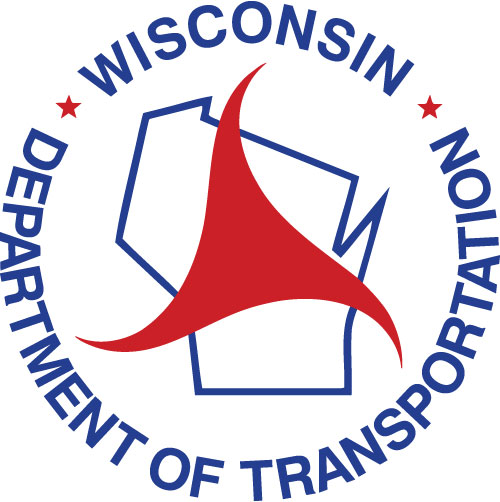
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**COMPLIANCE SITE REVIEW (CSR)**

**REFERENCE WORKBOOK**

**Section 5311 Subrecipients**

**Wisconsin Department of Transportation (WisDOT)**

**Bureau of Transit, Local Roads, Rails and Harbors**

**Last Revised:**

**July 2021**

**\*This document is a working draft. Changes to this document will be made when revisions are suggested or found to be necessary.**

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# INTRODUCTION – WisDOT COMPLIANCE REVIEW PROGRAM

## OBJECTIVE

The objective of the Wisconsin Department of Transportation (WisDOT) - Bureau of Transit, Local Roads, Rails and Harbors Compliance Review Program is to provide a consistent and thorough review of the compliance practices of WisDOT subrecipients that receive Federal funding under 49 U.S.C. 5311. The Compliance Site Review (CSR) is designed to assist WisDOT and its subrecipients in assessing the administration and implementation of transit programs and services in Wisconsin. All subrecipients with operating and capital grants and/or active assets that were purchased with funds distributed by WisDOT will be reviewed. Compliance Site Reviews will typically be conducted by a Consultant that is under contract with WisDOT.

WisDOT views these compliance reviews as an opportunity to provide one-on-one technical assistance, specifically tailored to the needs of each transit system, with the goal of reaching compliance in all federal oversight areas. Reviews are conducted to identify strengths, areas that need improvement and areas where subrecipients may need additional training and/or technical assistance from WisDOT staff and/or its Consultant. The WisDOT CSR Reference Workbook will be utilized during the review to ensure all topic areas are covered during each CSR.

## HISTORY

The WisDOT Compliance Review Program has been established on a five-year cycle. All WisDOT Section 5311 systems have undergone a CSR over the past five years (2015-2020). The second five-year review cycle was initiated in the fall of 2020. Note that due to COVID-19, reviews will be conducted by **remote, video conference**. Given the on‐going

nature of the COVID‐19 pandemic, WisDOT may opt to continue conducting reviews using this format to satisfy its

obligations to ensure adequate oversight of subrecipients.

## SCOPE OF REVIEW

TheCSR Reference Workbook is designed to assist WisDOT and its Consultant assess how Wisconsin Section 5311 transit systems meet the varied compliance requirements imposed by the Federal Transit Administration (FTA) and WisDOT. The overall goal of the program is to improve the agency’s compliance with applicable regulations while strengthening managements’ abilities in these areas. The review is organized into the following nine major areas:

(1) Program Management/Oversight

(2) Financial Management

(3) Procurement

(4) Asset Management

(5) Service and Operations

(6) Charter and School Bus

(7) Civil Rights

(8) Americans with Disabilities Act (ADA)

(9) Miscellaneous Provisions

In those situations where a subrecipient passes grant funds to a lower‐tier entity (e.g. contractor) that will actually operate transit services on behalf of the subrecipient, the review will begin with the subrecipient’s responsibilities to monitor compliance requirements that cannot be passed to the lower‐tier operating entity. It must be verified that the primary subrecipient of FTA funds exercises satisfactory continuing control over all Federally‐funded assets used in the project and maintains title to all project equipment. Once this portion of the review is completed, the remainder of the review will focus on the entity that operates the service.

### Pre-Review Activities

#### Prepare the Site Review Package

The WisDOT Compliance Oversight Manager will transmit a CSR notification letter to each subrecipient, providing the subrecipient with two weeks to respond and establish a tentative CSR date. Following the subrecipient’s response to the WisDOT notification letter, the Consultant will send a CSR Package to the subrecipient that includes the WisDOT CSR Reference Workbook, the CSR Schedule, and a list of documents that should be submitted via upload to BlackCat. The subrecipient will be provided three(3) weeks to upload the requested documents to BlackCat, including a completed CSR Reference Workbook. For the remote reviews, WisDOT and its consultant will determine the most appropriate software platform (GotoMeeting, Zoom, Skype, etc.) to conduct the remote/video conference and log in information will be provided prior to the review

#### Desk Review

Subrecipients will be asked to submit documents prior to the review as part of an off-site desk review. During the remote review period, WisDOT will rely more heavily on the desk review aspects of the program. The desk review will allow WisDOT and/or its consultant to become familiar with the subrecipient and identify any areas needing further attention prior to the review. Subrecipients should upload the applicable listed documents below to BlackCat at least one week prior to the date of the review.

* Completed CSR Reference Workbook
* Approved budget
* Financial management policy and procedures
* Grants management policy and procedures
* Financial documentation (e.g. receipt books, tickets/passes, spreadsheets)
* Transit General Ledger for most recent quarter
* Chart of Accounts
* Periodic financial reports
* WisDOT quarterly invoices, last two years
* IRS Form 990 or 990-N
* Annual financial audit/financial statement
* Approved Cost Allocation Plan
* Procurement policy and procedures
* Procurement records, including copies of agreements
* Pre & post trip inspection forms/records
* Asset inventory – funded capital items
* Vehicle, equipment and facility maintenance plans and procedures
* Randomly selected vehicle maintenance records
* Vehicle accident records
* Vehicle manifests
* Service request logs
* Dispatch logs
* Documentation demonstrating vehicle and/or facility insurance coverage (if applicable)
* Vehicle and facility lease agreements
* Vehicle replacement schedule
* Completed Vehicle Visual Inspection Forms (2)
* Pre‐award/post‐delivery audits
* Service policies and procedures
* System safety and security policy and procedures
* State and Federal Motor Carrier compliance information
* Seat belt and child seat procedures
* Operator on-board procedures
* Marketing materials including brochures
* Rider guidebooks
* Employee Manual
* Job descriptions
* ADA policies and procedures
* ADA compliance records/files
* Complementary paratransit application materials (if applicable)
* Title VI Plan and complaint records/files
* Lobbying records and reports
* FTA Section 5333(b) Special Warranty policy
* Charter Bus documentation
* Drug and Alcohol program records/files
* Quarterly reports
* Contractual agreement with provider
* Contractor oversight records
* Volunteer records
* Training curriculum outline
* Training records
* Safety/security plan

#### Schedule the Site Visit/Remote Review

WisDOT and/or its consultant will schedule a site visit/remote review for a time that is convenient for all participants. Typically, the review will be limited to one day. The subrecipient will be asked to ensure that key staff is available for interviews during the review. The timing of the individual interviews is flexible to limit impact on daily operations. For those subrecipient’s that contract their operations to a lower‐tier entity/contractor, the subrecipient should ensure that the contractor participates in the review.

### The Review

#### Entrance Conference

The CSR begins with an entrance conference with subrecipient staff, WisDOT and/or its consultant. The entrance conference is an orientation and introduction to the review, a time for defining the scope of the CSR, the role of WisDOT and the Consultant in the review, the day’s schedule, and objectives for the review.

#### Review

The CSR generally takes six hours or less to complete. For larger or more complex subrecipients, the review schedule could take longer.

This CSR Reference Workbook will focus discussion during the site review, outlining key topic areas and questions that will be asked. Also, each review will include vehicle and facilities inspection to verify that assets are in good condition and in transit use. Physical areas that may be accessed by reviewers include:

* Administration offices and employee areas
* Maintenance and/or vehicle storage areas
* Vehicles used to provide passenger services regardless of funding source
* Facilities funded or maintained with grants
* Off-site locations such as accountant offices

For the remote reviews, screenshots or screen sharing capabilities of the software platforms will be

used as necessary to exchange or verify information when electronic files are not available. As appropriate, the subrecipient may be requested to take pictures of specific and narrowly‐defined portions of records (e.g.,

vehicle history, work order) using a smartphone or other device readily accessible by the subrecipient when electronic files are not available. Pictures of vehicles and related equipment may also be needed for the remote reviews. WisDOT and/or the consultant may provide subrecipients with templates or “best practice” sample material to assist subrecipients develop FTA-compliant documents and programs.

#### Exit Conference

An exit conference with subrecipient representatives will be conducted to discuss compliance deficiencies/findings and advisory recommendations. A finding simply represents an area of Federal or state compliance that is currently not addressed appropriately. Some of the initial findings discussed at the exit interview could change after additional information and documentation is provided, or with further analysis. It is also possible that a finding will require a follow-up visit/call for additional review.

### Post Review

WisDOT’s goal is to send the subrecipient a draft Corrective Action Plan (CAP) within two weeks of completion of the Compliance Site Review or remote review. This document lists WisDOT’s findings, advisory recommendations, recommended timeframe for resolution of the deficiencies, and provides a column for the subrecipient to note the action steps to correct the findings. The subrecipient will be provided one week to review the draft CAP and provide comments to the Contractor. Notwithstanding any subrecipient rebuttal to the Corrective Action Plan, at the end of the one-week review period, the report will be accepted by the subrecipient and WisDOT and an implicit cooperative commitment to remedy the compliance deficiencies will be established between WisDOT, the Consultant and the subrecipient.

The subrecipient will then have two weeks (14 days) to prepare written action steps and submit a Corrective Action Plan (CAP) noting these action steps. Following the consultant’s review of the action steps, there will be a 90-day remediation period during which WisDOT expects the transit system to satisfactorily resolve all compliance findings. During the period, the review consultant will be available to assist the system; provide examples of policies, procedures, and best practices; and review subrecipient proposals for compliance remedies.

The review consultant, working closely with WisDOT staff, will monitor the subrecipient’s status toward the

closure of all findings. The consultant will maintain regular contact with the subrecipient and provide the technical assistance necessary to ensure the CAP is completed and all findings closed. The subrecipient should submit documentation/evidence to the review consultant to address the recommended actions/action steps as the prepared documentation/evidence is finalized.

Note that in those situations where the subrecipient has a finding it would like to contest, the subrecipient should identify the finding and submit documentation to WisDOT and the consultant substantiating why the finding is in error.

WisDOT will strive to close all CSRs within 90 days of the initial site visit/remote review.

*Please Note: Non-completion of the Compliance Review Program and the Corrective Action Plan Recommended Action items will be considered non-compliant and will be evaluated during future application processes.  A non-compliant rating on the Compliance Review will affect current quarterly reimbursements and/or future grant awards.*

**Subrecipient Information**

**Please fill in the information in the adjacent column**

|  |  |
| --- | --- |
| **Subrecipient:** |  |
| Address: |  |
| Phone No. (include area code) |  |
| Fax: |  |
| Website: |  |
| **Contact Person:** |  |
| Phone No. (include area code) |  |
| Email: |  |
| **Contract Service Provider (if applicable):** |  |
| Contact Name: |  |
| Phone No. (include area code) |  |
| Email: |  |
| **Organizational Structure:** |  |
| Non-Profit |  |
| Government Entity |  |
| **Brief Description of Transportation Service Funded:** |  |
| **Approved Service Area (from coordinated plan)**: |  |
| **Federal/State Funding Received in the past three years**  **(check all that apply)** | 5311 Operating funds  5311 Capital funds – vehicles  5311 Capital funds – facilities  5311(f) Intercity Bus funds  5307 Urban Operating funds  85.20 State Funds – City/County/Commission/Tribe  85.21 State Funds – County  85.215 State Funds – Tribal Transport Elderly  85.22 State Funds – Capital |

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# **PROGRAM MANAGEMENT/OVERSIGHT** Section 1

## 1.1 | General Eligibility

Eligible recipients of FTA funds from WisDOT include units of government (counties, cities, and towns), Regional Planning Commissions (RPCs) and private nonprofit organizations authorized under state law to provide and carry out a local public transportation project. Private for-profit operators of transit services may participate in the program as third party (lower tier) contractors for grantees or eligible recipients.

In some cases, FTA permits WisDOT to use an eligible subrecipient as a pass-through in order to provide money to another eligible applicant. When the lower tier recipient would also be an eligible recipient, the arrangement is not a third-party contract, but a pass-through arrangement (e.g., WisDOT awards funds to a public agency that in turns gives the funds to an otherwise eligible recipient). It is important for the reviewer to ascertain the relationship between the grantee and lower tier contractors and establish whether the arrangement is a legitimate “pass-through” or a third-party contract.

Section 5311 funded services must be available and marketed as such to the general public. The service must

not restrict access to the program by the general public, even if the service is primarily designed to meet

the needs of local human service agency transportation. Either the subrecipient and/or the contractor must

market the service as available to the general public.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **What entity is a party to the subrecipient grant agreement with WisDOT?** | | |
|  | **What is the organizational status of the entity that is party to the subrecipient grant agreement with WisDOT?** | County City or Town  Public Transportation Commission  Regional Transportation Authority | |
|  | **What Federal/State funds has the subrecipient received during the past 3 years?** | | |
| * List: | | |
|  | **Has the subrecipient published a public notice in local newspapers serving the proposed service area, describing its project and soliciting interest from private parties to provide similar service?** | | **Yes  No** |
|  | Are the transit services operated by the subrecipient open to the general public? | | **Yes  No** |
|  | **Who is the operator and/or provider of public transit services?** | | |
|  | **If a pass-through arrangement is in place, has the subrecipient met the Federal and state requirements for such relationships?** | | |
| * The pass-through operator is an eligible recipient of Federal funds as defined by FTA | | **Yes  No** |
| * The pass-through recipient is an incorporated nonprofit corporation in the State of Wisconsin | | **Yes  No** |
| * The pass-through recipient was specifically named as the operator of services in the project application | | **Yes  No** |
| * The governing board of WisDOT subrecipient has passed a resolution designating the nonprofit as the operator of public transit services | | **Yes  No** |

## 1.2 | Legal Authority

Subrecipients must have the legal capacity to receive federal and state grants. Subrecipients must be eligible under the specific requirements of the FTA programs. The authority to take necessary actions and responsibility on behalf of the subrecipients must be properly delegated and executed. This means that:

* Subrecipients must have designated a body legally responsible for the overall organization, management, and operation of the transportation system.
* The officials acting on behalf of subrecipients must have the appropriate authority. This is usually documented in an authorizing resolution passed by the governing body.

Subrecipients that contract with a third-party contractor must have a written agreement with the contractor. The agreement must articulate all elements of compliance the operator must adhere to in the performance of the project.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Identify which individual has:** | |  |
| * Designated Authority. (highest ranking official name and position) | | |
| * Authorized Official (person delegated to execute agreements, sign legally binding documents, etc.). (name and position) | | |
| * Responsible for the financial management of the transit program. (name and position) | | |
| * Signs the Certifications and Assurances. (name and position) | | |
| * Responsible for the day-to-day management of transit related responsibilities. (name and position) | | |
| * Maintains oversight of the third-party contractor or lessee. (name and position) | | |
|  | **What role does the governing body have regarding transit service?** | | |
|  | **Is there documented evidence that this body deliberates on key management issues facing the transit system?** | | **Yes  No** |
| If “yes,” how often is transit on the governing board agenda? | | |
|  | **Does transit management provide the governing board with routine finance and/or progress reports?** | | **Yes  No** |
|  | **Has the governing board delegated grants management or decision-making responsibilities to other parties, such as key employees of the organization?** | | **Yes  No** |
| * If “Yes,” is there a governing board resolution or other appropriate action that approves this delegation of authority? | | **Yes  No** |
|  | **Do you contract with any third-party contractor(s) or lessee(s) for transit service?** | | **Yes  No** |
| * If “yes,” provide name (s): | | |
|  | **Is the contractual agreement between the subrecipient and third-party contractor  out‐of‐date?** | **Yes  No** | |
|  | **Does the contractual agreement between the subrecipient and operator contain all required Federal provisions?**   |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | **Yes** | **No** | **Requirement** | **Yes** | **No** | **Requirement** | |  |  | No Federal Government Obligations to Third Parties |  |  | Transit Employee Protective Arrangements | |  |  | False Statements or Claims Civil and Criminal Fraud |  |  | Clean Air (over $100,000) | |  |  | Access to Third Party Contract Records |  |  | Clean Water (over $100,000) | |  |  | Legal Remedies for Breach |  |  | Clean Water (over $100,000) | |  |  | Changes to Federal Requirements |  |  | Charter Bus | |  |  | Civil Rights |  |  | Lobbying (over $100,000) | |  |  | Disadvantaged Business Enterprise (DBE) |  |  | Contract Work Hours and Safety Standards Act | |  |  | Incorporation of FTA Terms |  |  | School Bus | |  |  | Drug and Alcohol Testing Program |  |  | Energy Conservation | |  |  | Recycled Products |  |  | ADA Access | | | |
|  | **Does the subrecipient agreement include the information required by 2 CFR part 200?**   |  |  |  | | --- | --- | --- | | **Yes** | **No** | **Requirement** | |  |  | Subrecipient name (which must match the registered name in DUNS) | |  |  | Subrecipient's DUNS number | |  |  | Federal Award Identification Number (FAIN) | |  |  | Federal award date to WisDOT | |  |  | Subaward period of performance: start and end dates | |  |  | Amount of Federal funds obligated by this action | |  |  | Total amount of Federal funds obligated to the pass‐through agency | |  |  | Total amount of the Federal award | |  |  | Federal award project description, as required to be responsive to the Federal Funding  Accountability and Transparency Act (FFATA) | |  |  | Name of Federal awarding agency, pass‐through entity, and contact information for  awarding official | |  |  | CFDA Number and Name; the pass‐through entity must identify the dollar amount made available under each Federal award and the CFDA number at the time of disbursement | |  |  | Identification of whether the award is R&D | |  |  | Identification of whether the award is R&D | | | |
|  | **How do you maintain oversight of your third-party contractor or lessee (e.g., operational reports, financial reports, communications, meeting schedule, etc.)? Explain: \_\_\_\_\_\_\_\_** | | |
|  | What documentation is maintained by the subrecipient that demonstrates that the subrecipient is  providing the required oversight of the contractor? \_\_\_\_\_\_\_\_ | | |
|  | **Are agency employees skilled and trained to perform the duties associated with their particular job functions (e.g., daily management of staff, accounting functions, delivery of services)?** | | **Yes  No** |
|  | **How does management remain abreast of the requirements of laws and regulations pertinent to the transit grant programs?** | | |

## 1.3 | Certifications and Assurances

To receive a grant under any FTA-administered programs, WisDOT must annually assure FTA that WisDOT and subrecipients meet certain requirements. WisDOT is responsible for maintaining adequate files documenting the basis for all assurances which it makes to FTA. Each fiscal year, FTA publishes the required certifications and assurances in the *Federal Register.* This notice indicates which certifications and assurances apply to all grantees or to certain kinds of awards, and which are required for grants under specific sections. WisDOT, as the FTA recipient, must electronically submit the appropriate certifications and assurances each fiscal year for all active grants and new grants that it expects FTA to make during that fiscal year. Subrecipients are also expected to submit appropriate certifications and assurances to WisDOT.

|  |  |  |
| --- | --- | --- |
|  | **Has the subrecipient submitted the properly completed Annual Certifications and Assurances?** | **Yes  No** |
|  | **Were the Annual Certifications and Assurances signed by an authorized official with proper authority?** | **Yes  No** |
| If “yes,” provide name and position: | |

# FINANCIAL MANAGEMENT Section 2

As a primary recipient of FTA funds and as the State agency designated to administer such funds for public activities, WisDOT will manage the fiscal elements of these programs in accordance with its existing procedures, FTA guidelines, and other applicable state and Federal regulations.

All subrecipients are required to establish and maintain an accounting system to which all transportation-related costs, revenues, and operating costs are recorded so that they may be clearly identified, easily traced and substantially documented. The fully allocated cost of the public transit program must be clearly identified regardless of the operational nature of the agency.

## 2.1 | Accounting Practices

Receipts of FTA funds obligate the grantee to use the funds it receives as specified in the project application and grant agreement. Execution of the grant agreement establishes a partnership between WisDOT and the grantee wherein WisDOT assumes an oversight role in the use of grant funds and retains a vested interest in the unused grant balances, improperly applied funds, and property and facilities purchased or otherwise acquired under the grant. Grantees and third-party contractors are responsible for establishing and maintaining adequate internal control over all their functions that relate to project administration and execution.

[CFR Super Circular Part 200 (OMB A-87)](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl) indicates that reports reflecting the distribution of activity for each employee must be maintained for all staff members whose compensation is charged, in whole or in part, directly to a grant award. Additionally, the report must reflect an after‐the‐fact determination of actual activity of each employee. Budget estimates (i.e., estimates determined before the services are performed) do not qualify as support for charges to (grant) awards. The use of percentage time allocations of staff in their charges of time is not permissible under the cost principles of either local government or nonprofit organizations.

Time charged to FTA funded programs must:

* Reflect after‐the‐fact determination of actual activity;
* Account for the total activity of the employee;
* Be signed by the individual employee; and
* Be prepared at least monthly and coincide with one or more pay periods.

Financial records, supporting documentation, and all other records pertinent to a grant must be retained by the subrecipient and must be made readily available to authorized representatives of the U.S.DOT and the Comptroller General of the United States for a period of three (3) years.

If any litigation, claim, or audit is started before the expiration of the three‐year period, the records must be retained beyond three (3) years, until all litigation, claims, or audit findings involving the records have been resolved.

The subrecipient must maintain accurate, current, and complete disclosure of the financial results of

each Federal award or program following the reporting requirements set forth in 2 CFR §200.327 and 2

CFR § 200.328. The subrecipient must:

* Maintain records that identify adequately the source and application of funds for Federally funded activities, including information pertaining to:
* Federal awards
* Authorizations
* Obligations
* Unobligated balances
* Assets
* Expenditures
* Income and interest
* Maintain effective control over, and accountability for, all funds, property, and other assets
* Safeguard all assets and assure that they are used solely for authorized purposes
* Comparison of expenditures with budget amounts for each Federal award
* Written procedures for determining the allowability of costs in accordance with Subpart E—Cost Principles of 2 CFR § 200 and the terms and conditions of the Federal award.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Does the subrecipient have written financial management and cash control policies and procedures?** | | **Yes  No** |
| * **If “yes,” do the policies and procedures address the five bullets noted above?** * **If no, explain: \_\_\_\_\_\_\_\_** | | **Yes  No** |
|  | **Based on the chart of accounts, is the subrecipient correctly classifying expenses in the capital, administrative, and operating categories?** | | **Yes  No** |
|  | **Is the subrecipient correctly computing the net cost of service?** | | **Yes  No** |
|  | **Does the subrecipient maintain separate accounts within its accounting system for each program and grant for which it receives WisDOT or federal funds?** | | **Yes  No** |
|  | **Is the accounting system capable of generating reports to ensure timely collection of revenues and grant receipts?** | | **Yes  No** |
|  | **Are the personnel responsible for recording financial transactions, generating reports, and ensuring the accuracy of financial data suitably trained to perform these functions?** | | **Yes  No** |
|  | **Does the subrecipient have a defined method for distributing administration expenses between programs?** | | **Yes  No** |
|  | **Does the subrecipient have a method for allocating specific expenses to individual grant agreements?** | | **Yes  No** |
|  | **Does the subrecipient adhere to the requirement that all financial records pertaining to a WisDOT grant be retained for three (3) years following the final payment?** | | **Yes  No** |
|  | **Federal cost principles require that all costs incurred under a grant must be “reasonable and necessary.” Does the subrecipient have a process in place to determine reasonable and necessary costs prior to making the expenditure?** | | **Yes  No** |
| * If “Yes,” what are these procedures? | | |
|  | **The subrecipient’s accounting method is:** | Cash Accrual  Modified Other | |
|  | **If the subrecipient provides service under contract to human service agencies, what is the frequency for issuing invoices to the contracting organizations?** | | **Yes  No** |
|  | **What is the typical aging cycle on such receivables?** | | |
|  | **What procedures does the subrecipient have in place to track and collect on aged receivables?** | | |

## 2.2 | Indirect Costs

Indirect costs are those: (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. The term "indirect costs," applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities.

There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Federal award or other final cost objective. Therefore, it is essential that each item of cost be treated consistently in like circumstances either as a direct or an indirect cost.

Where an accumulation of indirect costs will ultimately result in charges to a Federal award, a cost allocation plan is required.

Amounts not recoverable as indirect costs or administrative costs under one Federal award may not be shifted to another Federal award, unless specifically authorized by Federal legislation or regulation. Indirect cost rate proposals are prepared annually and submitted to the cognizant Federal agency, an agency designated by OMB as responsible for reviewing, negotiating, and approving indirect cost rate. In the absence of a designated cognizant agency, the Federal funding source providing the most significant amount of funding will typically serve as the cognizant agency. In cases where funds first flow to a primary recipient to a subrecipient, the primary recipient may review, negotiate, and approve indirect cost rate proposals.

In an effort to relieve administrative burden, OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Super Circular Part 200), specifies that non-federal entities that have never received a negotiated indirect cost rate may elect to charge a de minimis rate of 10 percent of modified total direct costs (MTDC), which may be used indefinitely. The MTDC includes direct salaries and wages, applicable fringe benefits, materials and [supplies](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=417f307e32260214332b0cf1264dd8af&term_occur=1&term_src=Title:2:Subtitle:A:Chapter:II:Part:200:Subpart:A:Subjgrp:28:200.68), services, travel, and up to the first $25,000 of each [subaward](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=fc38ec96e3dffd2a5e63c7bfd1694f16&term_occur=1&term_src=Title:2:Subtitle:A:Chapter:II:Part:200:Subpart:A:Subjgrp:28:200.68).

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| --- | --- | --- |
|  | **Does the subrecipient seek reimbursement of indirect costs in its claims under its various Federal grant awards?** | **Yes  No** |
|  | **If yes, does the subrecipient have an Indirect Cost Allocation Plan (ICAP) that has been submitted for approval to a cognizant Federal agency?** | **Yes  No** |
| * If “yes,” which agency approved the ICAP and is the ICAP updated annually? \_\_\_\_\_\_ |
|  | **Does the subrecipient claim the de minimis indirect cost rate (10% of Modified Total Direct Costs)?** | **Yes  No** |
|  | **Is the Cost Allocation Plan (CAP) updated annually or on a multi-year period as required by the cognizant agency for indirect cost?** | **Yes  No** |
| * What is the date on the latest approved CAP? |  |
|  | **Are claims for reimbursement of indirect costs made in accordance with the latest approved indirect cost rate?** | **Yes  No** |

## 2.3 | Internal Controls

Subrecipients are responsible for establishing and maintaining adequate internal controls over all of their functions that affect implementation of a grant. For proper management of grants, these controls must be used by each grantee in all of its operating, accounting, financial, and administrative systems. To ensure proper accountability for grant funds, internal controls must be integrated with the management systems used by the grantee to regulate and guide its operations.

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| --- | --- | --- | --- |
|  | **Does the subrecipient have procedures, policies and protocols in place to demonstrate that the subrecipient has sufficient internal controls over financial management, such as reducing the opportunity for mishandling cash and other revenues?** | | **Yes  No** |
|  | **Does the subrecipient’s formal organizational structure clearly define, assign and delegate appropriate authority for all financial management duties? For example, how is the security of financial data maintained? Who has access to records? How often is the financial system backed-up? Is it backed-up to an off-site location?** | | **Yes  No** |
|  | **Does the subrecipient have a process for authorizing various expenditures?** | | **Yes  No** |
| * If not outlined in the subrecipient’s financial management procedures, describe the steps necessary to initiate and approve purchases and whether there are any limitations established for such approvals. \_\_\_\_\_\_\_ | |
|  | **Given the size of the organization, is there sufficient segregation of duties in**  **processing activities such as mail opening, general ledger entry, deposit preparation, issuance of checks, and bank deposits?** | | **Yes  No** |
|  | **Does the subrecipient have any type of internal audit functions to ensure that grant funds are expended properly?** | | **Yes  No** |
|  | **Are the subrecipient's personnel properly qualified for their assigned responsibilities, duties, and functions?** | | **Yes  No** |
|  | **Does the subrecipient require pre-authorization for all reimbursable expenses to employees?** | | **Yes  No** |
|  | **Who is responsible for check writing? (Name and Title)** | | |
|  | **Are two original signatures required on all checks?** | **Yes  No** **Other** | |
|  | **Are check signers authorized by the governing board?** | | **Yes  No** |
|  | **Are bank accounts reconciled on a regular basis?** | | **Yes  No** |
| * If “Yes,” who performs the reconciliation? | | |
|  | **Does anyone in the organization oversee and/or review the work of the individual assigned to reconcile bank statements (e.g., is there sufficient separation of function)?** | | **Yes  No** |
|  | **Does the subrecipient have written policies regarding the payment of travel expenses incurred by employees who travel away from their duty station on agency business?** | | **Yes  No** |

## 2.4 | Budget

Subrecipients are responsible for monitoring expenditures or outlays and must compare these outlays to budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If the unit cost data are required, estimates based on available documentation will be accepted whenever possible.

Applicable Office of Management and Budget (OMB) cost principles, as stated in [CFR Super Circular Part 200 (OMB A-87)](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl), agency program regulations, and the terms of grant and subgrant agreements will be followed in determining what costs can be charged to the grant program.

Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contracts, and subgrant award documents.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **How is the budget developed?** | | |  |
| * Explain: | | | |
| * Who is responsible for developing the budget? | | Name(s): | |
| * Who is responsible for approving the budget? | | Name(s): | |
|  | **Who is responsible for ensuring the costs are consistent with the project budget and the limitations set forth in the grant agreement?** Name(s) | | | |
|  | **Who is responsible for determining eligible expenses (i.e., costs that can be charged to the account)?** Name(s): | | | |
|  | **Are budget officials knowledgeable about Federal cost principles governing eligible expenses?** | | | **Yes  No** |
|  | **How is the budget managed throughout the year?** | | | |
| * Explain: \_\_\_\_\_\_\_ | | | |
|  | **Does the subrecipients’ accounting system generate periodic reports regarding revenues, expenses, budget variances, etc.?** | | | **Yes  No** |
| * If “yes,” who receives these reports (e.g., the Mayor, City Administrator, City Clerk, WisDOT, etc.)? Name(s): | | | |
| * How are the reports used by management? | Explain: | | |
|  | **What are the subrecipients’ policies on seeking contract amendments?** | | | |
| * Explain: | | | |
|  | **Does the governing board have a threshold for budget revisions and/or amendments that would require a Board action for approval?** | | | **Yes  No** |
| * If “Yes,” what are the threshold amounts where board action is necessary? List amounts: | | | |

## 2.5 | Documentation of Costs

Keeping detailed documentation of costs, including employee time charged to federally funded grants, is especially important if working on multiple activities. Normally, supporting documentation consists of employee timesheets and the accounts from which they were paid, receipts, invoices, vouchers, contracts, leases, etc.

There are special requirements for the documentation of personnel expenses, particularly those employees whose time is split between (a) more than one Federal award; (b) a Federal award and a non‐Federal award;(c) an indirect cost activity and a direct cost activity; (d) two or more indirect activities which are allocated using different allocation bases; or (e) an unallowable activity and a direct or indirect cost activity.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Does the subrecipient maintain proper supporting documentation for routine purchases?** | | **Yes  No** |
|  | **How does the subrecipient support personnel charges made to Federal grants?**  Explain: | | |
|  | **Do any FTA-funded positions that charge time to the WisDOT grant meet any of the conditions noted in the introduction to this section?** | | **Yes  No** |
| * If “yes,” do the affected employees maintain timesheet reports consistent with federal requirements below? | | |
| * Reflect an after-the-fact distribution of the actual activity of each employee: | | **Yes  No** |
| * Account for the total activity for which each employee is compensated: | | **Yes  No** |
| * Prepared at least monthly and must coincide with one or more pay periods: | | **Yes  No** |
| * Must be signed by the employee: | | **Yes  No** |
|  | **Are there any employees whose time is charged to two or more Federal awards or a direct program activity and an organizational indirect activity?** | | **Yes  No** |
|  | **Did the subrecipient use any FTA funds to finance the lease of any transit equipment or facilities?** | | **Yes  No** |
| * If “yes,” did the subrecipient conduct a cost comparison of the cost leasing the asset compared with the cost of purchasing or constructing the asset? | | **Yes  No** |
| * If “yes,” were the costs used in the comparison reasonable, based on realistic current market conditions and based on the expected useful service life of the asset? | | **Yes  No** |
|  | **The lead reviewer should ask the finance director to generate a report for a randomly selected quarter in the current fiscal year. The report should include all non-personnel transactions recorded in the general ledger during the selected quarter. From this list of transactions, randomly select a representative number of transactions and ask the agency to pull the documentation maintained to support the transaction. *In reviewing the transaction, determine the following:*** | | |
| * Does the payee on the check stub match the entry in the general ledger? | | **Yes  No** |
| * Does the check amount match the general ledger posting? | | **Yes  No** |
| * If the purchase is allocated among departments: | |  |
| * + What is the basis for allocation?   + Does the agency consistently use the same allocation basis?  **Yes  No**   + Does the allocated amount match the posting to the transit department in the general ledger?  **Yes  No** | | |
| * What is the date when the agency incurred the costs? | |  |
| * What is the date of payment? | |  |
| * Has the vendor been paid within 30 days? | | **Yes  No** |
| * What evidence exists in the file that the expenditure was properly authorized (purchase order or other authorization)? | |  |
| * What documentation exists to support the charge? | |  |
| * + Contracts   + Invoices | * + Bills   + Statements |  |

## 2.6 | Cash Management

As a subrecipient, the agency must periodically reconcile grant accounts, reconcile bank records with financial system records, ensure the timely deposit of cash receipts to prevent fraud or loss, and ensure sufficient separation of function to provide adequate checks and balances in the cash handling process.

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| --- | --- | --- |
|  | **Are there written procedures governing fare collection including turn-in, counting, reconciliation, recording, and storage?** | **Yes  No** |
|  | **Are system vehicles equipped with fareboxes?** | **Yes  No** |
| * **If “No,” describe the procedures in place to protect fare collections from theft or loss?** | |
|  | **How often are revenues pulled from system vehicles/fareboxes?** | |
|  | **Do the subrecipient procedures require at least two people to count cash and checks together?** | **Yes  No** |
|  | **Are farebox counts reconciled against driver logs?** | **Yes  No** |
|  | **Does the subrecipient sell passes, pass books, or paper tickets?** | **Yes  No** |
| * **If “Yes,” what controls are in-place to prevent theft, fraud or misuse of the passes/tickets?** | |
|  | **Do subrecipient procedures include at least two approvals prior to paying invoices?** | **Yes  No** |
|  | **Is there sufficient segregation of functions in processing: mail opening, recording, general ledger entry, deposit preparation, and deposits to the bank?** | **Yes  No** |
| **Describe roles and responsibilities:** | |
| |  |  |  |  | | --- | --- | --- | --- | | **Financial Task** | **Performs**  **Job Title** | **Approves**  **Job Title** | **Frequency** | | Opens Mail |  |  |  | | Documentation /record keeping |  |  |  | | General ledger entry |  |  |  | | Deposit reparation |  |  |  | | Makes deposit |  |  |  | | Bank statement reconciliation |  |  |  | | Initiates expenditures |  |  |  | | Writes checks |  |  |  | | Signs checks |  |  |  | | Receives cash/issue receipts |  |  |  | | |
|  | **Is petty cash limited in amount with staff access closely monitored?** | **Yes  No** |
|  | **Does the subrecipient use a credit card?** | **Yes  No** |
|  | **What steps has the organization taken to protect itself from theft, fraud, or loss?** | |
| * **Are employees who handle cash bonded?** | **Yes  No** |
| * **Is there insurance to cover loss or theft?** | **Yes  No** |
|  | **Do these policies provide sufficient protection against fraud and abuse?** | **Yes  No** |
|  | **Does the subrecipient use receipts for accounting for all funds received (except cash put into a fare box)?** | **Yes  No** |
|  | **Are cash, checks, tickets and passes stored in a locked and secure location?** | **Yes  No** |
|  | **Are deposit slips and receipts compared to ensure that all money received was deposited?** | **Yes  No** |
|  | **Do subrecipient procedures match the fare box to passenger manifests on a regular basis?** Frequency | **Yes  No** |
|  | **Do subrecipient procedures limit or prohibit drivers from handling cash?** | **Yes  No** |
|  | **Does the supervisor check driver procedures (e.g., fare box and on-board reporting procedures) on a regular basis?** | **Yes  No** |

## 2.7 | Financial Reporting

Subrecipients that contract service through competitive procurement are required to maintain and report their own administrative expenses plus amounts paid to the contract operator. Contract operators may continue to use their own accounting system, so long as that system reports financial information in accordance with WisDOT’s standardized account code structure.

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| --- | --- | --- |
|  | **Does the subrecipient submit its Quarterly Operating Financial Status Reimbursement Reports on time?** | **Yes  No** |
|  | **Does the subrecipient submit its Quarterly Operating Data Reports on time?** | **Yes  No** |
|  | **Does the subrecipient utilize monthly financial reports and/or variance reports to monitor budget adherence?** | **Yes  No** |

## 2.8 | Local Match

States and their subrecipients must provide sufficient funds or approved in-kind resources to serve as local match for all FTA assisted projects. When submitting its grant application to FTA, the grantee certifies that it has or will have available a proportionate amount of local share promptly as project costs are incurred or become due, except to the extent that the federal government determines in writing that the local share may be deferred. The grantee may not use an amount as match for more than one grant.

State assistance may provide some or the entire non-federal match. The sources of state funding may differ for capital and operating assistance programs. Operating assistance may be funded through general revenues. Capital assistance may be funded through bond revenues. FTA does not require a dedicated funding source.

All of the local share must come from non-U.S. DOT sources, except for Federal Lands Highway Program funds. FTA permits the use of the following as local share: cash (or in-kind contribution); non-farebox revenues from transit operations (e.g., advertising and concession revenues); amounts received under a service contract with a state, local or private social service agency or organization; undistributed cash surpluses; replacement or depreciation cash funds; reserves available in cash or new capital; in-kind contributions; revenue bond proceeds (capital only); transportation development (toll) credits; program income generated from an earlier grant; Temporary Assistance for Needy Families (TANF) funds; and other non-DOT federal funds, such as Community Development Block Grant funds, if authorized by the originating program to be used for transportation.

Under Section 5311, non-cash share such as donations, volunteered services, or in-kind contributions can be counted toward the local match as long as the value of each is documented and supported, represents a capital cost which would otherwise be eligible under the program, and is included in the net project costs in the project budget.

The state must ensure each subrecipient has or will have the required local match for the project and has or will have sufficient funds to operate and maintain the vehicles and equipment purchased under the project. Revenue sources should be stable and reliable enough to meet future annual operating and routine capital costs. The states must obtain and maintain sufficient documentation from each subrecipient to support its certification to FTA. The state must ensure that subrecipients use only eligible funds as local match and that volunteer or in-kind services are fully documented.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Explain how the subrecipient ensures sufficient funds are set aside to cover program expenses and local match dollars until federal funds become available:** | | |
|  | **What are the sources of funds being used to generate the local match? Are these sources non-federal as defined above? Do these sources meet FTA requirement for local match? (check all that apply)** | | |
| **Statutorily Defined Sources**  Undistributed agency cash surplus  Replacement or depreciation cash fund or reserve  State or local appropriations | Dedicated tax revenue  Private donations  Net income derived from advertising and/or concessions  Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | |
| **Other Federal funds that are unrestricted in their use as match:**  Funds received pursuant to a service agreement with a state or local social services agency or private social service organization  Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | |
| **In-Kind Contributed Services:**  In-Kind Volunteer | | |
|  | **Does the subrecipient have grants that require matching funds?** | | **Yes  No** |
|  | **Does the subrecipient have a method to track matching funds contributed to grants? Explain:** | | **Yes  No** |
|  | **Is the match from non-DOT sources, including contract service revenues supported by FTA source funds?** | | **Yes  No** |
|  | **Does the subrecipient document the source and amount of in-kind/non-cash contributions, including volunteer time? Explain:** | | **Yes  No** |

## 2.9 | In Kind or Contributed Services

Non‐cash shares such as donations, volunteered services, or in‐kind contributions are eligible to be counted toward the local match only if the value of each is formally documented and supported. Additionally, any donation or volunteer service must represent a cost which would otherwise be eligible under the project.

OMB guidance in [CFR Super Circular Part 200 (OMB A-87)](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl) states that contributions and donations, including cash, property, and services, by governmental units to others, regardless of the recipient, are unallowable. Donations, volunteered services, and other in‐kind contributions provided by other non‐governmental organizations may be eligible with approval of WisDOT.

OMB guidance in [CFR Super Circular Part 200 (OMB A-87)](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl) allows for donated or volunteer services to be furnished to an organization by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of the donations may be used to meet the local match requirements under the conditions described in paragraph [CFR Super Circular Part 200 (OMB A-87)](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl), “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non‐Profit Organizations.”

These conditions require that the donations are: (a) verifiable from the recipient's records; (b) not included as contributions for any other Federally‐assisted project or program; (c) necessary and reasonable for proper and efficient accomplishment of project or program objectives; (d) allowable under the applicable cost principles; (e) not paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching; and (f) provided for in the approved budget when required by the Federal awarding agency; and (g) conform to other provisions of OMB Circular A‐110, as applicable.

Fair market value of contributed or volunteer labor must be computed based on the regular rates paid for similar work in other activities of the organization or, in cases where the kinds of skills involved are not found in other activities of the organization, the rates used must be consistent with those paid for similar work in the labor market in which the organization competes for such skills.

Under any circumstance, the value of these services is not reimbursable either as a direct or indirect cost under Federal grant awards; rather this value may only be used as local match.

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| --- | --- | --- |
|  | **How did the subrecipient assign fair market value to the donated or contributed service?** | |
| **Explain:** | |
|  | **Are the services or items donated necessary and reasonable for proper and efficient accomplishment of project or program objectives?** | **Yes  No** |
|  | **If the subrecipient is a public entity, did the donation or contributed service come from the public entity itself?** | **Yes  No** |
|  | **Did the subrecipient use the value of the donation only as local match (e.g. the subrecipient does not seek reimbursement from grant funds for the donation)?** | **Yes  No** |

## 2.10 | Program Income

Program Income is gross income received by a subrecipient that is directly generated by a grant supported activity, or earned only as a result of the Grant Agreement during the grant period (the time between the effective date of the grant and the ending date of the grant reflected in the final financial report).

Program income includes income: (a) from fees for services performed; (b) from the use or rental of real or personal property acquired with grant funds; (c) from the sale of commodities or items fabricated under a Grant Agreement; and (d) from payments of principal and interest on loans made with grant funds. Except as otherwise provided in regulations of the Federal agency, program income does not include interest on grant funds, rebates, credits, discounts, refunds, etc., and interest earned on any of them.

FTA and WisDOT allow its grantees and subrecipients to keep program income and use it for capital and operating expenses. Program income may not be used to reduce the local share of the grant from which it was earned, but may be used in future grants. If grantees choose not to use program income for public transportation purposes, then it must be deducted from total allowable costs to determine the net allowable costs.

|  |  |  |
| --- | --- | --- |
|  | **Does the subrecipient generate program income?** | **Yes  No** |
| If yes, has the subrecipient retained the revenue for use in the transit programs? | **Yes  No** |
| If yes, has the subrecipient used the program income for the local share in the year other than the year in which the income was earned? | **Yes  No** |
| If the subrecipient earns program income but does not use it for local match, has the subrecipient used the income to reduce total project expenses prior to applying for reimbursement from WisDOT? | **Yes  No** |

## 2.11 | Single Audit (A-133 Audit)

Subrecipients expending $750,000 or more in Federal financial assistance from all sources in the subrecipient’s fiscal year must prepare a single audit pursuant to 2 CFR part 200.500 (Note: this threshold is applicable to fiscal years beginning after December 26, 2014; fiscal years that encompass an earlier ending date must be audited in accordance with the old threshold - $500,000).

The legally authorized auditing body for all primary recipients is the State Board of Accounts. Primary recipients that contract with nonprofit organizations via “pass‐through” arrangements to operate the transit service must require that these organizations provide WisDOT with their own single audit, formerly known as A‐133 audit, if applicable. The grantee is responsible for reviewing all subcontractors’ audit reports and appropriately resolving any findings. The subcontractors’ audits must be available for review by WisDOT, upon request.

WisDOT stipulates that subrecipients entering into lower tier subcontracts require those lower tier contractors to also adhere to the requirements of a single audit. Subrecipients are obligated to ensure that these terms are contractually stipulated in the lower tier agreement and that the lower tier contractor provides WisDOT a copy of the single audit.

All Wisconsin municipalities and counties are required to file an electronic financial report/financial statement with the Wisconsin Department of Revenue (DOR).  Municipalities and counties with a population over 25,000 must also submit an auditor’s opinion of the financial report.  These requirements can be found in State statutes 86.303(5) and 73.10 (plus DOR policies & procedures). There may be other reasons a financial report is completed. For example, a town board may request to have a financial report completed or nonprofit bylaws may require it. If an audit or financial report is completed, requirements in the WisDOT grant agreement allow WisDOT access to the audit/financial report.

Subrecipients are responsible for prompt resolution of all audit findings and recommendations. This responsibility requires that the grantee:

* Promptly evaluate the report;
* Determine the appropriate follow‐up actions and establish a date for their completion; and
* Complete all required actions within the established period of time.

Deficiencies or opportunities for improvement identified in an audit must be resolved by the subrecipient. The audit is not resolved until WisDOT concurs in the documentation of steps taken to implement any needed corrective actions. The status of outstanding audit findings and recommendations should be monitored and reported by the grantee in quarterly progress reports and, where appropriate, significant events reported.

|  |  |  |
| --- | --- | --- |
|  | **Did the subrecipient receive more than $750,000 in Federal funds annually (from all sources) during any one of the last three fiscal years?** | **Yes  No** |
| * If “Yes,” did the subrecipient prepare a single audit? | **Yes  No** |
| * Does the audit contain any findings relative to the subrecipient’s use of WisDOT/FTA funds? | **Yes  No** |
| * If "Yes," has the subrecipient submitted a remedial action plan to WisDOT and/or resolved the findings? | **Yes  No** |
|  | **Does the subrecipient pass through funds to lower tier recipients** | **Yes  No** |
| * If “Yes,” does the primary recipient provide all required grant information to facilitate the lower tier subrecipient’s preparation of the audit? | **Yes  No** |
| * If “Yes,” does the primary recipient review and assist in the resolution of audit findings? | **Yes  No** |

# PROCUREMENT Section 3

Subrecipients must comply with all federal, state and local laws, ordinances, regulations and policies regarding procurement and contracting. Circular 4220.1F documents the FTA’s procurement requirements.

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with §200.322 - Procurement of recovered materials, and ensure that every purchase order or other contract includes any clauses required by 2 CFR part 200.326, “Contract provisions.” All other non-Federal entities, including subrecipients of a state, must follow 2 CFR part 200.318, “General procurement standards,” through 2 CFR part 200.326, “Contract provisions.” In addition to federal procurement requirements, State of Wisconsin and WisDOT Transit procurement procedures must be followed when procuring property or services under Federal award.

Subrecipients that are private for-profit organizations, or governmental authorities such as local or Indian tribal governments, must comply with FTA procurement requirements contained in FTA Circular 4220.1F for procurements conducted with Federal funds. WisDOT is responsible for ensuring that private for-profit subrecipients are aware of and comply with these additional requirements. Capital equipment is defined as a tangible item with an aggregated purchase price of $5,000 or more and with a useful life of at least one year.

For all equipment, subrecipients are responsible for maintaining appropriate equipment records, including a method of assigning a property tag number to each item; performing a periodic inventory (at least every two years); safeguarding the equipment from misuse and abuse; maintaining the equipment in useful, safe condition; and following appropriate disposal procedures when the item is no longer needed or has exceeded its useful life.

## 3.1 | Standards of Conduct

Federal regulations (2 CFR part 200.318(c)(1) and FTA Circular 4220.1F require each subrecipient to maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Does the subrecipient have written procurement policies (i.e. procurement manual)?** | | **Yes  No** |
|  | **Does the subrecipient limit purchasing to specific individuals?** | | **Yes  No** |
|  | **Are contracts signed by the governing board or designated delegate?** | **Yes  No**  **Not Applicable** | |
| * If “yes,” list here: | | |
|  | **Does the subrecipient maintain written standards of conduct governing the**  **performance of its employees that are engaged in the award and administration of contracts?** | | **Yes  No** |
|  | **Does the written policy cover employees, officers, agents, or board members, or their immediate family members, partners, or organizations that employ or are about to employ any of the foregoing individuals?** | | **Yes  No** |
|  | **Does the standard of conduct preclude such persons from participating in the selection, award, or administration of a contract supported with FTA financial assistance if there is a conflict of interest, real or apparent?** | | **Yes  No** |
|  | **Does the written policy deal with the acceptance of gifts?** | | **Yes  No** |
|  | **Does the written policy address penalties, sanctions, or other disciplinary action for violation of such standards by the recipient’s officers, employees, agents, board members, or by contractors or subrecipients or their agents?** | | **Yes  No** |

## 3.2 | Pre-Award and Post-Delivery Audit

Procurements for vehicles, other than sedans or unmodified vans, must be audited in accordance with 49 CFR part 663, “Pre‐Award and Post‐Delivery Audits of Rolling Stock Purchases.” The regulation requires any recipient or subrecipient that purchases rolling stock for use in revenue service with funds obligated after October 24, 1991, to conduct a pre‐award and post-delivery review to assure compliance with its bid specifications, Buy America requirements, and Federal motor vehicle safety requirements, and to complete specific certifications.

FTA requires grant recipients purchasing a certain number of revenue passenger rolling stock to undertake reviews of the rolling stock both before the award of the contract and following delivery of the vehicles. The requirement to undertake the pre-award and post-delivery reviews arises from 49 U.S.C. 5323(m) and is specified in FTA regulations at 49 CFR part 663. Compliance must be certified on the Annual List of Certifications and Assurances.

Subrecipients purchasing vehicles through the State Vehicle Contract will be required to submit the post-delivery audit documentation to WisDOT. Those subrecipients that purchase vehicles independently will be responsible for both the pre‐award and post-delivery review.

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|  | **Does the subrecipient have the proper certifications to ensure that vehicles delivered have met the contract specifications (i.e. Vehicle Diagnostic Report, Post-Delivery Purchaser Requirements Certification, Alignment Certification, Certification of Buy America, Certification of Compliance with Federal Motor Vehicle Safety Standards, Certificate of Insurance, etc.)?** | **Yes  No** |
|  | **Explain what a typical visual vehicle inspection and road test includes.** | |

## 3.3 | Third Party Contracting Capacity

WisDOT subrecipients must comply with all Federal, state, and local requirements regarding procurement

and contracting. Specifically, when making purchases with FTA and/or WisDOT funding, subrecipients must

ensure compliance with the requirements identified in the Uniform Administrative Requirements – 2

CFR 200.318 (General Procurement Standards) through 200.326 (Contract Provisions) – as well as FTA

Circular 4220.1F.

Note that FTA Circular 4220.1F has not been updated to reflect the current provisions of the

Uniform Administrative Requirements, 2 CFR part 200. Until the update is issued, when there is a conflict

between guidance contained in Circular 4220.1F and the Uniform Administrative Requirements, the

Uniform Administrative Requirements will supersede Circular 4220.1F.

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|  | **Does the subrecipient have written procedures to ensure that equipment, goods and services are acquired and received as contracted?**   * **I**f “yes,” do the procurement procedures include the following required elements?  |  |  |  | | --- | --- | --- | | **Yes** | **No** | **Required Element** | |  |  | Contracting oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders | |  |  | Avoiding the acquisition of unnecessary or duplicative items | |  |  | Contracting with responsible contractors | |  |  | Maintenance of written procurement history | |  |  | Limitations on the use of time and material contracts | |  |  | Procedures for contract dispute resolution | |  |  | Promotion of full and open competition | |  |  | Prohibition on geographic preference (unless contracting for A&E services) | |  |  | Procedures for procurement transactions to ensure a clear and accurate description of the technical requirements for the material, product, or service to be procured | |  |  | Use and maintenance of prequalification lists, if applicable | |  |  | Methods of procurement (i.e., micro‐purchases, small purchases, sealed bid, competitive proposals, and non‐competitive procurements) | |  |  | Disadvantaged Business Enterprise (DBE) participation | |  |  | Cost or price analysis | |  |  | Negotiation of contractor profit | |  |  | Use of estimated costs | |  |  | Prohibition of cost-plus contracts | |  |  | Inclusion of Federally‐required contract provisions | |  |  | Bonding requirements for construction or facility improvement contracts | |  |  | Prohibition of exclusionary or discriminatory specifications | |  |  | Compliance with Buy America | |  |  | Protest procedures | | | **Yes  No** |
|  | **Does the subrecipient include lobbying certifications in solicitations and obtain signed certifications from all contractors awarded contracts in excess of $100,000?** | | **Yes  No** |
|  | **Does the subrecipient have documentation of their sign off for Buy America on all purchases over $150,000?** | | **Yes  No** |
|  | **Does the subrecipient review the “System for Award Management” at** <https://www.sam.gov/> **to ensure that none of their contractors are debarred, suspended, ineligible or voluntarily excluded from participating in federally funded transactions?** | | **Yes  No** |
|  | **Does the subrecipient exclude geographical preference in solicitations when using federal funds (except for A&E contracts)?** | | **Yes  No** |
|  | **Does the subrecipient ensure 3rd party contractors of shared ride taxi service provide adequate documentation of service provided, including the collection of:** | | **Yes  No** |
| **Driver’s Logs**  **Dispatch Records**  **Monthly Reports** | **Quarterly and Annual Reports**  **Invoices** | |

## 3.4 | Purchase Methods

The requirements regarding purchases made with FTA and/or WisDOT funds vary according to the characteristics of the procurement, chiefly the cost of the purchase.

### Micro-Purchases

Most purchases under FTA state‐administered programs will be micro-purchases. While the Federal micro-purchase limit has increased from $3,500 to $10,000, Wisconsin state law establishes the micro-purchase threshold at $5,000. The subrecipient’s governing body may set lower thresholds for micro‐purchases in compliance with local law or otherwise as it considers appropriate, but may not exceed the State’s $5,000 threshold.

Micro‐purchases are relatively simple in terms of required procedures and may be made without obtaining competitive quotes. However, WisDOT recommends that recipients seek at least three quotes, if practicable. These purchases are exempt from FTA’s Buy America requirements. Davis‐Bacon prevailing wage requirements, however, will apply to construction contracts exceeding $2,000, even though the recipient uses micro‐purchase procurement procedures.

FTA and WisDOT expects that subrecipients will distribute micro‐purchases equitably among qualified suppliers. Subrecipients, however, are not permitted to divide or reduce the size of its procurement merely to come within the micro‐purchase limit. Note that WisDOT has developed a *Micro-Purchase Toolkit* that can be found online at [https://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/procure.aspx](http://apwmad0p4145:37108/Pages/doing-bus/local-gov/astnce-pgms/transit/procure.aspx).

### Small Purchases

Above $5,000, transit systems may use “small purchases” procedures. Wisconsin state law sets the small purchasing threshold at less than $50,000, lower than the current Federal threshold of $250,000. Small purchase procedures may be used to acquire services, supplies, or other property valued at more than the micro‐purchase threshold but less than the State $50,000 small purchase threshold. Again, the local governing board may set a lower threshold in compliance with local law or otherwise as it considers appropriate.

When using small purchase procedures, the subrecipient must obtain a quote from at least three qualified sources and like micro‐purchases, may not divide or reduce the size of its procurement to avoid the additional procurement requirements applicable to larger acquisitions. The subrecipient must maintain a written procurement history commensurate with the size and complexity of the purchase, and include the relevant FTA‐required contract clauses.

WisDOT has also developed a *Small Purchase Toolkit* that subrecipients should use that can be found online at [https://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/procure.aspx](http://apwmad0p4145:37108/Pages/doing-bus/local-gov/astnce-pgms/transit/procure.aspx).

### Formal Purchases

Procurements above the $50,000 small purchase threshold must be conducted using “formal purchase” procedures. Formal purchases are solicited by using a Request for Proposals (RFP) or an Invitation for Bid (IFB), also referred to as a Sealed Bid. Using the RFP method, proposals are publicly solicited from an adequate number of sources, and the award is made to the responsive and responsible proposer whose offer is most advantageous to the subrecipient, with price and other factors considered. Using the IFB/sealed bid method, bids are publicly solicited and a firm fixed price contract is awarded to the lowest responsive and responsible bidder. Unlike RFPs, the IFB procurement method does not allow subrecipients to evaluate the merits of technical proposals and pay more for a higher quality product representing the best value. WisDOT has an *RFP and an IFB Toolkit* available online at

[https://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/procure.aspx](http://apwmad0p4145:37108/Pages/doing-bus/local-gov/astnce-pgms/transit/procure.aspx). Due to the volume of shared-ride taxi programs in the State, WisDOT has developed a *Shared-Ride Taxi Procurement Toolkit* that can also be found using this link. Note that a *Procurement History File Checklist*is included in each procurement toolkit.

The subrecipient and/or operator of the transit service is responsible for preparing the bid contract and specification, advertising and soliciting bids, receiving and reviewing bids, and awarding the contract to the lowest responsible and responsive bidder. Bids will be opened only at a time and place listed in the solicitation, and at least one (1) witness must be present. An RFP is the method generally used when conditions are not appropriate for the use of an IFB/sealed bids.

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|  | **Does the subrecipient use the State $5,000 threshold for micro‐purchases or has it adopted a lower threshold?  State threshold  Subrecipient has lower threshold** | |  |
|  | **Does the subrecipient use the State $50,000 threshold for small purchases or has it adopted a lower threshold?  State threshold  Subrecipient has lower threshold** | |  |
|  | **Do purchases exceeding a defined threshold (such as $2,500) require pre-approval by a general manager and/or a governing board?** | | **Yes  No** |
| If “yes,” what is the pre-approval threshold? \_\_\_\_\_\_\_\_ | |
|  | **Did the subrecipient conduct any small purchases (more than $5,000 to less than $50,000) using FTA and/or WisDOT monies during the past three years?** | | **Yes  No** |
| If Yes, did the subrecipient submit documentation evidencing compliance with the following small purchase requirements?   |  |  |  | | --- | --- | --- | | **Yes** | **No** | **Required Element** | |  |  | **Obtain price quotations from an adequate number of qualified sources (WisDOT requires at least three)** | |  |  | **Independent Cost Estimate (ICE) and price analysis** | |  |  | **Maintain a written procurement history commensurate with the size and complexity of the purchase** | |  |  | **Completed Bid Opportunity List used to track DBE participation** | |  |  | **Include the relevant FTA‐required contract clauses//signed by selected vendor** | |  |  | **Completed Evaluation Committee Report** | |  |  | **For procurements above $25,000, conduct a written responsibility determination for each successful vendor prior to award (refer to the WisDOT Small Purchase Toolkit or Shared-Ride Taxi Procurement Toolkit regarding this requirement)** | | |
|  | **Did the subrecipient conduct any formal purchases (above $50,000) using FTA and/or WisDOT funds during the past three years?** | | **Yes  No** |
| * If yes, did the subrecipient submit the following documentation for each formal purchase?  |  |  |  | | --- | --- | --- | | **Yes** | **No** | **Required Element** | |  |  | **Conduct an Independent Cost Estimate (ICE) prior to the receipt of bids or proposals** | |  |  | **Issue a formal solicitation (sealed bids – IFBs –or competitive proposals – RFPs)** | |  |  | **Conduct a cost or price analysis after the receipt of bids or proposals** | |  |  | **Conduct a written responsibility determination for each successful vendor prior to award** | |  |  | **Maintain a written procurement history (WisDOT has developed aProcurement History File Checklist that subrecipients should use in meeting this requirement)** | |  |  | **Include the relevant FTA‐required contract clauses** | | |
|  | **Does the written history of procurements include the following elements?** | |  |
| * **Documentation for basis of the procurement method used.** * **Documentation for the contract type used.** * **Documentation of the basis for vendor selection.** * **Justification for the contract cost or price.** * **Other documents as necessary, commensurate with the size and complexity of the procurement itself, so that compliance with applicable standards can be documented** |  |  |

## 3.5 | Other Than Full and Open Competition

Normally, the subrecipient must provide for full and open competition when soliciting bids or proposals. The Common Grant Rule for governmental recipients, however, acknowledges that under certain circumstances, a recipient may conduct procurements without providing for full and open competition.

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|  | **Has the subrecipient undertaken any “sole source” procurements during the last three (3) years?** | | **Yes  No** |
|  | * If “yes,” did the subrecipient develop a written sole source justification as well as a cost analysis to determine the reasonableness of the price? | | **Yes  No** |
|  | **Has the subrecipient undertaken any procurement (bid or proposal) where there was only a single offer?** | | **Yes  No** |
| * If “yes,” did the subrecipient undertake a post procurement investigation that revealed: | |
| * The single bid was caused by conditions beyond the subrecipient’s control * The single bid was caused by conditions within the subrecipient’s control | **Yes  No**  **Yes  No** | |
| **Explain: \_\_\_\_\_\_\_\_** | | |
|  | **Has the subrecipient participated in any joint procurements or “piggyback” procurements**? | | **Yes  No** |
| * If “yes,” please explain the circumstances surrounding the procurement. \_\_\_\_\_\_\_\_\_ | |

## 3.6 | Cost and Price Analysis

Federal regulation 2 CFR part 200.323 requires the subrecipient to perform a cost or price analysis in connection with every procurement action, including contract modifications. The method and degree of analysis depends on the facts and circumstances surrounding each procurement, but as a starting point, the subrecipient must make independent estimates before receiving bids or proposals.

The method and degree of analysis depends on the facts and circumstances surrounding each procurement, but as a starting point, the recipient must make independent estimates before receiving bids or proposals.

The recipient must obtain a cost analysis when a price analysis will not provide sufficient information to determine the reasonableness of the contract cost.

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|  | **Is there evidence in the procurement files of purchases that the subrecipient developed a preliminary cost estimate for every procurement?** | **Yes  No** |
|  | **In procurement of goods and services where competition was deemed adequate, has the subrecipient conducted a price analysis wherein the entity checks catalog or market prices for the good or service?** | **Yes  No** |
| * If “yes,” is the level of effort and documentation commensurate with the scale of the procurement (e.g., micro-purchases and small purchases require only simple or abbreviated analysis)? | **Yes  No** |
|  | **In the procurement of professional services (A/E firms, etc.) where the offeror submits cost elements that included labor hours, overhead, materials, and related costs, the subrecipient is expected to conduct a cost analysis. Has the subrecipient conducted any type of procurement where a cost analysis would be required?** | **Yes  No** |
| * If “yes,” has the subrecipient analyzed the following elements in its cost analysis? |  |
| * Federal cost principles that define the allowability or allocability of costs | **Yes  No** |
| * The wage rates and fringe benefits paid to the respective job classifications offered in the bid or proposal | **Yes  No** |
| * The proposed indirect cost rate to be charged by the firm | **Yes  No** |
| * The proposed profit rate | **Yes  No** |
|  | **Does the subrecipient conduct a cost analysis in the following additional situations where a cost analysis is required?** |  |
| * Competition was inadequate during a procurement (e.g., single bid) | **Yes  No** |
| * All sole source procurements | **Yes  No** |
| * For all major change orders on existing contract | **Yes  No** |

## 3.7 | Protests and Disputes

FTA Circular 4220.1F. charges subrecipients with the initial responsibility to resolve protests of third-party contract awards.

Apart from other methods, when the subrecipient may have to resolve third party contract issues, such as mediation or arbitration, FTA Circular 4220.1F requires the recipient to have protest procedures. While the Common Grant Rules for non‐governmental recipients does not impose a similar requirement on a nonprofit subrecipient or operator, FTA expects each subrecipient to have appropriate written protest procedures, as part of its requirement to maintain or acquire adequate technical capacity, to implement the project.

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|  | **Does the subrecipient have written protest procedures?** | **Yes  No** |
|  | **Has the subrecipient had any protests during the last three (3) years?** | **Yes  No** |
| * If “yes,” did the subrecipient notify WisDOT immediately upon notification of a vendor protest? | **Yes  No** |
|  | **Does the subrecipient have procedures to resolve disputes that arise in the administration of third party contracts?** | **Yes  No** |
|  | **Has the subrecipient engaged in any formal contract disputes with third party contractors during the last three (3) years?** | **Yes  No** |
| * If “yes,” was the dispute resolved without further intervention by WisDOT? | **Yes  No** |

## 3.8 | New Model Bus Testing

All new modified bus models must be tested at the FTA sponsored test facility in Altoona, PA, before FTA funds can be expended for their purchase (49 CFR part 665). This requirement applies to all buses and modified vans procured with FTA funds. It does not apply to unmodified vans, including vans with raised roofs or lifts installed in strict conformance with the original equipment manufacturer modification guidelines. A “new bus model” is defined as a model that has not been used in public transportation service in the United States before October 1, 1988, or a model that has been used in such service but which, after September 30, 1988, is being produced with a major change in configuration or components.

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|  | **Has the subrecipient certified that for any vehicle purchased using its own procurement procedures (other than unmodified vans) that it has obtained a copy of the official bus testing reports from the Altoona, PA bus testing facility?** | **Yes  No** |
| If yes, did the subrecipient submit all documentation and certifications to WisDOT? | **Yes  No** |

## 3.9 | Purchase of Service Contracts

Subrecipients may purchase service from private sector transportation providers as well as public providers. Under such arrangements, certain special conditions apply to the purchase of service agreement.

The purchase of service contracts must be either a cost reimbursement or fixed price contract.

* Fixed price contracts should have the cost calculated on a service or route specific basis, either vehicle or passenger miles, or a combination of both. It is not subject to any adjustment on the basis of a contractor's cost experience in performing the contract.
* Cost reimbursement contracts should allow for a periodic evaluation of the fixed rate in order to accommodate changes in transportation costs. These contracts establish an estimate of total cost for obligating funds and establishing a ceiling that the contractor may not exceed (except at its own risk) without approval.

Profit is an eligible cost in the contract. The amount of profit must be established as a fixed fee, not as a percentage figure.

Depreciation of vehicles is an eligible expense in private sector purchase of service agreements and must be based on acquisition, not replacement costs, and is not eligible if the vehicles were originally purchased with Federal funds.

Management or administrative costs incurred by the contract provider should be prorated for only that portion of the operator's service being purchased.

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|  | **Has the subrecipient entered into any purchase of service contracts?** | | | **Yes  No** |
| * If “yes,” what type of contract did the subrecipient use with the service provider? | Fixed price contract  Cost reimbursement contract | | |
|  | **Has the subrecipient used “capital cost of contracting” in any service contract entered into with a private sector provider?** | | | **Yes  No** |
| * If “yes,” has the subrecipient correctly classified the type of contract and corresponding capital participation rate in the contract? | | **Yes  No** | |

## 3.10 | Disadvantaged Business Enterprise (DBE)

Disadvantaged Business Enterprise (DBE) provisions apply to USDOT assisted contracts for airports, highways, and transit. This includes the use of Federal Transit Administration (FTA) planning, capital, and/or operating funds spent on contracts. The FTA requires that organizations receiving these federal funds must make efforts to purchase from or use DBE firms. A DBE is a for-profit small business that is:

* At least 51 percent owned by one or more individuals who are socially or economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals.
* Controlled (management and daily business operations) by one or more of the socially and economically disadvantaged individuals who own it.

As a recipient of these FTA funds, the Wisconsin Department of Transportation (WisDOT) has a DBE program that addresses FTA funded contracting activities conducted by WisDOT as well as those of its grant subrecipients.

The objectives of the DBE program are, in part, to:

* Ensure nondiscrimination in the award and administration of DOT-assisted contracts
* Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts
* Help remove barriers to the participation of DBEs in DOT-assisted contracts

When entering into grant agreements for FTA assistance, WisDOT and its subrecipients agree to adhere to the DBE requirements (49 CFR Part 26). This is a condition of receiving the federal financial assistance and is assured to in writing. In addition, the requirements apply at the contract level. This means that each contract signed with a contractor, and each subcontract a prime contractor signs with a subcontractor, must include DBE language.

The establishment of a DBE participation goal is another requirement of the DBE regulation. A three-year DBE goal for transit has been established for 2020-2022 based on WisDOT’s own anticipated contracting opportunities and those of its grant subrecipients. The goal is developed, in part, by using the information provided in the DBE reports submitted to WisDOT by grant subrecipients.

WisDOT Transit has established an overall goal of 1.85% with a 0.22% race conscious, 1.63% race neutral split for DBE participation in FTA assisted contracts. More information regarding WisDOT’s DBE goal can be found at [https://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/compliance/dbe.aspx](http://apwmad0p4145:37108/Pages/doing-bus/local-gov/astnce-pgms/transit/compliance/dbe.aspx). Progress toward achievement of the goal will be monitored throughout the year with quarterly reporting required of subrecipients. In some instances, a separate contract goal may be established to assist in attaining the overall goal. This may include a contract specific goal for a subrecipient project. If a contract specific goal is set, additional monitoring and reporting on the performance of the contract will apply.

The DBE requirements include provisions that must be addressed in the procurement process. These provisions include required contract clauses, contract goal-setting, and required information from bidders. The required contract clauses address non-discrimination, Transit Vehicle Manufacturer (TVM) certification, termination, and remedies for prime contractors that do not comply. Prompt payment by prime contractors to their subcontractors is also required, including the return of retainage. While separate contract goals are not required on each contract, if a contract specific goal is established, additional information must be collected from bidders prior to contract award.

On a quarterly basis, subrecipients of federal transit funding must report to WisDOT contracting activities (items/services purchased) that use FTA funding. Examples include materials, supplies, services (transportation, repair, consulting, etc.), and construction. For the purposes of this report, contracts do not include grants and cooperative agreements. Quarterly reports are due on the 15th of the month following the end of the reporting quarter.

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|  | **Are you familiar with DBE provisions?** | | | **Yes  No** |
|  | **Do you know WisDOT has a DBE goal of 1.85% and how it may or may not apply to your program and services?** | | | **Yes  No** |
|  | **On federally funded contracts, do you have a subcontractor(s)?** | | | **Yes  No** |
| * If “yes,” explain how you monitor the subcontractor(s)? | | | |
| * Are payment logs maintained for contracts with subcontractors? | **Yes  No** | | |
|  | **Do you receive planning, capital and/or operating assistance which will result in awarding prime contracts (excluding transit vehicle purchases) with a cumulative total value exceeding $250,000 in FTA funds in a Federal fiscal year?** | | | **Yes  No** |
| * If “yes,” have you developed a DBE Program, including a DBE goal? | | **Yes  No** | |
|  | **Have you purchased any vehicles that have not been part of the state contract?** | | | **Yes  No** |
| * If “yes,” did you include the TVM certificate in the procurement? | | **Yes  No** | |
|  | **Has the subrecipient submitted quarterly DBE reports to the appropriate WisDOT Program Manager?** | | | **Yes  No** |

# ASSET MANAGEMENT Section 4

All property acquired using Federal funds shall be utilized and disposed of in accordance with the applicable FTA program circular, FTA Circular 5010.1D (as amended), and 49 CFR part 1201. Title to all property purchased with Federal funds shall be vested in the name of the grantee/subrecipient.

The subrecipient and/or designated operator shall have the requisite fiscal and technical capacity to carry out the project and be responsible for maintaining required insurance coverage, property records, conducting physical inventories, implementing adequate property control systems, and maintaining the equipment in proper working condition. Documentation must be available upon request. Note that information regarding minimum Wisconsin vehicle insurance requirements can be found at [https://wisconsindot.gov/Pages/dmv/com-drv-vehs/mtr-car-trkr/mc-ins.aspx](http://apwmad0p4145:37108/Pages/dmv/com-drv-vehs/mtr-car-trkr/mc-ins.aspx).

Federally‐funded equipment and facilities must be kept in good operating order. Meal delivery or other incidental services provided by the grantee cannot conflict with the provision of public transit service or result in a reduction of service to transit passengers. If incidental service is provided, then the subrecipient or operator must ensure that it fully recovers the cost of service.

Any property (equipment, furniture and fixtures, vehicles, buildings, and land) purchased with Federal funds valued at $5,000 or more must be accounted for in the agency’s fixed asset listing. The asset listing is to contain the Federally required information outlined in the Common Rule and generally accepted accounting principles, as appropriate.

Subrecipients are required to certify that any property purchased under the project shall be used for the provision of public transportation services within the subrecipient service area or other areas as described in the grant application, and for the life of the equipment or facility in compliance with the property management standards of 49 CFR part 18.31 through 18.34.

All property acquired using Federal funds shall be utilized and disposed of in accordance with the State

Management Plan and applicable FTA program circular, FTA Circular 5010.1D (as amended), and 49 CFR

part 1201. Title to all property purchased with Federal funds shall be vested in the name of the

subrecipient.

Federally‐funded equipment and facilities must be kept in good operating order. WisDOT and subrecipients

are responsible for vehicles and other equipment financed by state or Federal grants. Vehicles must be

maintained in good or better condition and must be used for the purposes described in the grant

agreement.

Meal delivery or other incidental services provided by the subrecipient cannot conflict with the

provision of public transit service or result in a reduction of service to transit passengers

## 4.1 | Continuing Control of Assets (Equipment)

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|  | **Does the subrecipient have equipment (e.g. software, bus wash, radios, tablets, vehicle lifts) purchased with state or federal grant funds?** | | **Yes  No** |
| * If “yes,” provide a list of all items | | |
| * Is the primary use of the equipment consistent with the original purpose? | **Yes  No** | |
| * For items over $5,000, is the equipment tagged or otherwise identified in an inventory as property purchased with state or federal funds?   Description  ID Number  Title Information Procurement Source  Acquisition Date  Cost Percentage of state/ Federal grant share  Grant #/contract number from which it was procured  Location of use  Condition  Disposition data – including date of disposal, sale price, method of fair market value. | **Yes  No** | |
|  | **Does the subrecipient have procedures that protect the equipment from misuse, misappropriation waste and unwarranted deterioration or destruction?** | | **Yes  No** |
|  | **Does the subrecipient conduct a physical inventory of equipment on a regular basis?** | | **Yes  No** |
|  | **Does a visual inspection match the asset inventory report?** | | **Yes  No** |
|  | **Is there any “incidental use” of any piece of equipment?** | | **Yes  No** |
| * If Yes, explain | | |
|  | **How does the subrecipient seek warranty claims?** | | **Yes  No** |
| * If Yes, explain | | |
|  | **What is your process for disposing equipment past its useful life?** | |  |
| * Explain | | |
|  | **Are all FTA and State-funded facilities and equipment adequately insured to protect the remaining Federal interest?** | | **Yes  No** |
|  | **Are the coverage levels sufficient to meet WisDOT requirements?** | | **Yes  No** |

## 4.2 | Continuing Control of Assets (Facilities)

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Does the subrecipient have real property/facilities purchased or built by 5310 or 5311 grants?** \**If no, skip the remaining questions in subsection 4.2 Continuing Control of Assets (Facilities)* | | **Yes  No** |
|  | **Is the facility being used for the original authorized purpose?** | | **Yes  No** |
|  | **Is there any “incidental use” of the facility?** | | **Yes  No** |
|  | **Is the facility needed?** | | **Yes  No** |
|  | **Is there excess available capacity?** | | **Yes  No** |
|  | **How does the subrecipient seek warranty claims on facility assets?** Explain: | |  |
|  | **Do you have a maintenance plan for the facility?** | | **Yes  No** |
|  | **Check for evidence of the following:** | |  |
| * Facility shows signs of excessive wear or lack of care? Explain: | **Yes  No** | |
| * Is the exterior clean and free of damage or excessive decay?Explain: | **Yes  No** | |
| * Is the interior clean and tidy? Explain: | **Yes  No** | |
| * Are there signs of major safety hazards (standing water, chemical spills, etc.)? Explain: | **Yes  No** | |
| * Other: Explain: | **Yes  No** | |
|  | **Has the subrecipient transferred the title of real property during the last three (3) years?** | **Yes  No** | |
| * If “Yes,” did the subrecipient transfer real property to another entity eligible to receive assistance under 49 U.S.C. Chapter 53? | **Yes  No** | |
| * Did WisDOT approve of the transfer? | **Yes  No** | |

## 4.3 | Continuing Control of Assets (Vehicles)

### Vehicle Maintenance Records

**Note:** The reviewer will inspect vehicle maintenance records and conduct a visual inspection of 10% of the vehicle fleet or a minimum of one vehicle.

|  |  |  |
| --- | --- | --- |
|  | **Does the subrecipient have a written vehicle maintenance plan?**   * Date written or last updated: * Maintenance Manager’s Name and Title: | **Yes  No** |
|  | **Is there any incidental use on any of the vehicles?** | **Yes  No** |
|  | **Are the vehicles leased to lower tier contactors?** | **Yes  No** |
| * If yes, explain lease arrangement and how vehicle utilization, condition and maintenance is monitored: | |
|  | **How does the subrecipient seek warranty claims on vehicle assets?** Explain: | |

### Vehicle Records Review

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Provide a list of vehicle identification numbers (VIN) for records selected to sample: \_\_\_\_\_\_\_\_\_** | | | | |  |
|  | **Are maintenance records easily retrieved and well-organized?** | | | | | **Yes  No** |
|  | **How do you schedule the maintenance of your vehicles?** | | | Mileage TimeBoth | | |
|  | **What is the established mileage and/or time interval between preventive maintenance events?** | | | | |  |
|  | **Is the maintenance interval adhered to?** | | | | | **Yes  No** |
|  | **How are vehicle maintenance services performed?  In-House  Contractor  Both** | | | | | |
|  | **Check for evidence of the following:** | | | | |  |
| regular break inspections | regular lift inspection and maintenance | steering and suspension inspections | | regular lube, oil & filter service | |
| pre-trip inspections standard and daily | pre-trip lift deployment | standard and daily post trip inspections | | | |
|  | **What is your process for disposing vehicles?** Explain: | | | | | |
|  | **Do you have a vehicle replacement schedule?** | | | | | **Yes  No** |

### Vehicle Visual Inspection Form

|  |  |  |
| --- | --- | --- |
| **Vehicle Review #:** | **Reviewed by:** | **Date:** |
| **Vehicle Model/Make:** | **Year:** | **VIN:** |
| **Mileage:** | **License Plate #:** | |
|  | | |
| 1. **Is the vehicle branded and/or properly marked with the subrecipient name?  Yes  No**   Name: | | |
| 1. **Does the vehicle show signs of excessive wear or lack of care?  Yes  No** | | |
| 1. **Is the exterior clean and free of damage and rust?  Yes  No** | | |
| 1. **Are doors, mirror, lights, wipers and horn working in good condition?  Yes  No** | | |
| 1. **Does the emergency door and safety interlock system work?  Yes  No** | | |
| 1. **Does the interlock system prevent vehicle movement when the lift is deployed?  Yes  No** | | |
| 1. **Is the ground free of excessive fluid leakage where vehicles are parked?  Yes  No** | | |
| 1. **Is the interior clean, and is upholstery, floor covering, securement areas and railings in good condition?  Yes  No** | | |
| 1. **Are tires unevenly worn, or show Lincoln’s head on a penny?  Yes  No** | | |
| 1. **Does the vehicle start easily and run smoothly, without excessive exhaust?  Yes  No** | | |
| 1. **Does the vehicle have a Title VI public notice?  Yes  No** | | |
| 1. **Is the vehicle equipped with: fire extinguisher , 3 reflective triangles or 3 liquid-burning flares , first aid kit , bloodborne pathogen kit , strap cutter .** | | |
| **Comments:** | | |
|  | | |
| **Photos taken:  Yes  No** | | |

# SERVICE AND OPERATIONS Section 5

Many questions in this section do not relate to a specific compliance topic; rather, the questions relate to the operational efficiencies and effectiveness in the system’s various operational policies. This section addresses organization and staffing, transit operations, scheduling, dispatching, customer service, safety and security, operations planning, marketing, complaint management, and service evaluation.

## 5.1 | Transit Operations

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Are transit operations open to the general public?** | | **Yes  No** |
| * Identify eligible passengers: | |  |
|  | **The service must be available to the general public without imposition of trip purpose restrictions or other impediments that preclude access to the service. At a minimum, the subrecipient/operator must demonstrate that it meets the following requirements:** | | |
| * A fare structure is in place * The service is advertised as being available to the general public * No restrictions or eligibility criteria are imposed on those individuals who seek to access the service | | |
|  | **Does the subrecipient transport passengers for compensation (either directly or indirectly) across state lines?** | | **Yes  No** |
| If “Yes,” has the subrecipient obtained authority and/or registered with FMCSA as required? | **Yes  No** | |
| **166** | **Does the subrecipient provide service that begins and ends in an urbanized area?** | **Yes  No** | |
| If yes, has the subrecipient developed a cost allocation methodology to ensure that Section 5311 funds are used to only benefit residents of nonurbanized areas? | **Yes  No** | |

## 5.2 | Service Records

|  |  |  |
| --- | --- | --- |
|  | **What method does the subrecipient use to count rides?** |  |
| actual counts  estimated counts  other Explain: | |
|  | **Do you or your subcontractor and/or lessee have a method for tracking Limited English Proficient (LEP) persons?** | **Yes  No** |
| * Describe who keeps the information and the method of tracking LEP. | |
|  | **Is LEP tracking information shared with the Title VI plan coordinator?** | **Yes  No** |
|  | **Who is responsible for maintaining service and ridership records?**  Name/Title: |  |
|  | **Is the schedule/dispatch log compared to passenger and/or operational reports on a regular basis?** | **Yes  No** |
|  | **Do subrecipient procedures account for all requests for service, including ride refusals?** | **Yes  No** |
|  | **Does the system have an adequate number of dedicated phone lines for transportation reservations to avoid delays in answering the phone?** | **Yes  No** |
|  | **How are callers greeted? Is there a standard script? \_\_\_\_\_\_\_\_** | |
|  | **Does the greeting connote public transportation (rather than an agency) service?** | **Yes  No** |
|  | **Does published material suggest that the system uses trip priorities in the scheduling of demand response services?** | **Yes  No** |
|  | **What are the published hours for scheduling a trip? \_\_\_\_\_\_** |  |
|  | **What are the advance reservation requirements? \_\_\_\_\_\_\_** |  |
|  | **Does the system accept subscription trips?** | **Yes  No** |
| * If yes, does the volume of subscription trips impede the ability of the general public to schedule a ride? | **Yes  No** |

## 5.3 | Marketing Services

|  |  |  |
| --- | --- | --- |
|  | **Does the subrecipient market its transportation services?** | **Yes  No** |
| * If yes, where and/or how are marketing materials distributed?   Website Newspaper Brochures  On vehicles  other | |
|  | **For 5311 recipients only, is the marketing effort directed to the general public?** | **Yes  No** |

## 5.4 | Operational Efficiencies, Goals and Data Collection

|  |  |  |
| --- | --- | --- |
|  | **Does the subrecipient keep records sufficient to ensure that the revenue service hours, passenger trips and other required data reported to WisDOT and National Transit Database are accurate?** | **Yes  No** |
|  | **How does the subrecipient attempt to meet service delivery goals established by WisDOT in the management plan? (e.g. cost per ride, cost per mile, rides per mile and per hour)** \_\_\_\_\_\_\_ | |
|  | **Does the subrecipient use data collected to monitor operations and to develop efficiencies in providing transit services?** | **Yes  No** |
|  | **How does the system measure on-time performance?**  Explain: \_\_\_\_\_\_\_ | |
|  | **What are the maximum number of vehicles used in revenue service and how many spare vehicles result from this service level?**  **\_\_\_\_\_\_ Maximum Vehicles \_\_\_\_\_\_\_ Spare Vehicles** | |

## 5.5 | Operational Employees

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Does the subrecipient have a defined employee/volunteer training program?** | | | | | **Yes  No** |
|  | **Are there sufficient staff resources to safely and efficiently operate transit services?** | | | | | **Yes  No** |
|  | **Does the subrecipient maintain current training records on all employees?** | | | | | **Yes  No** |
|  | **Does the training include the following? Check all that apply:** | | | | |  |
| Defensive driving | Passenger assistance | | ADA requirements | Customer service | |
| Passenger relations | Evacuation and emergency procedures | | Behind the wheel orientation | Drug and alcohol program and policy prevention | |
| other: | | | other: | | |
|  | **Does the subrecipient have a written job description for every employee and volunteer positions?** | | | | | **Yes  No** |
|  | **Are employees and volunteers provided with some form of a Standard of Conduct and/or training?** | | | | | **Yes  No** |
|  | **Does the subrecipient pre-qualify employees and volunteers prior to employment?** | | | | | **Yes  No** |
| * If yes, check all that apply: Criminal background check  Driver’s license  Physical  Reference check  Prior employer check  Other: | | | | | |
|  | **What is the extent of operating training prior to being permitted to drive independently on a fixed route?** | | | | |  |
| Hours | | Training Component  Classroom training  Behind the wheel training | | | |
|  | **Does the subrecipient have “hours of service” standards for their drivers?** | | | | | **Yes  No** |
|  | **Has the subrecipient sent appropriate staff to WisDOT, FTA or any other transit related training within the past two years?**  Describe**:**  Comments: | | | | | **Yes  No** |

# School Bus and Charter Bus Section 6

The Federal Transit Administration was established by the Federal Transit Act, as amended. The Act provided funds for ‘‘mass transportation’’ purposes, defined as, ‘‘transportation by bus or rail or other conveyance, either publicly or privately owned, serving the general public (but not including school buses or charter or sightseeing service) and moving over prescribed routes.’’ **This provision illustrates the balance Congress sought to strike between the public and private sectors of the economy.** Congress acted to provide Federal funding for the continued existence of urban fixed route providers by enacting a capital program to acquire private transit companies and establish new public transportation agencies.

The charter services provided by private companies were still profitable; accordingly, Congress excluded charter service from the definition of ‘‘mass transportation.’’

"Charter service" means, but does not include demand response service to individuals:

1. Transportation provided by a recipient at the request of a third party for the exclusive use of a bus or van for a negotiated price. The following features may be characteristic of charter service:
   1. Third party pays the transit provider a negotiated price for the group;
   2. Any fares charged to individual members of the group are collected by a third party;
   3. The service is not part of the transit provider’s regularly scheduled service, or is offered for a limited period of time; or (d) A third party determines the origin and destination of the trip as well as scheduling; or
2. Transportation provided by a recipient to the public for events or functions that occur on an irregular basis or for a limited duration and:
   1. A premium fare is charged that is greater than the usual or customary fixed route fare; or
   2. The service is paid for in whole or in part by a third party.

New regulations provide for both exemptions and exceptions to the regulations. FTA excludes recipients of Section 5310 and Section 5311 funding from charter regulation coverage if the service is for “program purposes.” FTA defines this term as: "…transportation that serves the needs of either human service agencies or targeted populations (elderly, individuals with disabilities, and or low-income individuals).”

**Recipients of 5311 funding may engage in charter service so long as the appropriate protocols are met. Subrecipients should notify their program manager in advance of engaging in charter service to ensure the appropriate actions are taken.**

No FTA grantee or operator of project equipment is permitted to engage in exclusive school bus operations using buses, facilities or equipment funded under the Act. Note: FTA considers Head Start to be human service agency transportation (not school bus transportation for purposes of 49 CFR part 605).

## 6.1 | School Bus

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Does the subrecipient and/or its transit system have an agreement with local schools for transportation services?** | | **Yes  No** |
|  | **Does the subrecipient use federally funded equipment, facilities or operating funds to offer exclusive** **school bus services to students? Are vehicles specifically used to transport students only to and from school and not open to the general public?** If yes, does the agreement it satisfy any of the three exemptions below? | | **Yes  No** |
| * The grantee operates a school system in the area and operates a separate and exclusive school bus service for that school system | **Yes  No** | |
| * Existing private school bus operators are unable to provide adequate, safe transportation | **Yes  No** | |
| * The grantee, a public entity, has operated the service prior to August 12th, 1973 or has received a grant for facilities before November 26th, 1974 | **Yes  No** | |
|  | **Does the subrecipient provide tripper service defined as “regularly schedules service open to the public, designed to accommodate the needs of school students and personnel using various fare collections or subsidy systems?”** | | **Yes  No** |
| * If yes, please describe and provide schedules/routes as verification of tripper service: | | |
|  | **Was notice of service provided to private school bus operators published in a local newspaper?** | | **Yes  No** |

## 6.2 | Charter Bus

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Does the subrecipient use federally funded equipment, facilities or operating funds to support charter operations, defined as:** | | |  |
| * Transportation provided at the request of a third-party for the exclusive use of a bus or van for a negotiated price? Name of the Third-Parties: | | **Yes  No** | |
| * Transportation provided on an irregular basis or limited duration with a premium fare or paid for by a third party? Name of the Third-Parties: | | **Yes  No** | |
| * If yes to either question above, describe the service arrangement including passengers, frequency, fees and trip purpose for any charter bus service: | | | |
|  | **Does the service fall into one or more of the allowed exemptions, including a recipient transporting its employees, other transit system employees, transit management officials, transit contractors and bidders, government officials and their contractors and official guest, to and from transit facilities, or for the purpose of conducting oversight functions?** | | | **Yes  No** |
|  | **Does the service fall into one of the limited exceptions under which subrecipients may provide community-based charter services?** | | |  |
| Government officials on official government business | **Yes  No** | | |
| Qualified Human Service Organizations (QHSO) | **Yes  No** | | |
| Leasing FTA Funded Equipment and Drivers | **Yes  No** | | |
| When no registered charter provider responds to notice from a recipient | **Yes  No** | | |
| Agreement with registered charter providers | **Yes  No** | | |
| A petition has been made to the administrator for an exception to charter service regulations | **Yes  No** | | |
|  | **If the service is defined as a community-based charter service, are all appropriate notifications, recordkeeping and reporting requirements met?** | | | **Yes  No** |
| Comments: | | | |

# Civil Rights Section 7

Federal civil rights requirements are encompassed in laws, regulations, and Executive Orders. The

objective of FTA's oversight in this area is to:

* Ensure that the level and quality of transportation service is provided without regard to race, color, or national origin;
* Identify and address, as appropriate, disproportionately high and adverse human health and environmental effects, including social and economic effects of programs and activities on minority populations and low‐income populations;
* Promote the full and fair participation of all affected populations in transportation decision making;
* Prevent the denial, reduction, or delay in benefits related to programs and activities that benefit minority populations or low‐income populations; and
* Ensure meaningful access to programs and activities by persons with Limited English Proficiency.

## 7.1 | Title VI

Title VI is a federal statute and provides that no person in the United States, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Any programs or activities that receive federal transit funding must comply with Title VI. Any agency receiving federal dollars either directly from FTA (Federal Transit Administration), indirectly through WisDOT or both, must:

* Promote full and fair participation in transportation decision-making without regard to race, color or national origin
* Ensure meaningful access to transit-related programs and activities by persons with limited English proficiency
* Ensure the level and quality of transportation service is provided in a nondiscriminatory manner
* Prepare and submit a Title VI-ADA Plan to WisDOT

Information on Title VI requirements is available on the WisDOT website:

<http://www.dot.wisconsin.gov/localgov/transit/title6.htm>

Questions in this section are designed to ensure that subrecipients are compliant with new FTA Title VI regulations.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **Does the subrecipient have a public Notice of Nondiscrimination that includes:** | | | |  |
| A statement that the agency operates programs without regard to race, color, and national origin. | | | **Yes  No** | |
| A description of the procedures that members of the public should follow in order to request additional information on the subrecipient’s nondiscrimination obligations. | | | **Yes  No** | |
| A description of the procedures that members of the public should follow in order to file a discrimination complaint against the subrecipient. | | | **Yes  No** | |
|  | **Is the public Notice of Nondiscrimination placed in the workplace where affected employees may view it?** | | | | **Yes  No** |
|  | **Has the subrecipient translated this notice into languages other than English consistent with the subrecipient’s LEP program?** | | | | **Yes  No** |
|  | **Has the subrecipient integrated into its established public participation and outreach processes procedures that ensure involvement and participation by minority and LEP populations?** | | | | **Yes  No** |
| * If “Yes,” describe these activities. \_\_\_\_\_\_\_ | | | | |
|  | **Does the subrecipient have a Title VI-ADA Plan?** | | | | **Yes  No** |
|  | **Does the plan include:** | | | |  |
| Policy approval | **Yes  No** | | | |
| Notice of Nondiscrimination  Where is it posted? | **Yes  No** | | | |
| Complaint procedure | **Yes  No** | | | |
| Complaint form | **Yes  No** | | | |
| List of investigations, complaints and lawsuits (required to be maintained annually) | **Yes  No** | | | |
| Public Participation Plan (required to be updated annually) | **Yes  No** | | | |
| Language Assistance Plan/Limited English Proficient (LEP) Plan | **Yes  No** | | | |
| Diversity Representation Information on its non-elected transit boards/advisories/councils | **Yes  No** | | | |
|  | **Has the subrecipient implemented the public participation strategies outlined in the**  **Title VI Plan?** | | | | **Yes  No** |
|  | **If the subrecipient operates a fixed route transit system, does the Title VI plan include:**  Fixed Route Service Standard  Fixed Route Service Policy | | | |  |
|  | **Has the subrecipient recently constructed a facility or planning to construct a facility?** | | | | **Yes  No** |
| * If yes, did the subrecipient conduct a Title VI Facility Location Equity Analysis? | | **Yes  No** | | |
|  | **Are employees informed and/or trained on Title VI and LEP requirements?**  Comments: | | | | **Yes  No** |

## 7.2 | Equal Employment Opportunity (EEO)

WisDOT must ensure that their subrecipients do not discriminate against any employees or applicants for employment because of race, color, religion, national origin, sex, or age. In addition, recipients and subrecipients must take affirmative actions to employ minorities and women.

An EEO program is required of all subrecipients that both:

1. Employ 100 or more transit-related employees (including temporary, full, and part-time), and
2. Received capital or operating assistance in excess of $1 million or planning assistance in excess of $250,000 in the previous federal fiscal year.

|  |  |  |
| --- | --- | --- |
|  | **Does the subrecipient receive federal operating or capital funds in excess of $1 million or planning assistance funds in excess of $250,000 and employ 100 or more transit-related employees?** *\*If yes to both, the subrecipient should have an EEO program. Please contact WisDOT for further information.* | **Yes  No** |
| ***Agencies that have between 50-99 transit related employees are required to prepare and maintain an EEO Program that includes the statement of policy, dissemination plan, designation of personnel, assessment of employment practices, and monitoring and reporting system.*** | | |
|  | **Does the subrecipient have any contractors who meet the requirements?** | **Yes  No** |
| * If yes, has the subrecipient obtained the EEO program from the contractor? | **Yes  No** |
|  | **Has the subrecipient posted an EEO statement in a conspicuous and accessible place in the workplace?** | **Yes  No** |
|  | **Is the subrecipient's EEO policy included in personnel policies and/or employee handbook?** | **Yes  No** |
|  | **Are EEO statements included on the subrecipient’s job applications and employment notices/job postings?** | **Yes  No** |
|  | **Were any EEO complaints or lawsuits received in the past three years?** | **Yes  No** |
| * If "Yes," describe the nature of the complaint or lawsuit. \_\_\_\_\_\_\_ | |
| * Did the subrecipient report the complaint or lawsuit to WisDOT? | **Yes  No** |

# Americans with Disabilities Act (ADA) Section 8

Under the Federal Department of Transportation (DOT) Americans with Disabilities Act of 1990 (ADA) regulations, public and private transportation providers are required to operate services in a way that does not discriminate against persons with disabilities. The regulations include general nondiscrimination provisions that apply to all types of agencies and services. This civil rights law sets forth specific requirements for public transportation services, vehicle and facility accessibility, and the provision of complementary paratransit service, as well as overall requirements for a complaint process, codified by U.S. DOT in 49 CFR Part 37.

Federal DOT ADA regulations (49 CFR 37.161-167) detail specific general service requirements that apply across modes. WisDOT must monitor subrecipients for compliance with applicable ADA service provision and training requirements. All public and private transportation providers must:

* Allow service animals to accompany individuals with disabilities in vehicles and facilities
* Deploy the lift or ramp upon request, for standees as well as wheelchair-users
* Accommodate people who use a wide variety of mobility devices
* Not deny an individual transportation because a vehicle’s securement system is unable to secure the mobility device
* Make public information and communications available in accessible formats
* Accommodate persons using respirators or portable oxygen
* Train operators in the use of accessibility equipment as well as sensitivity to people with disabilities

There are also provisions that apply only to certain types of agencies and services. For example, public fixed route operators are required to make on‐board stop announcements to keep riders oriented to their location. They are also

required to have a system in place at stops served by multiple routes that allows riders to identify the bus they need to catch, or drivers to identify which riders are waiting to catch their bus. Public fixed route operators also must provide ADA complementary paratransit service to individuals who cannot use the fixed route due to their disability.

Commuter bus service is exempted from this requirement. As defined in 49 CFR part 37.3, commuter

bus service is “characterized by service predominantly in one direction during peak periods, limited

stops, use of multi‐ride tickets, and routes of extended length, usually between the central business

district and outlying suburbs.

When a public entity enters into a contract or other arrangement or relationship (including grants or

subgrants) with a private entity to operate fixed route or demand‐responsive service, the public entity

shall ensure that the ADA obligations are met, including any ADA complementary paratransit

requirements (49 CFR part 37.23). The nature of the arrangement between the public entity and the

private intercity operator would determine whether 49 CFR part 37.37 or 49 CFR part 37.23 applies.

## 

**Service Classification**

Compliance responsibilities will vary depending upon the type of entity providing the service. The

regulations recognize three types of entities:

**Public entities** which include cities, towns, counties, state governments, or special authorities created

under public law such as transit districts.

**Private, primarily engaged entities** which include private companies whose primary business is

transportation. This includes private taxi companies, van or bus companies, or private intercity bus

companies. This category includes private, nonprofit agencies whose main business is transportation.

**Private, not primarily engaged entities** which are private companies or organizations, including nonprofit

organizations, whose primary business is something other than transportation, but who provide

transportation as a secondary or support service. This includes human service agencies that operate

transportation services as a secondary or support service.

Compliance responsibilities will also vary depending on the type of transportation service provided by

the subrecipient. Several types of service that are particularly relevant to these reviews are:

**Fixed route service** which means a system of transporting individuals (other than by aircraft), including

the provision of designated public transportation service by public entities and the provision of

transportation service by private entities, including, but not limited to, specified public transportation

service, where a vehicle is operated along a prescribed route according to a fixed schedule.

**Commuter bus service** which means fixed route bus service, characterized by service predominantly in

one direction during peak periods, limited stops, use of multi‐ride tickets, and routes of extended

length, usually between the central business district and outlying suburbs. Commuter bus service may

also include other service, characterized by a limited route structure, limited stops, and a coordinated

relationship to another mode of transportation.

**Demand responsive service** means any system of transporting individuals, including the provision of

designated public transportation service by public entities and the provision of transportation service by

private entities, including but not limited to specified public transportation service, which is not a fixed

route system.

**Route deviation, point deviation, or flex‐bus service**, which does not have prescribed route, or which

allows for on‐request deviations off of prescribed routes. This service type is considered a type of

demand responsive service if the on‐request, off‐route deviations are available to all riders. If off‐route

deviations are made only for certain individuals, such as persons with disabilities, the service is

considered fixed route.

**ADA complementary paratransit** which is a specific type of demand responsive service that is required

of public entities that provide non‐commuter fixed route service.

**Subrecipient Classification and Service Mode**

To determine compliance responsibilities, the review will determine the type of entity and service

modes delivered.

Based on the articles of incorporation or enabling legislation, identify the type of subrecipient under

review:

* Public entity
* Private entity, primarily engaged in transportation
* Private entity, not primarily engage in transportation

Evaluate the scope of services and determine all modes of service operated by the subrecipient. For

each subrecipient, check all the primary and sub‐modes that apply:

* Fixed route
  + Non‐commuter bus
  + Commuter bus
  + Inter‐city bus
  + Route/point deviation with deviations limited to certain riders
* Demand Response
  + ADA complementary paratransit
  + Route/point deviation with deviations for the general public
  + Other demand responsive service

## 8.1 | Nondiscrimination – All Providers

No entity shall discriminate against an individual with a disability in connection with the provision of

transportation service. Except for very specific circumstances, service policies cannot keep individuals

with disabilities from benefiting equally from the transportation services provided. Possible exceptions

are if providing the service would fundamentally change the nature of the service provided (e.g.,

exclusive ride versus shared‐ride), or if providing the service would present a “direct threat” (i.e., a

safety threat to ***others***, not the person with the disability). Examine all public information related to the

transportation services provided, including rider guides, operating policies and procedures, service

bulletins, employee training materials, etc. for any policies or requirements that could discriminate

against or limit service to persons with disabilities.

It is not discrimination under this part for an entity to refuse to provide service to an individual with

disabilities because that individual engages in violent, seriously disruptive, or illegal conduct, or

represents a direct threat to the health or safety of others. However, an entity shall not refuse to

provide service to an individual with disabilities solely because the individual’s disability results in

appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity

or other persons.

|  |  |  |
| --- | --- | --- |
|  | **Does the subrecipient provide information to the public regarding the availability of accessible services?** Via: | **Yes  No** |
|  | **Is the subrecipient’s staff knowledgeable regarding ADA service requirements appropriate to the specific services offered by the subrecipient to the public?** | **Yes  No** |
|  | **Have the vehicle operators and other relevant staff been trained to interact with disabled individuals?** | **Yes  No** |
|  | **Do you have a mechanism to capture, investigate and track ADA complaints?** | **Yes  No** |
|  | **Have there been any complaints or lawsuits alleging discrimination on the basis of disability?** | **Yes  No** |
| * If yes, what is the status or resolution of these complaints or lawsuits. Describe: | |
|  | **Does the entity have a process in place to ensure a prompt response to ADA‐related**  **complaints?** | **Yes  No** |
|  | **Does the entity retain a file copy of all ADA related complaints for at least 1 year and a summary of all ADA‐related complaints for at least five years?** | **Yes  No** |
|  | **Is there a fare schedule for riders with disabilities?** | **Yes  No** |
|  | **Does the subrecipient have policies that impose any special charges for individuals with disabilities, including wheelchair users?** | **Yes  No** |
|  | **Have you encountered any circumstances where your insurance provider would not cover a potential rider?** | **Yes  No** |
| * If yes, how did you address this issue?Describe: | |
|  | **Does the subrecipient require the driver to assist passengers with disabilities, if they need assistance, to board and de-board the vehicle?** | **Yes  No** |
|  | **Does the subrecipient allow Personal Care Attendants (PCA) to travel with persons with disabilities and at no cost?** | **Yes  No** |
|  | **Are any claimed attendants allowed (*i.e*., no registration of only certain persons who can be attendants)?** | **Yes  No** |
|  | **Does the subrecipient allow service animals to travel with persons with disabilities?** | **Yes  No** |
|  | **Do the subrecipient’s policies ensure adequate time for boarding and de-boarding for persons with disabilities?** | **Yes  No** |
|  | **Does the subrecipient require individuals with disabilities to use designated priority seats?** | **Yes  No** |
|  | **Does the subrecipient have a policy for dealing with individuals who engage in violent, seriously disruptive, or illegal conduct, or conduct that poses a direct safety threat to others?** | **Yes  No** |
| * If “yes,” does the policy suggest a denial of service for rude behavior, swearing, or other behaviors that do not rise to illegal or seriously disruptive? | **Yes  No** |
|  | * If ‘yes,” are supervisors, dispatchers, and vehicle operators trained on this policy? | **Yes  No** |
|  | **Is there an appropriate appeal process for any service refusals?** | **Yes  No** |

## 

## 8.2 | Vehicles – General

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Does the subrecipient pre-trip checklist include cycling the lift to ensure that it is in working order and checking for the presence and condition of the tie-downs in the securement area?** | | **Yes  No** |
|  | **Does the subrecipient require persons traveling in securement areas to wear seat**  **belts or shoulder straps when all other passengers do not have the same**  **requirement?** | | **Yes  No** |
|  | **Does the subrecipient require wheelchair users to wear a body belt when**  **traveling up and down on the lift?** | | **Yes  No** |
|  | **Does the subrecipient’s allow the lift to be used by standees to board/de-board the vehicle?** | | **Yes  No** |
|  | **Are there any restrictions on the type of mobility devices allowed on the vehicles?** | | **Yes  No** |
|  | **How do you respond to mechanical issues (failures) to the lift or ramp while the vehicle is in service?** | |  |
| * What is the response time to actually providing the service? | |  |
| * How many days out of service is the vehicle on average? | |  |
| * Are there other accessible vehicles to fill in? | **Yes  No** | |

## 8.3 | Fixed Route Only

|  |  |  |
| --- | --- | --- |
|  | **Does the subrecipient require that the driver announce stops (or does the vehicle have an audible announcement in lieu of driver announcements)?** | **Yes  No** |
| * If “Yes,” do policies and training materials indicate that stops are to be announced anytime at the request of a passenger with a disability? | **Yes  No** |
| * If “yes,” are these announcements to be made any time there are waiting passengers and not just when there is a passenger that the driver feels has a vision disability (e.g. white cane or service animal)? | **Yes  No** |
|  | **Does the subrecipient provide a means by which an individual with a visual impairment or other disability can identify the proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride on a particular route?** | **Yes  No** |
|  | **Do vehicles have priority seating?** | **Yes  No** |

## 8.4 | Complementary Paratransit

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **Does the subrecipient have a complementary paratransit service that provides service to persons with disabilities who are unable to use or access the fixed route service?** | | | | | | | **Yes  No** |
| * If yes, indicate service strategy**:** | | | | | | |
| route deviation | separate paratransit operated by subrecipient | | contracted out to other service provider | | other: | | |
| * If “no,” skipto Question 267. Otherwise, continue on with Question 250. | | | | | | | |
|  | **Has the subrecipient prepared a Complementary Paratransit Plan consistent with the requirements of 49 CFR part 37.135 – 139?** | | | | | | | **Yes  No** |
|  | **Does the subrecipient have a written policy which defines a process to determine eligibility for paratransit services?** | | | | | | | **Yes  No** |
|  | **Are persons whose eligibility is limited (denied, conditioned, only temporary) given a written statement with specific reasons for the denial (not a standard statement or statement that person “can use fixed route”), and notice of their right of appeal?** | | | | | | | **Yes  No** |
|  | **Does the appeals process adhere to DOT ADA regulations (opportunity to be heard, separation of function, decision within 30 days, and written notification of decision, with a reason for it)?** | | | | | | | **Yes  No** |
|  | **Are appeals heard and decided by an individual or individuals who have not been involved in the initial decision, and who do not have a direct line of authority to those who made the initial decision (i.e., separation of authority)?** | | | | | | | **Yes  No** |
|  | **Does the subrecipient provide complementary paratransit to visitors for up to 21 days in a 365‐day period?** | | | | | | | **Yes  No** |
|  | **What is the fare schedule for ADA paratransit trips?** | | | | | | |  |
|  | **Does the subrecipient provide free complementary paratransit service to Personal Care Attendants (PCAs)?** | | | | | | | **Yes  No** |
|  | **Does the subrecipient have a process in place to suspend eligibility for eligible users who establish a pattern or practice of missing scheduled trips?**   * If “Yes,” are riders first notified of the no‐shows and late cancellations recorded against them, and given a chance to explain or dispute them before a decision is made to suspend? | | | | | | | **Yes  No**  **Yes  No** |
|  | **If a suspension is issued, is the rider notified of their right to an appeal, and does this appeal process conform to the requirements that apply to eligibility appeals?** | | | | | | | **Yes  No** |
|  | **If riders are charged for no‐shows and/or late cancellations, is this only in lieu of a suspension?**  ***Note: Charges can only be proposed as an alternative to a suspension and only after there has been a “pattern and practice” of abuse and a suspension has been issued.*** | | | | | | | **Yes  No** |
|  | **Is ADA paratransit service provided, at a minimum, to all areas within ¾ of a mile of non-commuter fixed routes?** | | | | | | | **Yes  No** |
|  | **Are equivalency standards defined using the following service criteria?** | | | | | | |  |
| Origin-to-Destination Service | | **Yes  No** | | Service Area | | **Yes  No** | |
| Service Time | | **Yes  No** | | Response Time | | **Yes  No** | |
| Trip Purpose | | **Yes  No** | | Fares | | **Yes  No** | |
|  | **How are ADA paratransit trips tracked? Describe:** | | | | | | |  |
|  | **Does the service operate without a substantial number of trip denials?**  Number of denials in last year**: \_\_\_\_\_\_\_** | | | | | | | **Yes  No** |
|  | **Are trip denials recorded consistent with the FTA definition and noted if customer is a person with disabilities?** | | | | | | | **Yes  No** |
|  | **Does the subrecipient provide origin‐to‐destination service in its complementary paratransit program?** | | | | | | | **Yes  No** |

## 8.5| Demand-Response Services: Equivalent Service Standards

If entities operating demand response services plan to purchase vehicles that are not accessible, they must first make a determination that the services they will be providing (after the purchase of the inaccessible vehicle or vehicles) are “equivalent.” Therefore, if entities have inaccessible vehicles as part of their fleet that were purchased since the issuance of the regulations, the services they provide must be “equivalent.” If inaccessible vehicles are purchased, certification of equivalency must also be provided to WisDOT. In accordance with FTA Circular 4710.1, Chapter 7, § 7.3, when a transit system’s fleet includes all fully accessible vehicles, the equivalent service standards do not apply.

|  |  |  |
| --- | --- | --- |
|  | **Does the system operate with a 100 percent accessible fleet?** | **Yes  No** |
| * If “Yes,” skip to Question 277. Otherwise, continue on with Question 268. |
|  | **Are individuals with disabilities who need an accessible vehicle able to travel**  **throughout the area on an equivalent basis to all other riders?** | **Yes  No** |
|  | **Is the same (or lesser) advance notice required of riders with disabilities who need and use accessible vehicles?** | **Yes  No** |
|  | **Is the fare the same (or lower) for riders with disabilities who need to use accessible vehicles?** | **Yes  No** |
|  | **Are the days and hours the same (or greater) for individuals with disabilities who need and use accessible vehicles?** | **Yes  No** |
|  | **Are individuals with disabilities able to travel for the same purposes (or more) than**  **individuals who do not need accessible vehicles?** | **Yes  No** |
|  | **Are there any trip denials, or are wait lists or trip caps used?** | **Yes  No** |
| * If “yes,” are individuals with disabilities who need to use accessible vehicles denied/wait‐listed or capped at the same (or lower) rate than other riders? | **Yes  No** |
|  | **Do persons with disabilities, including persons who need to use accessible vehicles receive the same (or better) level of service?** | **Yes  No** |
|  | **Is information and communications provided in accessible formats, and are individuals**  **with disabilities who need an accessible vehicle able to get information and reservations assistance in an equivalent way?** | **Yes  No** |
|  | **Has the subrecipient acquired vehicles in the last three (3) years that were not accessible?** | **Yes  No** |
| * If Yes, did the subrecipient, before any procurement of an inaccessible vehicle, file with WisDOT the required certificate that it provides equivalent service meeting the equivalent service of 49 CFR part 37.77(c)? | **Yes  No** |
|  | **Are trip denials documented?** | **Yes  No** |
|  | **Is the FTA definition of a trip denial used to record denials?** | **Yes  No** |
|  | **Are the reasons for trip denials documented?** | **Yes  No** |
|  | **Do the reasons for trip denials include equipment?** | **Yes  No** |
|  | **Is it noted on the trip denial form if the caller is disabled?** | **Yes  No** |
|  | **Does the service operate without a substantial number of trip denials?**  Number of denials in last year**: \_\_\_\_\_\_\_** | **Yes  No** |

## 8.6 | Route Deviation/Point Deviation Services

Route deviation/point deviation service operates along established routes that typically have designated stops. Between

these stops, vehicles deviate from an established route to pick up or drop off riders within a defined off-route service area. Transit agencies operating route deviation services typically ask riders to call in advance (e.g., 1–2 hours prior to desired pickup time) to request off‐route pickups.

To be considered demand responsive rather than fixed route, route deviation services must accept

deviation requests from all riders, not just persons with disabilities. Deviated fixed route services that limit route deviations only to riders with disabilities are not demand responsive services. These are fixed route services that require

complementary paratransit service.

The nondiscrimination requirements obligate transit agencies to ensure that their policies and practices

do not discriminate against individuals with disabilities. The following are examples of discriminatory

practices in the delivery of route deviation service, and may leave the appearance that a route deviation

service is “in name only” as a way to avoid providing complementary paratransit service:

* Designating services as route deviation in plans and other documents, but not advertising them as such;
* Establishing restrictive policies for deviations that would significantly limit the use of the service by individuals with disabilities who are not able to get to and from designated stops and can therefore only use the service by requesting deviations; this would include:
* Charging excessive surcharges for deviations
* Establishing overly restrictive areas within which riders can request deviations
* Limiting deviations to only certain trip purposes
* Unreasonably capping the number of permitted deviations

|  |  |  |
| --- | --- | --- |
|  | **Are off-route deviations provided for all riders, not just persons with disabilities?**  **If Yes, answer Questions 2 – 7 below. If No, the system does not qualify as demand responsive and must be evaluated as a fixed route system. The fixed route section of the workbook should be completed. ADA complementary paratransit service must also be provided and that section of the checklist must be completed.** | **Yes  No** |
|  | **Are off‐route deviations provided throughout the defined service area all along the route?** | **Yes  No** |
|  | **Do riders who request deviations pay the same fare as riders who walk to stops to use the service?** | **Yes  No** |
|  | **Do riders who request deviations experience the same “response time” as riders who walk to stops to use the service (i.e., advance reservation for deviations equal to the route headway)?** | **Yes  No** |
|  | **Are off‐route deviations accepted during all days and hours that the service is operated?** | **Yes  No** |
|  | **Do riders who request deviations experience the same “capacity constraints” as riders who walk to stops to use the system (*i.e*., no trip denials, the same on‐time performance and on‐board ride time)?** | **Yes  No** |
|  | **Does the service operate without a substantial number of trip denials?**  **Number of denials in last year: \_\_\_\_\_\_\_** | **Yes  No** |

## 8.7 | Reasonable Modification

Amendments to the ADA regulations at 49 CFR part 37.169(a)(1) require transit agencies to respond to

requests for reasonable modification of policies and practices, and 49 CFR part 37.169(a)(2) requires

agencies to make information about the process for requesting reasonable modifications readily

available to the public. When making this information available to the public, a transit agency must use

the same means it uses to inform the general public about its policies and procedures. For example, if an

agency uses printed media and a website to inform customers about bus and complementary

paratransit services, then it must use these means to inform people about the reasonable modification

process. As stated in the preamble, “like all communications, this information must be provided by

means accessible to individuals with disabilities.”

Further, 49 CFR part 37.169(b) requires transit agencies to provide an accessible means by which

individuals with disabilities can request a reasonable modification. This element of the rule explains that

individuals requesting modifications only need to describe what they need to use the service and do not

need to use the term “reasonable modification” to request such a modification.

Additionally, a new section (49 CFR § 37.17) was added requiring covered entities to implement a formal

complaint procedure, similar to those required for Title VI. This section stipulates that:

“A covered entity must adopt procedures that incorporate appropriate due process standards

and provide for the prompt and equitable resolution of complaints alleging any action

prohibited by this part and 49 CFR parts 27, 38 and 39. The procedures shall meet the following

requirements:

* The process for filing a complaint, including the name, address, telephone number, and email address of the employee designated under paragraph (a) of this section, must be sufficiently advertised to the public, such as on the entity’s Web site;
* The procedures must be accessible to and usable by individuals with disabilities;
* The entity must promptly communicate its response to the complaint allegations, including its reasons for the response, and must ensure that it has documented its response.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Is the subrecipient’s process for making reasonable modification requests readily available to the public and in an accessible format?** | | **Yes  No** |
| * If “yes,”how is this information communicated to the public? **\_\_\_\_\_\_\_** | | |
|  | **Has the subrecipient designated an individual/job position to handle reasonable**  **modification requests?** | | **Yes  No** |
| * If “Yes,” is the individual’s contact information contained on the transit system’s website or otherwise sufficiently promoted to the public? | | **Yes  No** |
|  | **Does the request process for reasonable modification require advanced notice?** | | **Yes  No** |
| * If “Yes,” is there adequate flexibility to accommodate request that would reasonably occur spontaneously? | **Yes  No** | |
|  | **Does the request process require the use of the term “reasonable modification” by the requestor?** | | **Yes  No** |
|  | **Does the subrecipient sufficiently advertise the process for filing an FTA complaint?** | | **Yes  No** |
| * If “yes,” describe the advertising methods**. \_\_\_\_\_\_\_** | | |

# Miscellaneous Provisions Section 9

## 9.1 | Transportation Coordination

Transportation coordination is a process where human service agencies, transportation providers, consumer groups, and public officials work together to develop and improve services for transportation disadvantaged individuals by ensuring that transportation resources funded by different programs are coordinated. Transportation disadvantaged individuals are unable to provide their own transportation as a result of disability, age-related condition, or income. Transportation coordination will:

* Develop and improve transportation options
* Improve access
* Minimize service duplication
* Facilitate appropriate, cost-effective transportation with available resources

Federal transit law, as amended by SAFETEA–LU (2005) and continued in MAP-21 (2012), requires that projects selected for funding under the Section 5310, Enhanced Mobility of Seniors and Individuals with Disabilities Program be “derived from a locally developed, coordinated public transit-human services transportation plan” and that the plan be “developed through a process that includes representatives of public, private, and non-profit transportation and human services providers and participation by members of the public.”

In MAP-21, as in previous legislation, Section 5311 calls for “maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.” FTA and WisDOT expect Section 5311 formula programs to participate in the local planning process for coordinated public transit-human service transportation in those areas applying for funds under S. 5310.

In response to this requirement, WisDOT collaborated with Regional Planning Commission (RPC) planners to develop a coordination planning process and toolkit. <http://www.dot.wisconsin.gov/localgov/coordination/index.htm>

|  |  |  |
| --- | --- | --- |
|  | **Regardless of funding source, does the subrecipient coordinate with others to reduce operating costs, reduce duplication of services, and gain service contracts financed with state and federal funds or to serve more people?** | **Yes  No** |
| Explain further: | |

## 9.2 | Transportation Safety

Section 5329 of Moving Ahead for Progress in the 21st Century (MAP-21) Act requires that all recipients of Federal Transit Administration (FTA) funding develop a Public Transit Agency Safety Plan (PTASP) and certify that the plan meets FTA requirements.

On July 19, 2018, FTA published the [Public Transportation Agency Safety Plan (PTASP) Final Rule](https://www.gpo.gov/fdsys/pkg/FR-2018-07-19/pdf/2018-15167.pdf), which requires certain operators of public transportation systems that receive federal funds under FTA's Urbanized Area Formula Grants to develop safety plans that include the processes and procedures to implement Safety Management Systems (SMS).

The rule applies to all operators of public transportation systems that are recipients and sub-recipients of federal financial assistance under the Urbanized Area Formula Program (49 U.S.C. § 5307). However, FTA is deferring applicability of this requirement for operators that only receive funds through FTA’s Enhanced Mobility of Seniors and Individuals with Disabilities Formula Program (Section 5310) and/or Rural Area Formula Program (Section 5311).

Until new FTA safety requirements are established, states can follow the recommendations of existing FTA guidance. The April 2003 Model Bus Safety and Security Program Memorandum of Understanding (developed under a joint effort by FTA, AASHTO, APTA, and CTAA) recommended the following core elements for all community transportation providers.

Core safety program elements include:

Security Driver/Employee Selection

Driver/Employee Training Vehicle Maintenance

Drug and Alcohol Abuse Programs Safety Data Acquisition and Analysis

The Wisconsin Department of Transportation (WisDOT) requires agencies to provide a Safety Management Policy as a minimum requirement for the Safety Plan. Safety Policy template can be found here: [https://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/compliance/safety-bus.aspx](http://apwmad0p4145:37108/Pages/doing-bus/local-gov/astnce-pgms/transit/compliance/safety-bus.aspx)

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Does the subrecipient have a written safety policy statement?** | | **Yes  No** |
|  | **Does the subrecipient have a written safety plan?** | | **Yes  No** |
|  | **Have safety goals been defined?** | | **Yes  No** |
|  | **Does the subrecipient have a safety/security officer designated?** | | **Yes  No** |
| * Name of person and title: * Describe qualifications and/or training: | |  |
|  | **Have safety roles and responsibilities been defined for all positions?** | | **Yes  No** |
|  | **How are safety hazards identified and risks assessed?**  Describe: | |  |
|  | **Has the subrecipient had an accident or incident requiring one or more of the following within the past year?** | |  |
| Vehicle crash requiring the vehicle to be towed from the scene? | **Yes  No** | |
| Vehicle crash causing driver or passenger injuries, which required medical assistance? | **Yes  No** | |
| * If “yes,” to either above, was the driver determined to be at fault? | **Yes  No** | |
| Was a citation issued to the driver? | **Yes  No** | |
| Were there any moving violations issued to drivers while driving subrecipient equipment, or in the course of subrecipient duties? Explain: | **Yes  No** | |
| Were there any passenger or employee incidents (slip, trip, fall) requiring medical assistance? Explain: | **Yes  No** | |
|  | **Does the subrecipient have safety training requirements?** | | **Yes  No** |
|  | **How is the importance of safety communicated to staff?** Explain: | | |

## 9.3 | Drug and Alcohol Testing Program

Recipients of S. 5311 funds must have a drug and alcohol testing program in place for all safety-sensitive employees. Grant recipients must also certify annually that they are in compliance with the U.S. DOT and FTA regulations concerning drug and alcohol testing (49 CFR § 40 and 655.) Compliance with the regulations is a condition of FTA funding. WisDOT is responsible for passing through drug and alcohol testing requirements; providing technical assistance in understanding and meeting the requirements; and overseeing the drug and alcohol programs of subrecipients and their contractors, subcontractors, and lessees with safety-sensitive employees.

FTA’s rule requires testing of employees who perform a safety‐sensitive function, which is defined in 49 CFR § 655.4. The rule requires the following six types of testing: pre‐employment for drugs (including transfer from a non‐safety‐sensitive position to a safety‐sensitive position); reasonable suspicion; random; post‐accident; return‐to‐duty; and follow‐up.

Applicable regulations include:

* 49 CFR Part 655 “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations”
* 49 CFR Part 40 “Procedures for Transportation Workplace Drug Testing Programs”
* 49 CFR Part 32 “Government-wide Requirements for a Drug-Free Workplace (Financial Assistance)”
* 41 USC Section 701 “Drug Free Workplace Act (DFWA) of 1988”

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Is the subrecipient familiar with the resource information on the Transit Drug and Alcohol website?** [**https://wisconsindot.gov/Pages/doing-bus/local-gov/astnce-pgms/transit/compliance/d-and-a.aspx**](http://apwmad0p4145:37108/Pages/doing-bus/local-gov/astnce-pgms/transit/compliance/d-and-a.aspx) | | **Yes  No** |
|  | **Does the subrecipient and/or its transit provider have a policy that it disseminates to its employees?** | | **Yes  No** |
|  | **What is the date of the Drug and Alcohol Testing Policy?** | |  |
|  | **Did the subrecipient or its transit provider’s governing board/highest ranking official approve the most recent policy update?** | | **Yes  No** |
|  | **Does the policy reflect the most recent regulatory updates to 49 CFR parts 40 and 655 that expands the list of drugs tested under the Opioid category to include:**  **1) Hydrocodone, 2) Hydromorphone, 3) Oxycodone and 4) Oxymorphone and the Amphetamines category, adds MDA and removes MDEA?** | | **Yes  No** |
|  | **Who is designated as the contact person to manage the Drug and Alcohol testing program and answer questions regarding the Drug and Alcohol Policy?** Name: | |  |
|  | **Does this contact person have a backup if he/she is out of the office or is unavailable? If yes, specify the name.** | | **Yes  No** |
|  | **Have the subrecipient and/or transit provider’s transit supervisors responsible for making reasonable suspicion testing decisions all received the required additional training?** | | **Yes  No** |
|  | **What specific job titles has the subrecipient/transit provider determined are safety-sensitive? Explain:** | |  |
|  | **Explain the different circumstances under which you conduct USDOT-FTA post-accident testing, such as pre-employment, random, reasonable suspicion, post-accident, return to duty, and follow-up** | | |
|  | **Are drug and alcohol program records kept in a separate, secure location?** | | **Yes  No** |
|  | **Who has access to the records?** | |  |
|  | **Does the subrecipient and/or its transit provider have records that indicate the following:** | | |
| 1-hour training for all newly hired safety-sensitive employees? | **Yes  No** | |
| Employee information regarding effects of alcohol use and abuse? | **Yes  No** | |
| Reasonable suspicion for supervisors – 1 hour for alcohol and 1 hour for drugs? | **Yes  No** | |
| Evidence of training that includes names, dates and content? | **Yes  No** | |
|  | **Are records being retained per the following schedule?** | |  |
| * 5-years: verified positive, documentation of test results, employee referrals to SAP, and copies of MIS | **Yes  No** | |
| * 2-years: collection records and employee training | **Yes  No** | |
| * 1-year: negative test results | **Yes  No** | |
|  | **Is the subrecipient and/or transit provider familiar with the online Drug and Alcohol training available?** | | **Yes  No** |
|  | **During the hiring process, does the subrecipient and/or transit provider do the following?**   * **Ask drug and alcohol specific questions on the job application** * **Receive a signed statement from the applicant acknowledging of drug and alcohol testing** * **Complete the Release of Prior Employer Information form** | | **Yes  No** |
|  | **Describe the subrecipient’s and/or transit provider’s process for random test selection. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | |  |
|  | **Do the random tests meet the following requirements?**   * **Are the tests spread randomly throughout the selection period (*e.g*., throughout the week, month, quarter)?** * **Are the employees notified only immediately before the test?** * **Are tests spread throughout the service day?** | | **Yes  No**  **Yes  No**  **Yes  No**  **Yes  No** |
|  | |  |
|  | **How many employees are classified as safety‐sensitive? \_\_\_\_\_\_\_\_\_** | |  |
|  | **How many tests were performed?**  **\_\_\_\_\_\_\_ Alcohol (10%) \_\_\_\_\_\_\_ Drug (50%)** | |  |
|  | **Does the subrecipient have any subcontractors who perform safety‐sensitive functions?** | | **Yes  No** |
| * If “Yes,” are all such positions (with the exception of maintenance subcontractors) subject to drug and alcohol testing? | | **Yes  No** |
|  | **How does the subrecipient monitor subcontractor adherence to the regulation? \_\_\_\_\_\_**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  **\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | |  |
|  | **What is the name and contact information of the subrecipient and/or transit provider’s Medical Review Officer (MRO)? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_** | |  |
|  | **What is the name of the DHHS Certified lab used by the subrecipient and/or transit provider? \_\_\_\_\_\_\_\_\_\_\_\_** | |  |
|  | **What is the name(s) of the Substance Abuse Professionals (SAPs) used by the subrecipient and/or transit provider? \_\_\_\_\_\_\_\_\_\_\_\_\_\_** | |  |
|  | **What is the name of the collection site(s) used by subrecipient and/or transit provider?**      \_\_\_\_\_\_ | |  |
|  | **Is the collection site(s) more than 30 minutes away from the base of operations?** | | **Yes  No** |
|  | **Does the collection site(s) provide testing during and after service hours?** | | **Yes  No** |
|  | * If “no,” what is the alternative location for after hour testing? Explain | | |
|  | **Does the subrecipient and transit provider have a Drug Free Workplace Policy?** | | **Yes  No** |

## 9.4 | Labor Warranty

All recipients (and subrecipients) of FTA funding must comply with labor standards detailed in 49 USC 5333. The labor standards involve two parts: prevailing wages and employee protective arrangements. The latter involves the bulk of the requirements.

When federal funds are used to acquire, improve, or operate a transit system, federal law requires arrangements to protect the rights of affected transit employees. The terms and conditions of the protective arrangements are included in the grantee’s contract with the FTA. The requirement to protect transit employees is contained in 49 USC 53333(b) (formerly Section 13(c) of the Federal Transit Act). Projects funded under S. 5311 must satisfy the employee protection requirements of Section 5333(b), but this is accomplished through an expedited procedure administered by the Department of Labor (DOL) and based on the application of the “Special Section 13(c) Warranty”.

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| --- | --- | --- | --- | --- |
|  | **Does the subrecipient maintain a copy of the US Department of Labor Special Section 5333(b) Labor Warranty, as well as the required posting on an employee bulletin board** | | | **Yes  No** |
| * If “yes,” has the warranty been reviewed by Human Resources staff and are the provisions in the warranty understood? | | **Yes  No** | |
|  | **Does the subrecipient have union employees?** If yes, list union: | | | **Yes  No** |
|  | **Has the subrecipient executed the Special Warranty? (only applicable for Other than Urbanized or Over the Road Bus Grants)** | | | **Yes  No** |
| * If “yes,” is the execution current? | **Yes  No** | | |