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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Federal Fiscal Year 2014 Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of the Federal Transportation Administration's (FTA) Fiscal Year (FY) 2014 Annual List of Certifications and Assurances for FTA Grants and Cooperative Agreements. See FTA web site, <http://www.fta.dot.gov>. In this notice, FTA provides a consolidated list of the various pre-award Certifications and Assurances that may apply to an Applicant for FTA funding and its Project. Each Applicant for FTA funding must submit the Certifications and Assurances that apply to itself and the Project(s) for which it seeks funding during the fiscal year in which it requests that funding. An Applicant typically acts through its certified or authorized representative (You). You, as the Authorized Representative, must have the authority to, among other things, sign the Applicant's Certifications and Assurances and bind the Applicant's compliance. This Notice also describes both FTA's and the Applicant's responsibilities with respect to the Certifications and Assurances and highlights the differences between the FY 2014 Certifications and Assurances and those published for FY 2013. In addition, this Notice also provides instructions on how and when to submit Certifications and Assurances for FY 2014.

DATES: EFFECTIVE DATE: These FY 2014 Certifications and Assurances are

effective October 1, 2013, the first day of FY 2014.

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, “[t]he Secretary [of Transportation] shall publish annually a list of all certifications required under this chapter [49 U.S.C. chapter 53]” The first sentence of 49 U.S.C. 5323(n) states that, “[a] certification required under this chapter [53] and any additional certification or assurance required by law or regulation to be submitted to the Secretary [who delegated that authority to the Federal Transit Administrator] may be consolidated into a single document to be submitted annually as part of a grant application under this chapter [53].” Therefore, FTA has grouped those certifications and assurances into the following twenty-four (24) groups:

Group 01. Required Certifications and Assurances for Each Applicant.

Group 02. Lobbying.

Group 03. Procurement and Procurement Systems.

Group 04. Private Sector Protections.

Group 05. Rolling Stock Reviews and Bus Testing.

Group 06. Demand Responsive Service.

Group 07. Intelligent Transportation Systems.

Group 08. Interest and Financing Costs and Acquisition of Capital Assets by Lease.

- Group 09. Transit Asset Management Plan and Public Transportation Agency Safety Plan.
- Group 10. Alcohol and Controlled Substances Testing.
- Group 11. Fixed Guideway Capital Investment Grants Program (New Starts, Small Starts, and Core Capacity) and Capital Investment Program in Effect before MAP-21.
- Group 12. State of Good Repair Program.
- Group 13. Fixed Guideway Modernization Grant Program.
- Group 14. Bus and Bus Facilities Formula Grants Program and Bus and Bus Related Equipment and Facilities Grant Program (Discretionary).
- Group 15. Urbanized Area Formula Grants Programs, Passenger Ferry Grants Program, and Job Access and Reverse Commute (JARC) Program.
- Group 16. Seniors/Elderly/Individuals with Disabilities Programs and New Freedom Program.
- Group 17. Rural/Other Than Urbanized Areas/Appalachian Development/Over-the-Road Bus Accessibility Programs.
- Group 18. Public Transportation on Indian Reservations Programs (also known as the Tribal Transit Programs).
- Group 19. Low or No Emission/Clean Fuels Grant Programs.
- Group 20. Paul S. Sarbanes Transit in Parks Program.
- Group 21. State Safety Oversight Program.
- Group 22. Public Transportation Emergency Relief Program.
- Group 23. Expedited Project Delivery Pilot Program.

Group 24. Infrastructure Finance Programs.

Since 1995, FTA has consolidated the Certifications and Assurances required by law or regulation into a single document for publication in the Federal Register. To receive Federal funding appropriated or made available for the grant and cooperative agreement programs FTA administers, your Applicant must submit the annual Certifications and Assurances required for the type of funding it seeks.

U.S. DOT's annual appropriations for FY 2014 have been included in the Consolidated Appropriations Act, 2014.¹ As such, FTA is publishing its FY 2014 Certifications and Assurances now. These FY 2014 Certifications and Assurances supersede any Certifications and Assurances published in an earlier fiscal year or that may have appeared as illustrations in any discontinued FTA circular. After publication in the Federal Register, each Applicant must submit adequate FY 2014 Certifications and Assurances before FTA may award funding to support that Applicant's request for funding for its Project.

2. What is The Legal Effect of the Certifications and Assurances?

a. Pre-Award Representations. 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 its Project. In general, these FY 2014 Certifications and Assurances are effective October 1, 2013, except as FTA determines otherwise in writing. For FY 2014, however, certain Certifications and Assurances in effect prior to MAP-21 continue to apply to certain Projects and Project

¹ A Public Law Number has not been assigned to the Consolidated Appropriations Act, 2014, as of the date of this notice's issuance.

activities that are financed with funds appropriated or made available for FY 2012 or a previous fiscal year. Conversely, some Certifications and Assurances apply to both Programs funded by MAP-21 and Programs financed with funds appropriated or made available for 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 Applicant's Project was appropriated.

Upon publication in the Federal Register, FTA may not award funding for your Applicant's Project until it submits sufficient FY 2014 Certifications and Assurances.

b. Binding Commitment. Your Applicant must comply with any Certifications or Assurances you make on its behalf, irrespective of whether you remain your Applicant's authorized representative. When you submit its Certifications and Assurances to FTA, both you and your Applicant are agreeing to comply with those terms. For programs that require specific certifications, when the Certifications and Assurances that would apply under MAP-21 differ from the Certifications and Assurances that would apply in FY 2012 or a previous fiscal year, FTA continues to include both types in the single Group used to facilitate funding your Applicant's request(s).

c. Length of Commitment. Your Applicant's FY 2014 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 will usually apply to its Project, except as FTA determines otherwise in writing.

d. Duration. You and your Applicant may use the FY 2014 Certifications and

Assurances in Appendix A to support applications for FTA funding until FTA issues its FY 2015 Certifications and Assurances.

e. The FY 2014 Certifications and Assurances are Not a Complete List of Federal Requirements. FTA cautions that the FY 2014 Certifications and Assurances focus mainly on those representations your Applicant is required to submit to FTA before FTA may award Federal funds for its Project. Consequently, these 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 FTA's FY 2014 Apportionments Notice, FTA also strongly encourages you and your Applicant's staff and prospective and current Third Party Participants to review all Federal legislation, regulations, and guidance that apply to your Applicant's proposed Project and to them. The FY 2014 Master Agreement identifies many of those requirements and applicable guidance, which can be accessed at <http://www.fta.dot.gov>.

g. Penalties for False or Fraudulent Statements. If you provide any false or fraudulent statement to the Federal Government on behalf of your Applicant or yourself, you 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, United States Code, which provides for Federal criminal penalties and termination of Federal funding should you provide, on

behalf of your Applicant or yourself, 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 Understand the Federal Requirements that Will Apply to Your Applicant and its Project.

As your Applicant's authorized representative, FTA strongly advises you to read this Notice and the Certifications and Assurances in its Appendix A before selecting Certifications and Assurances on behalf of your Applicant. In addition to reading the information in this Notice and its Appendix A (located at our Web site, <http://www.fta.dot.gov>), FTA also advises you to read the information accompanying the apportionment tables when FTA publishes its FY 2014 Apportionments Notice.

Your Applicant is responsible for compliance with all Federal requirements that apply to itself and its Project. Nevertheless, people and organizations participating in its Project, including Subrecipients, Third Party Contractors, and Third Party Sub-contractors (Third Party Participants) can seriously affect its ability to comply with those Federal requirements. Therefore, all Third Party Participants involved in its Project need to know and agree to comply with the Federal requirements that affect the Applicant's Project related activities and themselves.

b. Subrecipient and Other Third Party Participation. Except in limited circumstances when FTA has 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, FTA strongly recommends that you take appropriate measures to ensure that 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 2014 Certifications and Assurances that apply to your Applicant and the Projects for which it seeks FTA funding in FY 2014. For your convenience, FTA recommends 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 2014, stating that your Applicant has sufficient authority under its State and local law to certify its compliance with the FY 2014 Certifications and Assurances that you have selected on its behalf. Your Applicant's Attorney must sign this affirmation during FY 2014. An Affirmation of its 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 (*e.g.*, New Starts, Small Starts, or Core Capacity Improvement), FTA expects to receive your Applicant's FY 2014 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 2014 funding. Likewise, if your Applicant is a current FTA recipient with an active Project funded with FTA capital or formula funds, FTA expects to receive your Applicant's FY 2014 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 2014 funding.

(2) If your Applicant seeks funding from an FTA program other than a formula program or a discretionary capital program, *e.g.*, for a Research, Development, Demonstration, and Deployment Project, FTA expects to receive your Applicant's FY 2014 Certifications and Assurances with the submission of its Application for FTA funding or soon thereafter.

4. Where Are FTA's FY 2014 Certifications and Assurances?

- a. Appendix A of this Notice, which is available at FTA's Web site, <http://www.fta.dot.gov>, and
- b. TEAM-Web, FTA's 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 2013?

FTA has made the following changes:

- a. Transferred Group 03, "Procurement and Procurement Systems," and Transferred Group 04, Private Sector Protections," FTA reversed the positions of these two groups, consistent with the customary placement in effect before FY 2013,

b. Transferred Group 04, “Private Sector Protections,” Subgroup 04.C, “School Bus Agreement.” FTA amended subgroup 04.C to add that, as a remedy, FTA may require an Applicant or Third Party Participant that violates FTA’s School Bus regulations to take such remedial measures as FTA considers appropriate,

c. Group 10, “Alcohol and Controlled Substance Testing.” To comply with 49 U.S.C. 5331, as amended by MAP-21, FTA amended its “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations” regulations, 49 CFR part 655, subpart I, specifically 49 CFR 655.83, to require your Applicant to certify that its Subrecipients and Third Party Contractors will comply with the regulation,

d. Group 15, “Urbanized Area Formula Programs, Passenger Ferry Grants Program, and Job Access and Reverse Commute (JARC) Program.” FTA added a new subgroup 15.C to provide Certifications and Assurances for the Passenger Ferry Grants Program, 49 U.S.C. 5307(h), as amended by MAP-21,

e. Group 18, “Public Transportation on Indian Reservations Programs (also known as the Tribal Transit Programs.)” FTA added the requirements to both the Program as amended by MAP-21, and the former Program in effect in FY 2012 or a previous fiscal year, that FTA’s Buy America requirements under 49 U.S.C. 5323(j), as amended by MAP-21, would apply to Tribal Transit Projects; consequently, FTA consolidated both sets of Certifications and Assurances into a single program, and

f. Group 21, “State Safety Oversight Grant Program.” FTA adopted appropriate certifications for this program.

6. How do you submit the Certifications and Assurances?

a. Electronic Submission. Except in rare circumstances and if permitted by

FTA, you must submit your Applicant's FY 2014 Certifications and Assurances in TEAM-Web. To submit the Certifications and Assurances, 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 individually 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 you or 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 its 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 2014.

b. Paper Submission. You may submit your Applicant's FY 2014 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 the Certifications and Assurances 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 it, or select the specific Groups of Certifications and Assurances that apply to it 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 2014 Certifications and Assurances selected on its 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 2014.

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.

Therese W. McMillan,
Deputy Administrator.

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