metropolitan Office

Area served: Los Angeles Metropolitan Area

Telephone # 213-202-3950

Lower Manhattan Recovery Office

Area served: Lower Manhattan

Telephone # 212-668-1770

New York Metropolitan Office

Area served: New York Metropolitan Area

Telephone # 212-668-2201

Philadelphia Metropolitan Office

Area served: Philadelphia Metropolitan Area

Telephone # 215-656-7070

Washington DC Metropolitan Office

Area served: Washington DC Metropolitan Area

Telephone # 202-219-3562 / 202-219-3565

SUPPLEMENTARY INFORMATION:

- 1. What are FTA's Responsibilities?**

The second sentence of 49 U.S.C. 5323(n) states in pertinent part that “The Secretary [of Transportation] shall publish annually a list of all certifications required under this chapter [49 U.S.C. chapter 53]. . . .” Below is our list of certifications required for our programs:

01. Required Certifications and Assurances for Each Applicant.
02. Lobbying.
03. Private Sector Protections.
04. Procurement and Procurement System.
05. Rolling Stock Reviews and Bus Testing.
06. Demand Responsive Service.
07. Intelligent Transportation Systems.
08. Interest and Finance Costs and Leasing Costs.
09. Transit Asset Management and Agency Safety Plans.
10. Alcohol and Controlled Substances Testing.
11. Fixed Guideway Capital Investment Program (New Starts, Small Starts, and Core Capacity) and Capital Investment Program in Effect before MAP-21.
12. State of Good Repair Program.
13. Fixed Guideway Modernization Grant Program.
14. Bus/Bus Facilities Programs.
15. Urbanized Area Formula Programs and Job Access and Reverse Commute (JARC) Program.
16. Seniors/Elderly/Individuals with Disabilities Programs and New Freedom Program.

17. Rural/Other Than Urbanized Areas/Appalachian Development/Over-the-Road Bus Accessibility Programs.
18. Public Transportation on Indian Reservations and “Tribal Transit Programs.
19. Low or No Emission/Clean Fuels Grant Programs.
20. Paul S Sarbanes Transit in Parks Program.
21. State Safety Oversight Program.
22. Public Transportation Relief Program.
23. Expedited Project Delivery Pilot Program.
24. Infrastructure Finance Programs.

Since 1995, we have consolidated Certifications and Assurances into a single document for publication in the Federal Register. To receive Federal funding made available or appropriated for the grant and cooperative agreement programs we administer, your Applicant must submit the annual Certifications and Assurances required for the type of funding your Applicant is seeking. We are now publishing our FY 2013 Certifications and Assurances, after our Federal Register publication of our “Notice of FTA Transit Program Changes, Authorized Funding Levels and Implementation of the Moving Ahead for Progress in the 21st Century Act (MAP-21) and FTA Fiscal Year 2013 Apportionments, Allocations, Program Information and Interim Guidance,” 77 Fed. Reg. 63670, October 16, 2012 (FTA FY 2013 Apportionments Notice).

In addition to reading the information in this Notice and its Appendix A (located at our Web site, <http://www.fta.dot.gov>) we strongly advise your Applicant’s certified or

authorized representative (you) to read the information accompanying the apportionment tables in the FTA FY 2013 Apportionments Notice, particularly in light of the following legislation signed into law during FY 2012:

a. The Moving Ahead for Progress in the 21st Century Act (MAP-21)

Pub. L. 112-141, July 6, 2012, which is FTA's most recent authorizing legislation, and

b. The Continuing Appropriations Resolution, 2013 (CR), Pub. L. 112-175,

September 28, 2012, which provides appropriations to FTA for October 1, 2012 through March 27, 2013.

2. What is Their Legal Effect?

a. With Certain Exceptions, the Latest FTA Certifications and Assurances

Control. Certifications and Assurances are pre-award representations typically required by Federal law or regulation that your Applicant must submit before FTA may provide Federal funding for a Project. Typically, FTA's FY 2013 Certifications and Assurances have superseded any FTA Certifications and Assurances published in an earlier fiscal year, except as FTA determines otherwise in writing. Our annual Certifications and Assurances also supersede other Certifications and Assurances that may have appeared as illustrations in a discontinued FTA circular. For this year, however, certain Certifications and Assurances in effect before MAP-21 became effective will continue to apply to certain Projects and Project activities. For this reason, our Certifications and Assurances have increased to accommodate requirements for Programs funded by MAP-21 and Programs funded in FY 2012 or a previous fiscal year. Therefore, it is critically important that you know the fiscal year in which the funding awarded for your Project was

appropriated.

After publication in the Federal Register, your Applicant must submit sufficient FY 2013 Certifications and Assurances required by Federal law or regulations before FTA may award Federal funds to support your Applicant's Project.

b. Binding Commitment. An Applicant typically acts through its certified or authorized representative. In that case, your Applicant will be required to comply with any Certifications or Assurances you make on its behalf irrespective of how long you remain your Applicant's authorized representative. When you provide your Applicant's Certifications and Assurances to FTA, both you and your Applicant are agreeing to comply with their terms. As a result, when Certifications and Assurances that would apply under MAP-21 differ from Certifications and Assurances that would apply in FY 2012 or a previous fiscal year, we have included both types in the single Group used to support the funding your Applicant's requests.

c. Length of Commitment. Your Applicant's FY 2013 Certifications and Assurances remain in effect until its Project is closed or the useful life of its Project property has expired, whichever is later. If your Applicant provides different Certifications and Assurances in a later fiscal year, the later Certifications and Assurances generally will apply to its Project, except as we determine otherwise in writing.

d. Duration. You and your Applicant may use the FY 2013 Certifications and Assurances in Appendix A to support applications for FTA funding until we issue our FY 2014 Certifications and Assurances.

e. Our FY 2013 Certifications and Assurances are an Incomplete List of

Federal Requirements. We caution that our FY 2013 Certifications and Assurances focus mainly on those representations your Applicant is required to present to FTA before FTA may award Federal funds for your Applicant's Project. Consequently, our Certifications and Assurances do not include many other Federal requirements that will apply to your Applicant and its Project.

f. Federal Requirements. In addition to the information in this Notice and our FTA FY 2013 Apportionments Notice, we also strongly encourage you and your Applicant's staff and Third Party Participants to review all Federal legislation, regulations, and guidance that apply to your Applicant and its proposed Project. Our FY 2013 Master Agreement identifies many of those requirements and can be accessed at <http://www.fta.dot.gov>.

g. Penalties for False or Fraudulent Statements. If you or your Applicant provides any false or fraudulent statement to the Federal government, you or your Applicant may incur both Federal civil and criminal penalties. See:

(1) The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq.,

(2) U.S. Department of Transportation (U.S. DOT) regulations, "Program Fraud Civil Remedies," 49 CFR part 31, and

(3) Section 5323(l)(1) of title 49, U.S.C., which provides for Federal criminal penalties and termination of Federal funding should you or your Applicant provide a false or fraudulent certificate, submission, or statement in connection with the Federal transit program authorized by 49 U.S.C. chapter 53.

3. What are Your Responsibilities?

a. Make Sure All Involved with Your Applicant's Project Understands the Federal Requirements that Will Apply to Your Applicant and its Project.

Your Applicant will be responsible for compliance with all Federal requirements that apply to itself and its Project. Nevertheless, people and organizations participating in your Applicant's Project (Third Party Participants) can seriously affect your Applicant's ability to comply with those Federal requirements. Therefore, all Third Party Participants involved in your Applicant's Project need to know and agree to comply with the Federal requirements that affect their Project related activities.

b. Subrecipient and Other Third Party Participation. Except in limited circumstances when we have determined otherwise, your Applicant is ultimately responsible for compliance with all Certifications and Assurances that you select on its behalf even though much of its Project will be carried out by Subrecipients or other Third Party Participants. Therefore, we strongly recommend that you take appropriate measures to ensure that the Subrecipients and other Third Party Participants in your Applicant's Project do not take actions that will cause your Applicant to violate the representations made in its Certifications and Assurances.

c. Submit Your Applicant's Certifications and Assurances. You must submit all Groups of the FY 2013 Certifications and Assurances that apply to your Applicant and the Projects for which it seeks FTA funding in FY 2013. For your convenience, we recommend that you submit all 24 Groups of Certifications and Assurances. Those provisions of the various Certifications and Assurances that do not apply to your Applicant or its Project will not be enforced.

d. Obtain the Affirmation of Your Applicant's Attorney. You must obtain an affirmation of your Applicant's Attorney, signed in FY 2013, stating that your Applicant has sufficient authority under its State and local law to certify its compliance with the FY 2013 Certifications and Assurances that you have selected on its behalf. Your Applicant's Attorney must sign this affirmation during FY 2013. An Affirmation of your Applicant's Attorney dated in a previous fiscal year is insufficient, unless FTA expressly determines otherwise in writing.

e. When to Submit.

(1) If your Applicant is applying for funding under any of the discretionary capital programs (New Starts, Small Starts, or Core Capacity Improvement), we expect to receive your FY 2013 Certifications and Assurances within ninety (90) days from the date of this publication or soon after the submittal of your Applicant's request for FY 2013 funding. Likewise, if your Applicant is a current FTA grantee with an active project funded with FTA capital or formula funds, we expect to receive your FY 2013 Certifications and Assurances within ninety (90) days from the date of this publication or soon after the submittal of your Applicant's request for FY 2013 funding.

(2) If your Applicant seeks funding from an FTA program other than a formula program or a discretionary capital program, we expect to receive your Applicant's FY 2013 Certifications and Assurances as soon as possible.

4. Where Are FTA's FY 2013 Certifications and Assurances?

a. Appendix A of this Notice, which is available at our Web site, <http://www.fta.dot.gov>, and

b. TEAM-Web, our electronic award and management system, <http://ftateamweb.fta.dot.gov>, at the “Cert’s & Assurances” tab of the “View/Modify Recipients” page in the “Recipients” option.

5. What changes have been made since FY 2012?

a. Recent Federal Statutes. MAP-21 and the CR have required many changes to FTA’s annual Certifications and Assurances and the Projects to which they apply. FTA’s FY2013 Certifications and Assurances encompass those necessary changes:

b. Application of Statutes. When FTA issued its FY 2013 Certifications and Assurances, the CR provided for continuing projects or activities for which funding was available in FY 2012, except as provided in section 154 of the CR. In section 154 of the CR, Congress updated the appropriations language for FTA’s formula programs providing an obligation limitation and liquidating authority to reflect changes to FTA’s formula programs authorized in MAP-21. Section 154 of the CR allows FTA to administer FY 2013 funds for formula grant programs according to the terms and conditions established under MAP-21. Funding under the CR is not available for programs that were repealed by MAP-21. Except for the “MAP-21 cross-cutting” requirements listed in subsection 5.c below, the program and eligibility requirements in effect in FY 2012 or a previous fiscal year apply to the following Projects as of October 16, 2012, the date the FTA FY 2013 Apportionments Notice was published:

(1) Projects financed with funding made available or appropriated in FY 2012 or a previous fiscal year, which funding FTA has awarded before October 1, 2012, when MAP-21 became effective,

(2) Projects financed with funding made available or appropriated for FY 2012 or a previous fiscal year, which funding FTA awards or will award after October 1, 2012, when MAP-21 became effective.¹

c. Notwithstanding the applicability of program and eligibility requirements in effect in FY 2012 or a previous fiscal year for those Projects listed in the preceding subsection 5.b above, FTA has determined that the following MAP-21 requirements apply to Projects funded with appropriations for FY 2012 or a previous fiscal year. (FTA refers to these requirements as “MAP-21 cross-cutting” requirements.) As listed in the FTA FY 2013 Apportionments Notice, FTA has determined MAP-21 cross-cutting requirements include, but are not limited to:

- (1) Metropolitan and Statewide Planning,
- (2) Environmental Review Process,
- (3) Agency Safety Plans,
- (4) Transit Asset Management Provisions (and Asset Inventory and Condition Reporting),
- (5) Costs Incurred by Providers of Public Transportation by Vanpool,
- (6) Revenue Bonds as Local Match,
- (7) Debt Service Reserve,
- (8) Government’s Share of Cost of Vehicles, Vehicle-Equipment, and Facilities for ADA and Clean Air Act Compliance,
- (9) Private Sector Participation,
- (10) Bus Testing,

¹ FTA may provide unobligated funds made available or appropriated for FY 2012 or a previous fiscal year for new projects authorized under provisions of law that MAP-21 has repealed.

- (11) Buy America,
- (12) Corridor Preservation,
- (13) Rail Car Procurements,
- (14) Veterans Preference/Employment, and
- (15) Alcohol and Controlled Substance Testing.

d. Preface. We amended the Preface to identify the Web site for our FY 2013 Master Agreement, <http://www.fta.dot.gov>.

e. Compliance with All Applicable Requirements.

(1) In the past, we have cautioned Applicants that their Subrecipients may also be responsible for compliance with certain Federal requirements that are not identified in our annual Certifications and Assurances. Now, throughout this Notice and the FY 2013 Certifications and Assurances, we are cautioning your Applicant that its other Third Party Participants may also need to comply with certain Federal requirements, regardless of whether those requirements are identified in our annual Certifications and Assurances, and

(2) Because TEAM-Web has the capacity for only twenty-four (24) Groups of Certifications and Assurances, we have consolidated related Certifications and Assurances, both old and new, into a single group, so that the total number of groups does not exceed twenty-four (24). Should one or more certifications or assurances within a group not apply to your Applicant or its Project, selecting the entire group will not make those inapplicable certifications or assurances then applicable to your Applicant and its Project. Provisions of any Certification or Assurance that do not apply to your Applicant or its Project will not be enforced.

f. Group 01, Certification D, “Nondiscrimination,” and former Certification E, “Assurance of Nondiscrimination on the Basis of Disability.”

(1) For consistency with the MAP-21 amendment to 49 U.S.C. 5332 that added disability to the list of prohibited reasons for discrimination, we made the following changes:

(a) We consolidated the former Group 01, Certification E, prohibiting discrimination against individuals with disabilities with the former Group 01, Certification D, the “Nondiscrimination” certifications that apply to various other prohibitions against discrimination,

(b) We added “disability” as a prohibited reason for discrimination in Sections 1 and 1.a, and

(c) We substituted “religion for “creed,” in Sections 1 and 1.a,

(2) We added a reference to U.S. DOT regulations, 49 CFR part 39, in Sections 1.f, and

(3) We added a new Section 2 to obtain your Applicant’s agreement to follow Federal guidance issued to implement Federal nondiscrimination requirements, except as FTA determines otherwise in writing.

g. Re-numbering. We re-numbered:

(1) Former Group 01, Certification F as Group 01, Certification E, and

(2) Former Group 01, Assurance G, as Group 01, Assurance F.

h. Re-numbered Group 01, Certification F, “U.S. OMB Assurances in SF-424B and SF-424D” [former Group 01, Certification G]. We added a reference to the new MAP-21 amendment to 49 U.S.C. 5323(b), which expressly requires compliance with the

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq. among the requirements that apply to FTA's Capital Projects funded by 49 U.S.C. chapter 53.

i. New Group 03, "Private Sector Protections," [consolidating former Group 04 "Protections for Private Providers of Public Transportation," former Group 09 "Charter Service Agreement," and former Group 10 "School Transportation Agreement"]. We established a new Group 03 focusing on protections for private providers of public transportation:

(1) The "Private Sector Property Protections" of Group 03 include the following:

(a) Private Sector Property Protections, with no substantive changes made,

(b) Charter Service Agreement, with the following substantive changes:

(1) Consistent with the exception for JARC activities authorized in FTA's Charter Service Regulations, 49 CFR 604.2, for repealed 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year, the Federal Transit Administrator has determined that FTA's Charter Service requirements are not appropriate for the JARC activities that will be funded under 49 U.S.C. 5307, as amended by MAP-21,

(2) Consistent with the exception for New Freedom activities authorized in FTA's Charter Service Regulations, 49 CFR 604.2, for repealed 49 U.S.C. 5317, the Federal Transit Administrator has determined that FTA's Charter Service requirements are not appropriate for the New Freedom activities that will be funded under 49 U.S.C. 5310, as amended by MAP-21, and

(3) Use by intercity and charter operators of FTA funded facilities as

specified in 49 U.S.C. 5323(r), as amended by MAP-21, will not result in a violation of FTA's Charter Service Regulations, and

(c) School Bus Agreement, with no substantive changes made.

j. Re-numbered Group 04, "Procurement and Procurement System" [former Group 03, "Procurement Certification"]. We transferred former Group 03 to Group 04 without making any substantive changes.

k. New Group 05 "Rolling Stock Reviews and Bus Testing" [consolidating former Group 06, "Acquisition of Rolling Stock for Use in Revenue Service," and Group 08, "Bus Testing"]. We established a new Group 05 focusing certifications that certain reviews and testing required for certain rolling stock have or will be completed:

(1) The following Certifications are included in the new Group 05:

(a) "Rolling Stock Reviews," required by 49 U.S.C. 5323(m), and

(b) "Bus Testing," required by 49 U.S.C. 5318, as amended by MAP-21,

and

(2) MAP-21 Changes:

(a) MAP-21 did not make any substantive changes to the "Rolling Stock Reviews" certification, but

(b) MAP-21 did change the bus testing requirements, which requirements are now reflected in the FY 2013 "Bus Testing" certification.

l. Former Group 05 "Public Hearing." We deleted the former "Public Hearing" certification because MAP-21 amended 49 U.S.C. 5323(b) to repeal FTA's special statutory public hearing requirements.

m. Re-numbered Group 06, "Demand Responsive Service," [former Group 11].

We transferred the “Demand Responsive Service” certification from former Group 11 to Group 06 without making any substantive changes.

n. Re-numbered Group 07, “Intelligent Transportation Systems,” [former Group 14]:

(1) We transferred the “Intelligent Transportation Systems” assurance from former Group 14 to Group 7, and

(2) We changed the assurance to add the new citation to the Intelligent Transportation System statutory provisions now codified at 23 U.S.C. 517.

o. New Group 08, “Interest and Financing Costs and Leasing Costs,” [consolidating former Group 13, “Interest and Other Financing Costs,” and former Group 07, “Acquisition of Capital Assets by Lease”].

(1) We established a new Group 08 focused on certifications involving finance that includes the following certifications:

(a) “Interest and Financing Costs,” and

(b) “Acquisition of Capital Assets by Lease,”

(2) In addition to transferring the certifications identified above,

(a) Rather than include in the “Financing and Leasing Costs certification the several citations to those requirements in 49 U.S.C. chapter 53 (both before and after MAP-21 was signed into law), we have listed the types of projects to which the “Interest and Financing Costs” certifications would apply, and

(b) We made no substantive changes to the “Acquisition of Capital Assets through a Lease” certification.

p. New Group 09, “Transit Asset Management and Safety Plans.” We

established a new Group 09 focused on plans MAP-21 requires:

(1) The “Transit Asset Management Plan” certification of compliance with the rule issued under 49 U.S.C. 5326(d), as amended by MAP-21, are required by 49 U.S.C. 5337(a)(4), as amended by MAP-21, and

(2) The “Public Transportation Agency Safety Plan” certifications required by 49 U.S.C. 5329(d), as amended by MAP-21.

q. Re-numbered Group 10, “Alcohol and Controlled Substances Testing.” [former Group 12, “Alcohol Misuse and Prohibited Drug Use”]. We transferred former Group 12 to re-numbered Group 10 and revised its provisions to conform to 49 U.S.C. 5331, as amended by MAP-21. We added a provision that should your Applicant reside in a State that permits marijuana use for medical or recreational purposes, your Applicant must comply with Federal (not State) controlled substance testing requirements of 49 CFR part 655.

r. New Group 11, “Fixed Guideway Capital Investment Program (New Starts, Small Starts, and Core Capacity) and Capital Investment Program in Effect Before MAP-21.”

(1) We established a new Group 11 focused on certifications for FTA’s new Fixed Guideway Capital Investment Program, consisting of only the New Starts Program, the Small Starts Program, and the Core Capacity Program.

(a) Before MAP-21 became effective, the Capital Investment Program under former 49 U.S.C. 5309 consisted of the:

(i) New Fixed Capital Program,

(ii) Fixed Guideway Modernization Grant Program, and

(iii) Buses and Bus Related Equipment and Facilities Program,

(b) MAP-21:

(i) Repealed the former Fixed Guideway Modernization Grant Program, and

(ii) Established the new Bus and Bus Facilities Formula Program in 49 U.S.C. 5339, as amended by MAP-21.

(c) Therefore, we have established separate certifications for Fixed Guideway Capital Investment Program, encompassing the New Starts Program, the Small Starts Program, and the Core Capacity Program) that remain in 49 U.S.C. 5309, as amended by MAP-21, irrespective of whether those programs are:

(i) Financed with funding that was made available or appropriated for 49 U.S.C. 5309, as amended by MAP-21, or

(ii) Financed with funding that was made available or appropriated for former 49 U.S.C. 5309 in effect in FY 2012 or a previous fiscal year, and

(2) Your Applicant should provide the certifications in Group 11 if it seeks funding made available or appropriated for:

(a) 49 U.S.C. 5309, as amended by MAP-21, or

(b) Former 49 U.S.C. 5309 in effect in FY2012 or a previous fiscal year.

s. New Group 12, “State of Good Repair Program.” MAP-21 created a new State of Good Repair Program. We request each Applicant for State of Good Repair funding to provide the “State of Good Repair Program” certification in new Group 12.

t. New Group 13, “Fixed Guideway Modernization Grant Program.” MAP-21 amended 49 U.S.C. 5309 without re-authorizing the Fixed Guideway Grant

Modernization Program. Because unobligated funds remain for that Program, we have included a “Fixed Guideway Modernization Grant Program” certification for Applicants seeking those funds.

u. New Group 14, “Bus and Bus Facilities Programs.”

(1) MAP-21 amended former 49 U.S.C. 5309 by:

(a) Changing the Bus and Bus Related Equipment and Facilities Program from a discretionary program to a new formula Bus and Bus Facilities Formula program,

(b) Establishing the new program under 49 U.S.C. 5339, and

(c) Repealing the Alternatives Analysis Program under former 49 U.S.C. 5339 in effect in FY 2012 or a previous fiscal year,

(2) Accordingly, we established a new Group 14 with certifications for Bus and Bus Facilities Projects depending on whether the funding source for those Projects is:

(a) The Bus and Bus Facilities Formula Program under MAP-21, or

(b) The Bus and Bus Related Equipment and Facilities Grant Program (Discretionary),

(3) The “Bus and Bus Facilities Formula Program” certification reflects the provisions of MAP-21, while the “Bus and Bus Related Equipment and Facilities Grant Program (Discretionary)” certification, reflects the provisions of FTA enabling legislation in effect in FY 2012 or a previous fiscal year,

(4) Notwithstanding 49 U.S.C. 5339(b), as amended by MAP-21, which makes 49 U.S.C. 5307 requirements applicable to the new Bus and Bus Facilities Formula Program, the Federal Transit Administrator has determined that:

(a) The certification required by 49 U.S.C. 5307(c)(1)(J), as amended by

MAP-21, to spend one (1) percent of the funds made available for security projects does not apply to the Bus and Bus Facilities Formula Program because the requirement applies only to the 49 U.S.C. 5307 urbanized area formula apportionments, and

(b) The certification required by 49 U.S.C. 5307(c)(1)(K), as amended by MAP-21, to spend one (1) percent of the funds made available for associated transit improvement projects does not apply to the Bus and Bus Facilities Formula Program because the requirement applies only to the 49 U.S.C. 5307 urbanized area formula apportionments, and

(5) Therefore, to assure that FTA can award the type of funding most suitable for your Applicant's Project, your Applicant should provide the certifications in Group 14 if it seeks funding made available or appropriated for:

(a) 49 U.S.C. 5339, as amended by MAP-21, or

(b) Former 49 U.S.C. 5309 in effect in FY2012 or a previous fiscal year.

v. New Group 15, "Urbanized Area Formula Grant Programs and Job Access and Reverse Commute (JARC) Formula Grant Program," [consolidating former Group 15, "Urbanized Area Formula Program," and Group 19, "Job Access and Reverse Commute Program," with the new "Urbanized Area Formula Program" authorized by MAP-21]:

(1) We established a new Group 15 focused on our public transportation programs in urbanized areas, including separate certifications for each of the following three programs:

(a) The Urbanized Area Formula Grant Program under MAP-21,

(b) The Urbanized Area Formula Program in effect in FY 2012 or a

previous fiscal year, and

(c) The Job Access and Reverse Commute (JARC) Program, which authorized the separate JARC program,² even though MAP-21 repealed former 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year, and

(2) Therefore, to assure that FTA can award the type of funding most suitable for your Applicant's Project, your Applicant should provide the certifications in Group 15 if it seeks funding made available or appropriated for:

(a) 49 U.S.C. 5307, as amended by MAP-21,

(b) Former 49 U.S.C. 5307 in effect in FY2012 or a previous fiscal year, or

(c) Former 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year.

w. New Group 16, "Seniors/Elderly/Individuals with Disabilities and New Freedom Programs," [consolidating former Group 18, "Elderly and Individuals with Disabilities Formula Program and Pilot Program," and Group 20, "New Freedom" Program,] with the new certification for the "Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program"].

(1) We established a new Group 16 focused on our programs that provide specialized public transportation for seniors and individuals with disabilities, including separate certifications for each of the following three programs:

(a) The Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program,

(b) The Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program in effect in FY 2012 or a previous fiscal year, and

² JARC activities are now eligible for funding made available or appropriated for the Urbanized Area Formula Program authorized by 49 U.S.C. 5307, as amended by MAP-21.

(c) The New Freedom Program, even though MAP-21 repealed former 49 U.S.C. 5317 in effect in FY 2012 or a previous fiscal year, which authorized the separate New Freedom program,³

(2) Consistent with the legislation under former 49 U.S.C. 5310 in effect in FY 2012 and previous fiscal years, the new Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program authorized by 49 U.S.C. 5310, as amended by MAP-21, must comply with the requirements of 49 U.S.C. 5307, as amended by MAP-21, but does permit exceptions. Therefore, as authorized by 49 U.S.C. 5310(c)(1), as amended by MAP-21, and consistent with similar determinations made for the Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program authorized by former 49 U.S.C. 5310 in effect in FY 2012 or a previous fiscal year, the Federal Transit Administrator has determined that the following Certifications required by 49 U.S.C. 5307(c)(1), as amended by MAP-21, are not appropriate for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program:

(a) The half fare requirements of U.S.C. 5307(c)(1)(D), as amended by MAP-21, are not appropriate for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program because:

(i) The services financed under this Program are designed specifically for and available primarily to seniors and individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability),

³ New Freedom activities are now an eligible for funding made available or appropriated for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program authorized by 49 U.S.C. 5310, as amended by MAP-21.

cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design, and

(ii) The half fare provisions that benefit those individuals are focused on peak periods, and peak demand that has not been relevant to the provision of 49 U.S.C. 5310 specialized services,

(b) The public participation, planning, and coordination provisions of 49 U.S.C. 5307(c)(1)(F), as amended by MAP-21, are not appropriate for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program because 49 U.S.C. 5310, as amended by MAP-21, prescribes specific public participation, planning, and coordination provisions for this Program,

(c) The requirements of 49 U.S.C. 5307(c)(1)(I), as amended by MAP-21, for a “locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation” are not appropriate for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program because 49 U.S.C. 5310(c)(2)(B), as amended by MAP-21, expressly requires a locally coordinated transportation plan from which projects to support public transportation for seniors and individuals with disabilities are to be selected,

(d) The requirement of 49 U.S.C. 5307(c)(1)(J), as amended by MAP-21, to spend one (1) percent of funds made available for 49 U.S.C. 5310, as amended by MAP-21, for security projects is not appropriate for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities because the requirement applies only to the 49 U.S.C. 5307 urbanized area formula apportionments, and

(e) The requirement of 49 U.S.C. 5307(c)(1)(K), as amended by MAP-21,

to spend one (1) percent of funds authorized for 49 U.S.C. 5310, as amended by MAP-21, for associated transit improvements is not appropriate for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program because the requirement applies only to the 49 U.S.C. 5307 urbanized area formula apportionments, and

(4) To assure that FTA will be able to award the type of funding most suitable for your Applicant's Project, your Applicant should provide the certifications in Group 16 if it seeks funding made available or appropriated for:

(a) 49 U.S.C. 5310, as amended by MAP-21,

(b) Former 49 U.S.C. 5310 in effect in FY 2012 or a previous fiscal year,

or

(c) Former 49 U.S.C. 5317 in effect in FY 2012 or a previous fiscal year.

x. New Group 17, "Rural/Other Than Urbanized Areas/Appalachian Development/Over-the-Road Bus Accessibility Programs," [former Group 18, "Nonurbanized Area Formula Program for States"].

(1) We established a new Group 17 focused on our public transportation programs in rural areas, including separate certifications for the following four programs:

(a) The Formula Grants for Rural Areas Program,

(b) The Formula Grants for Other than Urbanized Areas Program,

(c) The Appalachian Development Public Transportation Assistance Program, and

(d) The Over-the-Road Bus Accessibility Program, and

(2) Therefore, to assure that FTA will be able to award the type of funding

most suitable for your Applicant's Project, your Applicant should provide the certifications in Group 17 if it seeks funding made available or appropriated for:

(a) 49 U.S.C. 5311(b), as amended by MAP-21,

(b) Former 49 U.S.C. 5311(b) in effect in FY2012 or a previous fiscal year,

(c) 49 U.S.C. 5311(c)(2), as amended by MAP-21, or

(d) Former section 3038 of the Transportation Equity Act for the 21st Century, as amended by section 3039 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

y. New Group 18, "Public Transportation on Indian Reservations" and "Tribal Transit' Programs" [former Group 22, "Tribal Transit Program"].

(1) We established a new Group 18 focused on our public transportation programs in Indian tribal areas, including separate certifications for the following two programs:

(a) The Public Transportation on Indian Reservations Program, and

(b) The "Tribal Transit Program," and

(2) Therefore, to assure that FTA can award the type of funding most suitable for your Applicant's Project, your Applicant should provide the certifications in Group 18 if it seeks funding made available or appropriated for:

(a) 49 U.S.C. 5311(c)(1), as amended by MAP-21, or

(b) Former 49 U.S.C. 5311(c)(1) in effect in FY2012 or a previous fiscal year.

z. New Group 19, "Low or No Emission/Clean Fuels Grant Programs" [former

Group 16, “Clean Fuels Grant Program”].

(1) We established a new Group 19 focused on our programs to reduce emissions, including separate certifications for the following two programs:

(a) The Low or No Emission Vehicle Deployment Program, authorized by 49 U.S.C. 5312(d)(5), as amended by MAP-21, and

(b) The Clean Fuels Grant Program, authorized by former 49 U.S.C. 5308 in effect in FY 2012 or a previous fiscal year,

(2) Consistent with the determinations made for the Clean Fuels Program authorized by former 49 U.S.C. 5308 in effect in FY 2012 or a previous fiscal year, the new Low or No Emission Vehicle Deployment Program must comply with the requirements of 49 U.S.C. 5307, as amended by MAP-21. The Federal Transit Administrator has determined, however, that the following Certifications required by 49 U.S.C. 5307(c)(1), as amended by MAP-21, are not appropriate for the Low or No Emission Vehicle Deployment Program:

(a) The certification required by 49 U.S.C. 5307(c)(1)(J), as amended by MAP-21, to spend one (1) percent of funds made available for the Low or No Emission Vehicle Deployment Program, 49 U.S.C. 5312(d)(5), as amended by MAP-21, for security projects:

(i) Does not apply to the Low or No Emission Vehicle Deployment Program because the requirement applies only to the 49 U.S.C. 5307 urbanized area formula apportionments, but

(ii) Does apply to the Low or No Emission Vehicle Deployment Program if funds made available or appropriated for 49 U.S.C. 5307 will be used for

projects within the Low or No Emission Vehicle Deployment Program, and

(b) The certification required by 49 U.S.C. 5307(c)(1)(K), as amended by MAP-21, to spend one (1) percent of funds made available for 49 U.S.C. 5312(d)(5), as amended by MAP-21, for associated transit improvement projects:

(i) Does not apply to the Low or No Emission Vehicle Deployment Program because the requirement applies only to the 49 U.S.C. 5307 urbanized area formula apportionments, but

(ii) Does apply to the extent that funds made available or appropriated for 49 U.S.C. 5307 will be used for a project within the Low or No Emission Vehicle Deployment Program, and

(3) To assure that FTA can award the type of funding most suitable for your Applicant's Project, your Applicant should provide the certifications in Group 19 if it seeks funding made available or appropriated for:

(a) 49 U.S.C. 5312(d)(5), as amended by MAP-21, or

(b) Former 49 U.S.C. 5308 in effect in FY2012 or a previous fiscal year.

aa. Re-Numbered Group 20, "Paul S. Sarbanes Transit in Parks Program," [former Group 21]. MAP-21 repealed the Paul S. Sarbanes Transit in Parks Program, authorized by former 49 U.S.C. 5320 in effect in FY 2012 or a previous fiscal year. Because unobligated funds remain under that Program, we have included certifications required for Applicants seeking those funds.

bb. New Group 21, "State Safety Oversight Grant Program." MAP-21 created a new State Safety Oversight Grant Program. We request that each Applicant for State Safety Oversight Program funding to provide the Assurances in new Group 21.

cc. New Group 22, “Public Transportation Emergency Relief Program.” MAP-21 created a new Public Transportation Emergency Relief Program. We request each Applicant for Public Transportation Emergency Relief Program funding to provide the Assurances in new Group 22.

dd. New Group 23, “Expedited Project Delivery Pilot Program.” MAP-21 established a new Pilot Program requiring a certification that an Applicant’s public transportation system is in a state of good repair. We request each Applicant for that Pilot Program funding to provide the Assurances in new Group 23.

ee. New Group 24, “Infrastructure Finance Programs,” [consolidating former Group 23, “TIFIA Projects” and former Group 24, “Deposits of Federal Financial Funding to State Infrastructure Banks”].

(1) We established a new Group 24 focused on infrastructure finance programs, including:

(a) The Transportation Infrastructure Finance and Innovation Act (TIFIA) Program under 23 U.S.C. 601 – 609, and

(b) The State Infrastructure Banks (SIB) Program under 23 U.S.C. 610,

(2) For the TIFIA Program, we added references to MAP-21, TIFIA financing, and the 49 U.S.C. 5337 requirements added for Projects funded with TIFIA financing pursuant to 49 U.S.C. 5323(o), as amended by MAP-21,⁴ and

(3) For the SIB Program, we added references to MAP-21, SIB financing, and the 49 U.S.C. 5337 requirements added for Projects funded with SIB financing pursuant

⁴ Although Section 2002 of MAP-21 made several changes to 23 U.S.C. 601 – 609, which authorize the TIFIA program, we only added references to MAP-21, TIFIA financing, and 49 U.S.C. 5337 requirements for transit asset management plans, which MAP-21 added for TIFIA Projects. Apart from having a transit asset management plan, the provisions of 49 U.S.C. 5337, as amended by MAP-21, however, do not add new Certification requirements to those of 49 U.S.C. 5307 or 5309.

to 49 U.S.C. 5323(o), as amended by MAP-21.⁵

(4) To clarify, the Federal Transit Administrator has determined that the following Certifications required by 49 U.S.C. 5307(c)(1), as amended by MAP-21, are not appropriate for the TIFIA or SIB Programs:

(a) The certification required by 49 U.S.C. 5307(c)(1)(J), as amended by MAP-21, to spend one (1) percent of funds made available for the TIFIA and for the SIB Programs, as amended by MAP-21, for security projects:

(i) Does not apply to the TIFIA or SIB Programs because the requirement applies only to the 49 U.S.C. 5307 urbanized area formula apportionments, but

(ii) Does apply to any TIFIA or SIB Program to the extent that funds made available or appropriated for 49 U.S.C. 5307 will be used for a project within a TIFIA or SIB Program, and

(b) The certification required by 49 U.S.C. 5307(c)(1)(K), as amended by MAP-21, to spend one (1) percent of funds made available for 49 U.S.C. 5312(d)(5), as amended by MAP-21, for associated transit improvement projects, which:

(i) Does not apply to the Low or No Emission Vehicle Deployment Program because the requirement applies only to the 49 U.S.C. 5307 urbanized area formula apportionments, but

(ii) Does apply if funds made available or appropriated for 49 U.S.C. 5307 will be used for projects within the Low or No Emission Vehicle Deployment Program, and

⁵ Apart from having a transit asset management plan, the provisions of 49 U.S.C. 5337, as amended by MAP-21, however, do not add new Certification requirements to those of 49 U.S.C. 5307 or 5309.

6. How do I submit them?

a. Electronic Submission. Except in unusual circumstances as determined by FTA, you must submit your Applicant's FY 2013 Certifications and Assurances in TEAM-Web. To submit the Certifications and Assurances on behalf of your Applicant, you must be registered in TEAM-Web.

The TEAM-Web "Recipients" option at the "Cert's & Assurances" tab of the "View/Modify Recipients" page contains fields for selecting among the 24 Groups of Certifications and Assurances that apply to your Applicant and also a designated field for selecting all 24 Groups of which only the requirements that apply to your Applicant will be enforced.

The "Cert's & Assurances" tab has a field for you to enter your personal identification number (PIN), which is your electronic signature. There is also a field for the Attorney's PIN, affirming your Applicant's legal authority to make and comply with the Certifications and Assurances you have selected on your Applicant's behalf. You may enter your PIN in place of the Attorney's PIN, provided that your Applicant has on file a similar affirmation that has been written, dated, and signed by its Attorney in FY 2013.

b. Paper Submission. You may submit your Applicant's FY 2013 Certifications and Assurances on paper only if you cannot submit them electronically in TEAM-Web and FTA agrees to accept hard copy submissions. In that case, you must submit the Signature Page(s) in Appendix A of this Notice indicating the Groups of Certifications and Assurances your Applicant is providing if you cannot submit them electronically. You may place a single mark in the designated space to signify your Applicant's agreement to comply with all Groups of Certifications and Assurances to the extent that

they apply to your Applicant, or select the specific Groups of Certifications and Assurances that apply to your Applicant and its Projects.

You must enter your signature on the Signature Page(s) and provide an Affirmation by your Applicant's Attorney concerning your Applicant's legal capacity to make and comply with the FY 2013 Certifications and Assurances you have selected on your Applicant's behalf. You may enter your signature in place of the Attorney's signature in the Affirmation by Applicant's Attorney part of the Signature Page, provided that your Applicant has on file a similar affirmation, written, dated, and signed by its Attorney in FY 2013.

For more information, you may contact the appropriate FTA Regional or Metropolitan Office.

AUTHORITY. 49 U.S.C. chapter 53; the Moving Ahead for Progress in the 21st Century Act (MAP-21) Pub. L. 112-141, June 6, 2012; other Federal laws administered by FTA; U.S. DOT and FTA regulations codified or to be codified in Title 49, Code of Federal Regulations; and FTA Circulars.

Issued in Washington, DC, this 7th day of February , 2013.

Peter M. Rogoff
Administrator

[FR Doc. 2013-03335 Filed 02/12/2013 at 8:45 am; Publication Date: 02/13/2013]