



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2014-0008]

State of Good Repair Grants Program: Proposed Circular

AGENCY: Federal Transit Administration (FTA).

ACTION: Notice of availability of proposed circular and request for comments.

SUMMARY: FTA has placed in the docket and on its Web site proposed guidance, in the form of a circular, to assist recipients of financial aid under the 49 U.S.C. 5337 State of Good Repair (“SGR”) Grants program. The proposed circular provides instructions and guidance on program administration and the grant application process.

DATES: Comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Late filed comments may be considered so far as practicable.

ADDRESSES: You may submit comments, identified by docket number FTA-2014-0008, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Fax: (202) 493-2251.

- U.S. Mail: U.S. Department of Transportation Docket Operations, 1200 New Jersey Avenue, Southeast, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery/Courier: U.S. Department of Transportation Docket Operations, 1200 New Jersey Avenue, Southeast, Room W12-140, Washington, DC 20590-0001, between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions received must include the agency name and docket number for this notice at the beginning of your comment. If sent by mail, please include two copies. If you wish to receive confirmation that FTA received your comment, you must include a self-addressed and stamped postcard.

All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. You may review the U.S. Department of Transportation's complete Privacy Act Statement published in the Federal Register on April 11, 2000, at 65 FR 19477-8 or at <http://docketsinfo.dot.gov>.

Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties mailing comments should consider using an express mail firm to ensure their prompt filing.

FOR FURTHER INFORMATION CONTACT: Eric Hu, FTA Office of Program Management, (202) 366-0870, [Eric.Hu@dot.gov](mailto:Eric.Hu@dot.gov).

SUPPLEMENTARY INFORMATION:

## Table of Contents

### I. Overview

### II. Chapter-by-Chapter Summary

A. Chapter I: Introduction and Background

B. Chapter II: Program Overview

C. Chapter III: General Program Information

D. Chapter IV: Planning and Program Development

E. Chapter V: Program Management and Administrative Requirements

F. Chapter VI: Other Provisions

G. Appendices

### **I. OVERVIEW**

The Moving Ahead for Progress in the 21st Century Act (“MAP-21”), Pub. L. 112-141, 126 Stat. 405 (2012), made significant changes to the Federal transit laws that are applicable across all of FTA’s financial assistance programs. These changes further several important goals of the U.S. Department of Transportation. Most notably, MAP-21 grants FTA new authority to oversee and regulate the safety of public transportation systems in the United States and authorizes a new Public Transportation Safety Program at 49 U.S.C. 5329. MAP-21 also establishes a new National Transit Asset Management system at 49 U.S.C. 5326 including a new requirement for transit asset management plans, performance measures and annual target setting based on a definition of “state of good repair”, and additional technical assistance from FTA.

MAP-21 also establishes the new State of Good Repair (SGR) Grants program at 49 U.S.C. 5337. In contrast to the repealed fixed guideway modernization program, the purpose of the SGR Grants program is the maintenance, replacement, and rehabilitation of capital assets, along with the development and implementation of transit asset management plans.

These three new sections—section 5326 transit asset management, section 5329 public transportation safety program, and section 5337 SGR Grants program—enhance the process by which a transit provider evaluates the SGR needs of capital assets and finances necessary replacement or rehabilitation, as informed by conditions of capital assets and safety risk priorities. A transit provider’s safety and asset assessment informs its asset management process, which informs budgeting and project selection. FTA anticipates publishing in the *Federal Register* an Advance Notice of Proposed Rulemaking [RIN 2132-AB20] that will begin an in-depth discussion of safety and asset management issues and the interrelation of these three programs.

This Notice provides a summary of a proposed guidance document, FTA Circular 5300.1, that provides program guidance and application instructions to assist grant recipients in implementing the SGR Grants program. FTA seeks public comment on the proposed Circular 5300.1. Any proposed policies on which FTA is seeking comment that impact service data used from National Transit Database to calculate the SGR formula apportionment will go into effect once a final circular is published.

This Notice does not include the proposed Circular 5300.1. The proposed circular is approximately 150 pages in length, and is available in its entirety on FTA’s Web site,

<http://www.fta.dot.gov>. Paper copies may be obtained by contacting FTA's Administrative Services Help Desk at (202) 366-4865.

The following is a chapter-by-chapter summary of the content of the proposed Circular 5300.1.

## **II. CHAPTER-BY-CHAPTER SUMMARY**

### **A. Chapter I: Introduction and Background**

Chapter I of the proposed circular is an introductory chapter that contains general information about FTA, a distinction between the new SGR grants program and previous programs that existed under section 5337, and a set of definitions applicable throughout the proposed circular. The circular includes several definitions that are new or that clarify statutory definitions including: “bus rapid transit system,” “commuter rail,” and “high intensity motorbus.” FTA specifically seeks comment on these proposed definitions. The proposed definitions would impact project eligibility under the SGR Grants program and how system data are reported to the National Transit Database, which is used to calculate SGR Grants program apportionments. The proposed definition of commuter rail includes a provision to preserve the designation of any service designated as commuter rail as of 2012. FTA specifically seeks comment on these proposed definitions.

### **B. Chapter II: Program Overview**

Chapter II provides general information about the SGR grants program.

1. Statutory Authority

This section states the statutory authorization of the SGR grants program, MAP-21 section 20027, codified at 49 U.S.C. 5337.

2. Program Goals

This section describes the program goals for the SGR Grants program: the maintenance, repair or replacement of capital assets to bring fixed-guideway and high-intensity motorbus systems into a state of good repair. The SGR Grants program is part of MAP-21's emphasis on improved safety, asset management, and restoring aging transit infrastructure.

3. FTA Role in Program Administration

This section describes the respective roles of FTA's headquarters and regional offices in program administration. The headquarters office is generally responsible for policy guidance and national program reviews, while the regional offices are generally responsible for day-to-day program administration, obligating funds, providing technical assistance, and reviewing recipients' compliance with Federal requirements.

4. Designated Recipient Role in Program Administration

This section explains that SGR Grants are apportioned to designated recipients. The term designated recipient is defined at 49 U.S.C. 5302(4), and designated recipients for purposes of the SGR Grants program are the same as for the Section 5307 urbanized area formula grants program.

5. Direct Recipient and Sub-Recipient Eligibility

This section describes how to establish a direct recipient and the process for allocating funds to direct recipients and for sub-awarding funds to subrecipients. A direct recipient is a public entity that may apply for some or all of an urbanized area's funding if certain requirements are met.

6. FTA Oversight

This section describes the oversight conducted by FTA to ensure a recipient's compliance with grant program conditions. FTA performs comprehensive triennial reviews and may perform reviews focused specifically on a recipient's technical capability, procurement practices, civil rights compliance, safety and security, or other subject areas. Also, FTA may apply the Project Management Oversight Requirements to SGR grants for the rehabilitation of fixed guideway systems having total project costs in excess of \$100 million.

7. Relationship to Other Programs

This section discusses other FTA grant programs that have been repealed but for which funds may still be available, and programs created or amended by MAP-21. Funds previously authorized for programs that were repealed by MAP-21 remain available for their authorized purposes until the statutory period of availability expires or until the funds are fully expended, rescinded by Congress, or reallocated.

## C. Chapter III: General Program Information

This chapter discusses in more detail the apportionments for the SGR Grants program.

### 1. Apportionment of Program Funds

This section states that FTA will apportion SGR Grants program funds to designated recipients in urbanized areas with high intensity fixed guideway and high intensity motorbus systems.

### 2. Formula Apportionment

This section describes the statutory formula used to apportion funds under the SGR Grants program. Of the funds appropriated to the SGR Grants program by Congress, 97.15 percent is apportioned among urbanized areas with fixed-guideway systems that have been in operation for at least 7 years, and 2.85 percent is apportioned among urbanized areas with high-intensity motorbus systems that have been in operation for at least 7 years.

An urbanized area's fixed-guideway apportionment is determined by two calculations. Half of the apportionment is based on what the urbanized area would have received under the pre-MAP-21 fixed guideway modernization program, but using calculations contained in the current version of 49 U.S.C. 5336(b)(1). The other half of the apportionment is calculated based on fixed guideway service attributable to the urbanized area, weighted 60-40 between vehicle revenue miles and directional route miles; only segments of fixed guideway systems that have been in operation for at least

seven years prior to the start of a fiscal year are included in the calculation for any given fiscal year.

An urbanized area's high-intensity motorbus apportionment is calculated based on vehicle revenue miles and directional route miles. FTA proposes that all high occupancy toll lane miles be excluded from the calculation, including those systems that were previously grandfathered after conversion from high occupancy vehicle lanes. As with the fixed guideway calculation, the motorbus calculation is weighted 60-40 for vehicle revenue miles and directional route miles; only segments of motorbus systems in operation for seven years prior to the start of a fiscal year are included in the calculation for any given fiscal year.

### 3. Availability of Funds

SGR Grants program funds are available for obligation during the fiscal year of appropriation plus three additional years.

### 4. Eligible Recipients

State and local government authorities in urbanized areas with qualifying fixed guideway or motorbus systems are eligible recipients.

### 5. Eligible Projects

This section describes projects eligible for SGR Grants program funds. The SGR Grants program is available for the maintenance, rehabilitation or replacement of existing capital assets. SGR grants are not available for projects that expand system capacity or service or modernize assets. However, FTA will permit expansion of capacity within

replacement projects to meet current or projected short-term service needs (e.g., replacing a maintenance facility with a larger facility, or replacing a bus with a larger bus).

Replacement and rehabilitation includes (1) replacement of older features with new ones; (2) incorporation of current design standards; and (3) additional features required by Federal requirements. For any Expansion elements included in a replacement project, the grantee will need to address how the project meets current or short term service levels. FTA will review the reasonableness of such expansion elements when reviewing the grant. In addition to replacement and rehabilitation, new maintenance facilities or maintenance equipment are eligible if needed to maintain the existing fixed guideway system or equipment.

Funds apportioned under high intensity fixed guideway shall be available exclusively for fixed guideway projects. High intensity motorbus funds can be used interchangeably on any eligible high intensity motorbus or high intensity fixed guideway project. High intensity motorbus funds must be used for capital expenses of public transportation systems that provide regular, continuing shared-ride surface transportation service to the general public.

#### 6. Federal Share of Project Costs

This section describes the requirement for local funding of projects assisted with the SGR Grants program. The Federal share of a project generally shall not exceed 80 percent of the net project cost. This section also discusses exceptions to the 80 percent limitation.

7. Capital Cost of Contracting

This section describes the eligibility of recipients who contract with a third party for the provision of transit services and therefore do not have direct capital costs. In such situations, FTA can apply a concept called the “capital cost of contracting”.

8. Local Share of Project Costs

This section describes qualifying sources of the local share of a project.

9. Additional Sources of Local Share

This section describes qualifying sources of the local share of a project that have special requirements associated with their use.

10. Alternative Financing

This section describes alternative or innovative sources of project financing and the U.S. Department of Transportation’s Transportation Infrastructure Finance and Innovation Act (TIFIA) loans. Recipients are encouraged to investigate and pursue innovative financing methods for transit projects.

11. Deferred Local Share

This section describes a possible arrangement whereby a project sponsor may defer contributing the local share of project costs until the Federal share has been fully drawn down.

#### **D. Chapter IV: Planning and Program Development**

Chapter IV describes planning requirements that apply to most recipients of FTA funding and are common to most of FTA's programs. The chapter contains a new section, Transit Asset Management (TAM), that describes the new national asset management system and the requirements for planning, target-setting, and reporting placed on recipients of FTA funding that will be effective upon completion of rulemaking. Asset management and the management of safety risks should inform recipients' selection of SGR Grants program projects.

Other sections in chapter IV are: (2) Metropolitan and Statewide Planning Requirements; (3) Metropolitan Planning Areas; (4) Transportation Management Areas; (5) Performance-Based Planning; (6) Role of Designated Recipient and Metropolitan Planning Organization in Allocating Program Funds; (7) Subarea Allocation; (8) Availability of FHWA "Flexible Funds" for Transit Projects; (9) Requirements Related to Vehicles and Equipment; (10) Requirements Related to Facilities; (11) Environmental Considerations; (12) Major Capital Projects; (13) Authority to Undertake Projects in Advance; and (14) Public Transportation Safety Requirements.

#### **E. Chapter V: Program Management and Administrative Requirements**

Chapter V describes management and administrative requirements that apply to FTA grants and are common to FTA's various programs. Sections included in chapter V are: (1) FTA Electronic Award Management System; (2) System for Award Management Requirements; (3) Data Universal Numbering System (DUNS) Registration; (4) DUNS Requirement for Subrecipients; (5) Electronic Clearing House Operation (ECHO)

Requirements; (6) Federal Funding Accountability and Transparency Act (FFATA) Requirements; and (7) National Transit Database (NTD) Reporting.

## **F. Chapter VI: Other Provisions**

Chapter VI describes some of the requirements and conditions that apply to FTA grants and are common to FTA's programs. Sections included in chapter VI are: (1) Introduction; (2) Charter Bus Services; (3) Civil Rights; (4) Clean Air Act (CAA); (5) Commercial Driver's License (CDL); (6) Debarment and Suspension; (7) Drug and Alcohol Testing; (8) Drug-Free Workplace; (9) Employee Political Activity; (10) Energy Conservation; (11) Environmental Reviews; (12) Intergovernmental Review; (13) Labor Protections; (14) Presidential Coin Act; (15) Private Sector Participation; (16) Use of Competitive Procurements; (17) Real Property Acquisition and Relocation Assistance; (18) Restrictions on Lobbying; (19) Safety and Security; (20) School Bus Transportation; (21) Seismic Design and Construction Standards; (22) Sensitive Security Information; and (22) State Safety Oversight.

## **G. Appendices**

The proposed Circular 5300.1 contains three appendices. Appendix A contains instructions for recipients preparing a grant application. Appendix B contains instructions for how to prepare a project budget. Appendix C contains example documents to assist recipients in applying for and managing an SGR grant. Appendix D contains FTA regional and metropolitan contact information. Appendix E contains a list of references for the circular.

Therese W. McMillan,

Deputy Administrator.

[FR Doc. 2014-04512 Filed 02/28/2014 at 8:45 am; Publication Date: 03/03/2014]