



Attachment G: COTS Section 5311 Grant

Accounting & Financial
Policies and Procedures

Approved: 8/17/2021

Effective Date: 8/17/2021

Section 5311 Non-urbanized Area Formula Program Federal Funds to Support Non-Urbanized Transit Providers

Introduction

The Oklahoma Department of Transportation (ODOT) is the Governor's designee to apply for, receive and administer federal public transportation financial assistance programs for the non-urbanized area of the state. Among such programs is the Federal Transit Administration's Section 5311-Non-urbanized Area Formula Program. Under this program, funds are appropriated annually and are apportioned to states based on their non-urbanized population and non-urbanized land area. The Federal Transit Administration (FTA) is responsible for administering the Section 5311 Program in the Catalogue of Federal Domestic Assistance is 20.509.

FTA's Circular 9040.1, as revised, provides guidance to the states on the administration and management of the Section 5311 Program. It requires each state to develop a *State Management Plan* (SMP) outlining its policies and procedures for management of the Section 5311 Program. This document has been prepared according to these guidelines and is a consolidation of Oklahoma's policies, procedures, objectives and administrative requirements for the Section 5311 Program. Oklahoma's Section 5311 Application Handbook is incorporated by reference as part of the SMP.

Program Goal and Objectives

Program Goal: To provide transportation services for the people of Oklahoma living in non-urbanized areas so that they may have access to services such as health care, shopping, education, recreation, public services and employment by encouraging the maintenance, development, improvement and use of passenger transportation systems.

Program Objectives: To provide transportation services to the public in the rural and small urban areas of Oklahoma, provide fair distribution of public transportation funds to all areas of the State, to the best of our ability and coordinate the activities of existing and proposed public and private providers of public transportation services.

Roles and Responsibilities

ODOT is responsible for administration of Federal Section 5311 Program Funds as promulgated under Title 730, Chapter 45 of the Oklahoma Administrative Rules. ODOT, as the Governor's designee with regard to the administration of federally funded programs, is charged with the responsibility of actively pursuing available Section 5311 Program funds for the development and maintenance of rural public transportation services and to disburse these funds to eligible local transit operators throughout the State. The responsibility for the administration of these Section 5311 Program funds is vested in ODOT's Transit Programs Division. It is the responsibility of the Transit Programs Division to:

- Distribute information about the Section 5311 Program;
- Provide technical assistance;
- Review and monitor Section 5311 Program sub-recipients; and
- Submit an annual program of projects to the PTA for approval.

At the beginning of each federal fiscal year, PTA publishes in the Federal Register a compilation of the various certifications and assurances. Direct recipients of FTA assistance in the prescribed fiscal year must execute the certifications and assurances. Certifications and assurances ODOT must sign include those applicable to all direct grantees, the special certifications and assurances for the non-urbanized area formula program and all other certifications and assurances to the projects and activities ODOT intends to support with Section 5311 funds, regardless of whether or not the state or its sub-recipients implement the activity.

Coordination

Oklahoma does not have a state process for inter-governmental review of federal programs, therefore the Section 5311 Program grants are not submitted to the state clearinghouse for review. However, the Section 5311 Program is included as an element of ODOT's Statewide Transportation Improvement Program (STIP) and thereby goes through the STIP review process as any other transportation project would.

In an effort to coordinate the Section 5311 Program and the Section 5310 program, which is administered in Oklahoma by the Department of Human Services (DHS). ODOT submits its annual program of projects to DHS for review.

Applicants for Section 5311 Program funding must provide documentation to support their efforts to locally coordinate their proposed transportation services with Human Service transportation providers and public transportation providers. This includes both private for-profit operators and non-profit operators. Efforts to accomplish this would include, but not be limited to written invitations, published invitations, public announcements, sign-in sheets, and notes of public forums.

Eligible Recipients

Eligible recipients of Section 5311 Program funds include non-profit organizations, State agencies, units of local government, such as counties and cities, Indian Tribes and groups and public transportation providers. Private for-profit providers of transit services or intercity bus services may participate through third party contracts with eligible local recipients. For the purpose of this program, "public transportation" is defined as mass transportation by bus, rail or other conveyance, either publicly or privately owned, which provides services to the public, transit provider and contractor as used synonymously.

Eligible Services and Service Areas

Eligible costs and the level of federal participation for these expense categories are discussed in the following sections.

Allowable costs shall be governed by the applicable cost principles as published in Office of Management and Budget (OMB) Circulars:

- State agencies, local governments or Indian Tribal governments will be use the cost principles in OMB Circular A-87 (codified at 2 CFR Part 225);
- Private non-profit organizations will use the cost principles in OMB Circular A-122 (codified at 2 CFR Part 230); and
- Educational institutions will use the cost principles in OMB Circular A-21.

State Administration

The Section 5311 Program allows states to use an amount not to exceed fifteen percent of its annual apportionment for administration, planning and technical activities.

Capital

Capital expenses include the acquisition, construction and improvement of capital transit facilities and equipment for a safe, efficient and coordinated public transportation system. The amount of federal reimbursement for the allowable costs of the facilities and equipment shall not exceed eighty percent (80%) of the net cost. There are, however, two exceptions:

- When vehicle related equipment is purchased solely to comply with the Americans with Disabilities Act of 1990 (ADA); and
- When vehicle related equipment is purchased to comply with the Clean Air Act (CAA).

When either of these conditions exists, the federal reimbursed rate will be an amount not to exceed ninety percent (90%) of the net cost of the ADA or CAA vehicle related components. The cost of the basic vehicle is reimbursed at the rate of eighty percent (80%) of the cost balance or vehicle cost may be calculated for federal reimbursement at an amount not to exceed eighty-three (83%) percent of the total cost of the vehicle. This avoids the complication of determining which costs relate to the ADA or CAA vehicle related components and which costs relate to the basic vehicle.

Examples of eligible capital expenditures include, but are not limited to buses, vans, para-transit vehicles, communication equipment, wheelchair lifts, vehicle rehabilitation and computer hardware and software. Other examples of eligible capital expenditures can be found in FTA Circular 9040.1, as amended.

Project Administrative Expenses

The Section 5311 Program has the option of treating project administrative expenses as a separate category. This allows these expenses to be considered "non-operating" expenses and therefore reimbursable at a rate not to exceed eighty percent (80%) of the actual cost. Eligible project administrative line items will be limited to:

Director Salary
Secretary Salary
Bookkeeper Salary
Fringe, Administrative
Audit
Legal Service
Travel, Administrative

Advertising
Subscriptions/ Membership Fees
Training Program
Office Furnishings
Indirect Cost, Administrative
Alcohol and Drug Testing

Operating Expenses

Eligible operating expenses will be limited to the items listed below and reimbursable at the maximum rate of fifty percent (50%) of the net operating deficit. The net operating deficit is the amount that remains after the farebox revenue is subtracted from eligible operating expenses. Farebox revenue includes fares paid directly by riders and fares paid by riders who are later reimbursed by a human service agency or other user-side subsidy arrangements. Farebox revenue received by a Subrecipient must be reported as such via the ODOT MYLEO-net online reporting program (MYLEO-net). Application of contract revenue is further defined in the following section, LOCAL SHARE AND LOCAL FUNDING REQUIREMENTS. Eligible operating expenses line items will be limited to:

Supervisor Salary
Dispatcher Salary
Clerk Salary
Driver Salary
Mechanic Salary
Fringe, Operating
Travel, Operating
Vehicle Insurance
Insurance, Other
Office/Garage Space
Supplies
Telephone
Utilities

Printing
Postage
Interest Expense
Fuel
Vehicle Maintenance/ Repairs
Building Maintenance/ Repairs
Equipment Maintenance/ Repairs
Indirect Cost, Operating
Fees & Licensing
Transportation Service Agreements
Vehicle Service Agreements
Equipment Service Agreements
Miscellaneous

Local Share and Local Funding Requirements

At least one-half of the local Match for net operating, capital and administrative expenses, must be provided in cash or cash equivalent. Examples of local share funds are local appropriations, dedicated tax revenue, income generated from purchase of service contracts, and the profit generated from incidental charter services. The remainder of the local share may include unrestricted federal funds other than FTA sources of funding, such as Community Service Block Grants (CSBG) and Community Development Block Grants (CDBG).

To encourage coordination among Federal agencies that provide transportation services, the Safe, Accountable, Flexible, Effective Transportation Equity Act - A Legacy for Users (SAFETEA-LU) states that "nonfederal" match must be provided from different sources, including amounts available to a department or agency of the federal government, other than the Department of Transportation (except for Federal Lands Highway funds which may be used as match).

The applicant must identify sources of local funding. Letters of commitment from these funding sources must be incorporated into the application. If the applicant plans to use unrestricted funds from other federal programs as part of the local match, it will be the responsibility of the applicant to contact the funding agency and obtain, in writing, authorization to apply their funds as local match to the Section 5311 Program.

Examples of State funds eligible for use as a local match include, but are not limited to, the State Public Transit Revolving Fund and the Oklahoma Department of Commerce's Anti-poverty funds.

Project Selection Criteria

ODOT uses a discretionary method for project selection. Criteria for selecting projects include:

- The lack of an existing public transportation provider within the purposed service area;
- Effort to coordinate with other public transportation providers and inclusion of community efforts for human service transportation planning;
- The project scope;
- Managerial and operational capacity of the applicant with regard to operating an open to the public transportation system; and
- Willingness to serve the general public's needs.

ODOT receives the applications and reviews them for correctness of format and completeness. A proposed project is evaluated for content. The financial support listed by the agency is assessed to determine the applicant's ability to meet the local match requirement. A resolution of the governing body of the applicant pledging financial support of the project must

accompany an application. Letters of commitment from potential funding agencies must be attached. It is the responsibility of the applicant to determine that funds from a certain source are eligible as match for federal Section 5311 Program funds.

Before executing a contract, personnel from ODOT's Operations Review and Evaluation Division will perform a pre-award audit. The purpose of this audit is to determine the applicant's capability to maintain records that meet generally accepted accounting standards and their ability to meet the program's fiscal requirements. If the applicant is an existing sub-recipient and has a good record of having no audit findings for the previous periods, ODOT may consider a pre-award audit unnecessary.

Central Oklahoma Community Action Agency (Sub-Recipient) Responsibilities

Civil Rights

The Transit Programs Division will coordinate all civil rights issues with ODOT's Office of Civil Rights. This office has department-wide responsibility for ensuring the compliance of Title VI, Equal Employment Opportunity and Disadvantaged Business Enterprises. ODOT will comply with all federal rules and regulations regarding civil rights laws. The three areas of Civil Rights requirements with which sub-recipients must be familiar and comply are:

- Title VI (of the Civil Rights Act of 1964): Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, and national origin. Related law further prohibits discrimination on the basis of age or gender. Sub-recipients receiving funds or goods from the Federal government through ODOT are required to submit certain information to the Transit Programs Division annually to track compliance with these laws. These requirements are:
 - Title VI Complaint Procedures: Sub-recipients shall develop procedures for filing a Title VI complaint;
 - Record Title VI Investigations, Complaints or Lawsuits: Sub-recipients shall prepare and maintain a list of any active investigations conducted by entities other than PTA, lawsuits or complaints naming the sub-recipient that allege discrimination on the basis of race, color or national origin.
 - Provide Meaningful Access to Services by Limited English Proficient (LEP) Persons: Sub-recipients shall take reasonable steps to ensure meaningful access to the benefits, services, information and other important portions of their programs and activities for individuals who are Limited English Proficient (LEP).
 - Notify Beneficiaries of Protection Under Title VI: Sub-recipients are required to disseminate a notice that it complies with Title VI and procedures the public may follow to file a discrimination complaint.
 - Promote Inclusive Public Participation: Sub-recipients shall provide a summary of public outreach and involvement activities undertaken and a description of steps taken to ensure that minority persons had meaningful access to these activities.

- Equal Employment Opportunity (EEO): Section 19 of the Federal Transit Act states that "No person in the United States shall on the grounds of race, color, creed, national origin, gender, or age be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part through financial assistance under this Act. The provisions of this section shall apply to employment and business opportunities, and shall be considered to be in addition to and not in lieu of the provisions of Title VI of the Civil Rights Act of 1964."

ODOT is responsible both for its own compliance (managed by the Office of Civil Rights) and for ensuring that sub-recipients are in compliance with the EEO. The threshold for compliance is receipt in the previous fiscal year of \$1 million or more in FTA assistance, and fifty or more mass transit-related employees. The Transit Programs Division may require documentation from any sub-recipient as it deems necessary to ensure that they do not discriminate on the basis of race, color, creed, national origin, sex, age or disability.

ODOT's EEO plan has been reviewed and is approved by the FTA.

- Disadvantaged Business Enterprise (DBE): Sub-recipients who intend to receive Section 5311 Program funds must have an approved DBE Program as directed by 49 CFR Part 26, as amended. This requirement is described in more detail within the Section 5311 Application Handbook. The Transit Programs Division will assist all sub-recipients who are seeking Section 5311 Program financial assistance in obtaining technical assistance from the Office of Civil Rights in establishing EEO and DBE plans, as necessary. Compliance by sub-recipients will be evaluated during periodic on-site monitoring visits.

Maintenance

It is important that vehicles, equipment and facilities be maintained in good working order. Central Oklahoma Community Action Agency shall follow the manufacturer's recommended maintenance schedule for Section 5311 funded property including vehicles, wheelchair lifts and other accessibility equipment. Central Oklahoma Community Action Agency shall have a documented maintenance policy and plan with specific goals and objectives.

Vehicle maintenance involves two major components: Preventive maintenance and the repair function, both of these should be monitored through a maintenance management system, which could range from a paper file on each vehicle to a computerized program utilizing specialized vehicle maintenance software. A computerized preventative maintenance management program has been developed to assist operators in maintaining vehicles. The Transit Programs Division makes the software and instructions available, without cost, to the Sub-recipients. Preventive maintenance activities should include daily pre-trip inspections by the vehicle operators, including daily checks of wheelchair lifts and associated accessibility equipment.

Charter Rule

FTA's charter regulations, as outlined in CFR 49 Part 604, are the governing regulations for establishing a sub-recipient's ability to provide charter service. Sub-recipients proposing to provide charter service must publish an annual public notice seeking a willing and able private operator to provide the proposed charter service. An example notice is provided in the appendix of the Section 5311 Application Handbook. Charter service regulations provide for the following six exceptions:

1. Sub-recipients business: This allows sub-recipients to transport their employees, employees of other transit systems, management officials, contractors, prospective contractors or official guests to inspect, evaluate or review transit projects or facilities in the sub-recipient's service area (or proposed service area).

Emergency preparedness: This allows sub-recipients to transport their employees, employees of other transit systems, management officials, contractors, prospective contractors or official guests for emergency preparedness planning and operations.

Emergency response: This allows sub-recipients to respond to emergency situations, whether declared by federal, state, or local officials, or take immediate actions necessary prior to a formal declaration for the first forty-five (45) days of the emergency situation (continuation past the forty-five (45) day mark will require formal FTA concurrence).

Rural training: This allows rural sub-recipients to transport their employees and contractors beyond their normal service areas for training.

Government business: Under this exception, sub-recipients may provide up to eighty (80) hours per year (total service hours, even where a sub-recipient supports multiple government bodies) of service in support of government business (e.g., the City Council visiting a new sewage treatment plant site payment for services) under the exception (except where laws require some payment such as ethics rules).

2. Services provided to a Qualified Human Service Organizations (QHSO) - Whether qualified through one of the sixty-four (64) federal programs or by registering at the web site, QHSO's are eligible for free or reduced price services under this exception. There is no hourly limit.
3. Leasing equipment to a Registered Charter Provider (RCP) - This exception allows sub-recipients to lease equipment/ drivers to private providers, but only when all of the private equipment of all the RCP's self-identified as providing service in the sub-recipient's operating area has been exhausted. Although similar to the prior provision allowing leasing, this new provision requires the RCP to certify that all the "available vehicles of all RCPs in the sub-recipient's geographic service area" and the sub-recipient to "verify that [this] certification is accurate" by counting up all of the equipment of the equipment of all RCPs in the area. There is no explanation in the rule of how the sub-recipient could confirm that the other RCPs were otherwise engaged or what this count would be expected to show. Nor is there any indication of how FTA will treat an RCP that is simply not interested (e.g., a provider that signs up in City A although it works primarily many miles away in City B and would only want to take business in City A that is significant enough to justify a long move).
4. No RCPs respond to notice - This is the latter portion of the old "willing & able" exception. When a sub-recipient is asked to provide charter service that is not subject to an exception and wishes to do so, the sub-recipient consults the FTA internet site to get a list of RCPs in the geographic service area. The agency notifies the RCPs of the request for service by e-mail (and fax if the e-mail is undeliverable) and must wait for responses:

seventy-two (72) hours for service to be provided within thirty (30) days; fourteen (14) days for service proposed more than thirty (30) days out.

If no RCP notes an interest in providing the service, the sub-recipient is free to do so. As under the old rule, if any RCP notes an interest in providing the service, the sub-recipient may not provide it - even if the customer and RCP never come to agreement.

5. Agreement with all RCPs in the area - As in the earlier version of the regulation, a sub-recipient may enter into an agreement with all of the RCPs registered in its geographic area. These agreements can allow any lawful use of sub-recipient equipment without regard to the regulation as long as all agree. A change from the earlier regulation, however, limits application of the agreement. A new RCP can register in the geographic service area at any time and, unless they join the agreement, the agreement expires ninety (90) days after the new RCP signs up. Also, any party can back out of an existing agreement and, once again, it would expire ninety (90) days after the notice.
6. Petitions to the Administrator - The new rule recognize the FTA Administrator's inherent authority to waive or modify the rule and provide circumstances where that might happen. There is a list of required information to be submitted in section 604.11. The first instance is for events of national or regional significance. The regulation requires, among other things, that the sub-recipient certify that all RCPs in the area have been "exhausted". It is again unclear how a sub-recipient would account for the equipment of RCPs. The second instance is for hardship and is applicable only in rural or smaller urban areas and defined as deadhead time that exceeds the total trip time. The third instance is for "unique and time sensitive events". Discussion in the original Notice of Proposed Rulemaking (NPRM) centered on events such as presidential funerals but the only unique requirement in the final regulation is to note how the event is unique or time sensitive and why service would be in the public interest.

Section 504 and Americans with Disabilities (ADA)

On September 6, 1991, the U.S. Department of Transportation (US DOT) published final regulations implementing certain provisions of the Americans with Disabilities Act of 1990 (ADA). Included in these regulations is a requirement that public entities operating fixed route transportation service for the general public must also provide complementary para-transit service to persons unable to use the fixed route system. The regulations specify:

- When this service is required;
- Eligibility criteria for para-transit services;
- The level of service which must be provided; and
- Standards for certain aspects of operation.

Section 504 of the Rehabilitation Act of 1973, requires Central Oklahoma Community Action Agency to provide transportation services to disabled persons. The transportation service must be reasonable in comparison to the service provided to the general public and must meet a significant fraction of the actual transportation needs of such persons within a reasonable time. To promote compliance with this requirement, Central Oklahoma Community Action Agency must have eight-five (85) percent of their vehicle fleet in compliance with ADA. Standard vehicles may be purchased only after this threshold has been met and justified on a case-by-case basis.

Central Oklahoma Community Action Agency must ensure that disabled persons and groups representing them have adequate notice of and opportunity to comment on the present and proposed activities of the Agency.

Central Oklahoma Community Action Agency must submit monthly reports (ODOT Forms 01 & 02) showing the number of riders and elderly riders served. The report divides the ridership into classifications which include total passengers, persons with disabilities and the elderly. The definition of who qualifies as a person with disabilities is established in the ADA Paratransit Handbook. The definition of who qualifies as an elderly person is established by the local operator.

ODOT monitors Central Oklahoma Community Action Agency compliance under ADA through periodic monitoring visits. Every three years the Agency must submit a report to ODOT including the following information:

- A description of the service currently provided to disabled persons as compared to the service for the general public;
- Any significant modifications made in the service since the previous report or modifications planned for the next three-year period;
- Copies of a summary of the comments on any significant changes made in the service since the previous report; and
- A description of the resources that have been devoted to service for disabled persons each year since the previous report and who's proposed to be devoted to this purpose in each of the next three years.

Fiscal Responsibilities for 5311grant

Contracting

ODOT's contract with Central Oklahoma Community Action Agency cannot exceed a period of 1 year.

Audits

Each sub-recipient who expends a cumulative amount of more than \$500,000 in Federal funds must conduct an annual agency-wide audit as outlined in OMB Circular A-133. This annual audit must be submitted to ODOT for review and approval within the earlier of thirty (30) days after receipt of the auditor's report(s), or 9 months after the close of the fiscal year. If the sub-recipient does not meet the \$500,000 threshold, an annual audit shall be submitted under the same time lines. ODOT will conduct program compliance audits as deemed necessary to aid in determining if the sub-recipient is managing the project according to applicable laws and regulations.

Accounting System

Personnel from ODOT's Operations Review and Evaluation Division will conduct pre-award audits on all newly funded sub-recipients to determine if an applicant's accounting system conforms to Generally Accepted Accounting Procedures. The pre-award audit will also be used to help determine the sub-recipient's ability to conform to the requirements of the State Auditor's and Inspector's Office and with ODOT and Federal requirements. Technical assistance is available from ODOT to aid applicants in establishing a proper accounting system.

Assignment of a Claim

ODOT does recognize that a financial hardship could be placed on some sub-recipients when they must pay for expenses such as the purchase of vehicles or payment for vehicle insurance. In these instances, the sub-recipients may file an assignment of the claim. This process allows the sub-recipient to pay to the vendor their required local share only and assign payment of the Federal balance directly to vendor. The Transit Programs Division has established the following procedure for the Assignment Claim:

The assignment of a claim is limited to major single purchases with a minimum cost of \$1,000.00

- Upon delivery and acceptance of the goods or services, the sub-recipient pays directly to the vendor the required local share;

- The sub-recipient will file an assigned claim for the federal share, which ODOT will pay directly to the vendor. The assigned claim must include:
 - o An executed and notarized claim form;
 - o The sub-recipient's original invoice to ODOT;
 - o A copy of the notification of award of bid and amount of award or a copy of the purchase order; and
 - o A copy of the vendor's invoice to the sub-recipient.

Grant Closeout

ODOT will begin grant closeout procedures within ninety days of having a zero balance on an FTA grant. All closeout documents will be forwarded to FTA within the required ninety days following initiation of a grant closeout. If the final audit is not available at the end of closeout procedures, it will be forwarded to FTA as soon as it is available.

Reporting

All statistical and financial data will be submitted electronically via MYLEO-net. Each sub-recipient is required to enter data from daily driver's log sheets, as listed on ODOT's "Data Intake Forms 01 & 02." This data will be used to compile statistical ridership data for each project. Monthly financial data will be used by the Transit Programs Division to generate the monthly reimbursement claims. This financial data will include all actual project expenses. When necessary ODOT will request that supporting documentation be mailed to the ODOT office. Each sub-recipient must also report the amount of intercity bus service it provides. The process for identifying intercity bus service is described in the Section 5311 Application Handbook. All drivers log sheets must be signed by the driver and retained by the sub-recipient for a minimum of three years after the end of the applicable program year. Failure to maintain such records will deem the report for the effective period as ineligible.

Reports that are required to be submitted monthly are: reimbursement claims for eligible expenses, trip statistics, and the amount of intercity bus service provided.

All claims for the reimbursement of any non-expendable item with a useful life of over 1 year and unit cost of \$100 or greater, or any capital item, must include an inventory management data form for each item purchased. This includes, but is not limited to, items such as vehicles, radios, typewriters, calculators, desks, file cabinets, etc. Inventory management data forms will be supplied by the Transit Programs Division.

Monitoring and Evaluations

ODOT conducts on-site project evaluations and compliance reviews of each sub-recipient's management, and operations. A written report of the monitor's findings is prepared and presented to the sub-recipient. This report denotes any administration or operating services

that are excellent and/or program weaknesses. ODOT conducts two types of on-site project evaluations:

- Project Assessment - A review as to how the sub-recipient is addressing key points of FTA's administrative and operational rules and regulation. The assessment can be conducted by one person during a one day visit, two days for multi-county projects.
- Project Management Review - An in-depth review of the sub-recipients administration and operations. A broad field of FTA program requirements and rules are reviewed. The Project Management Review is conducted by two to three persons over two to three days, four days for large multi-county projects.

A Project Assessment or Project Management Review is conducted as deemed appropriate. However, each sub-recipient will be evaluated quinquennially, at a minimum.

Performance Standards

ODOT has adopted standards to evaluate a sub-recipients performance to determine the level of funding at which it will participate. These standards are outlined in Section 19 Apportionment of Funds. Evaluations are used to determine reasonableness of the line items, such as office space costs. Should an expense against any line item be deemed as inappropriate, Transit Programs Division personnel will meet with the sub-recipient to negotiate an "amount not to exceed." These comparisons are also based on costs of specific expenses of units of service delivered. ODOT personnel will also work with the sub-recipient to determine what steps might be taken to either cut costs or increase service.

Procurement

All procurements and third party contracts shall meet FTA Circular 4220.1, as amended, and other Federal and State laws pertaining to the expenditure of public funds. Prior to execution, sub-recipients must submit to ODOT, for approval, all third party contracts for the procurement of goods or services which involve the use of Section 5311 Program funds.

Procurement of Capital and Non-expendable items

The following procedures apply to the procurement of all capital and non-expendable equipment. It should be noted that all federal regulations, regardless of the amount of the purchase, apply to all procurements. This includes, but is not limited to, Pre-award and Post-delivery Audit of Rolling Stock Purchases, Bus Testing Program, Buy America Act, Equal Employment Opportunity Requirements, Disadvantaged Business Enterprise Program Requirements and Title VI Program Requirements.

The Buy American Act applies to any procurement with an aggregate cost of \$100,000 or more. The FTA Circular 9040.1, as amended, applies to any purchase of capital equipment.

BUY AMERICA, Section 165 of the Surface Transportation Assistance Act of 1982 provides that, with exceptions, Federal funds may not be obligated for mass transportation projects unless steel and manufactured products used in such projects are produced in the United States. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) adds iron to the list of commodities covered. Section 5311 Program recipients must conform to FTA regulations CFR parts 660 and 661, and any amendments thereto. Buy America requirements apply to all purchases over \$100,000, including materials or supplies funded as operating costs. Requests for Buy America waivers must be submitted to the FTA for approval.

There are four exceptions to this basic requirement:

1. The requirement will not apply if its application is not in the public interest;
2. The requirement will not apply if materials and products being procured are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.
3. The requirement will not apply in a case involving the procurement of buses and other rolling stock (including train control, communication, and traction power equipment) if the cost of components and sub-components which are produced in the United States is more than sixty percent of the cost of all components and sub-components of the vehicle of equipment, and if final assembly takes place in the United States.
4. The requirements will not apply if the inclusion of domestic material will increase the overall project contract by more than twenty-five percent.

Each bid solicitation should include a Buy America Certificate for execution, and a properly executed Buy America Certificate must be obtained from each vendor for each purchase of over \$100,000 that involves Federal funds. This certificate should be retained in the sub-recipients procurement files. If a vendor's product does not meet Buy America requirements, a waiver must be obtained from FTA prior to completing the purchase.

In general, capital eligibility is the same as for other FTA capital programs, where FTA allows certain costs to be Capitalized or treated as operating expenses. Capital expenses include the acquisition, construction and improvement of public transit facilities and equipment needed for a safe, efficient and coordinated public transportation system. For clarification regarding a purchase that may be of question, refer to FTA Circulars 9040.1 and 9300.1, as amended, or contact the Transit Programs Division office. Capital equipment purchases which includes items with per unit cost of \$500 or greater, is programmed as a capital line item. Non-expendable equipment items with a cost of \$499 or less will be programmed as an administrative or operational line item. All purchases of capital and non-expendable equipment with a useful life of over one year, and a unit cost of \$100 or greater, must be reported to the Transit Programs Division office using the inventory management data form.

Capital Equipment

Prior to issuing a purchase order, Central Oklahoma Community Action Agency will coordinate with the procurement of capital items by notifying the Transit Programs Division, in writing, of their intent to make a capital purchase. The notice of intent will include:

- A statement affirming that the item(s) are programmed under the Agency's currently approved application for capital equipment.
- A description, quantity and estimated purchase price of the equipment to be purchased; and
- A certification that the necessary local match has been deposited in the Agency's regular banking account and that these monies will be used exclusively to purchase the requested equipment. Refer to the example at the end of this section.

If the request is for transit rolling stock and the vehicle(s) will not be equipped with a wheelchair lift, the Agency's notice of intent must also include a certification to ODOT that:

- The transportation services provided by the Agency is meeting the transportation needs of persons with disabilities within its service area and that the Agency is in compliance of the Americans with Disabilities act of 1990; and
- The vehicle(s) requested will not be used in a fixed route mode.

After the transit Programs Division has determined that the required documentation has been submitted and an appropriate amount of funds has been programmed; a notice to proceed will be sent to the Agency. The following steps should be used to complete the procurement:

- If the equipment is on state contract:
 - o A copy of the state contract pertaining to the equipment requested will be forwarded to Central Oklahoma Community Action Agency;
 - o The Agency will deal directly with the vendor and all purchases will be shipped directly to Central Oklahoma Community Action Agency;
 - o The Agency will issue its purchase order directly to the designated vendor. When issuing the purchase order, extra care should be taken to ensure that the equipment requested is clearly specified and that all related contract numbers are included;
 - o The Agency should also take extra care to ensure that FTA's Pre-award audit requirements and all the special provisions and assurances have been properly executed before finalizing the purchase; and
 - o When the equipment is delivered, the Agency must conduct a post-delivery audit to confirm that the items are delivered as specified.
- If the item(s) requested are not on state contract and the procurement is more than \$25,000, the Agency must use a competitive bid process through the Oklahoma

Department of Central Services, Central Purchasing Division (Central Purchasing) competitive bid procedure, unless otherwise authorized by ODOT in writing. This procedure will also apply to the procurement of any item(s) that vary from those available on state contract and is as follows:

- o The Agency will make a request for bids through Central Purchasing;
 - o The Agency will develop specifications that clearly and precisely define the equipment that is being requested. This effort should be coordinated with the Transit Programs Division;
 - o The Agency will prepare and submit a purchase requisition and equipment specifications to Central Purchasing;
 - o Central Purchasing will solicit and receive bids for the equipment requested and will advise the Agency as to the lowest and best bid;
 - o If the Agency is in agreement with the outcome of the bid solicitation, it will advise Central Purchasing to award the bid; and
 - o If the Agency is not in agreement with the outcome of the bid solicitation, it should advise Central Purchasing to cancel the bid and start the process over.
- If Central Oklahoma Community Action Agency has been authorized, in writing, by ODOT to use a local bid process and the procurement is estimated to cost more than \$25,000, the Agency shall develop specifications that clearly and precisely define the equipment that is being requested. This effort should be coordinated with the Transit Programs Division as follows:
 - o Advertise its request for bids using local newspaper and industry periodicals, as applicable. The Agency will purposely include publications directed to minorities;
 - o Allow prospective bidders thirty (30) calendar days to submit their bid; analyze each bid received by conducting a pre-award audit;
 - o The Agency will award the bid to the lowest and best responsive bid based on a fair and comparative analysis of the bid proposals submitted; and
 - o The Agency must have, at a minimum, two responsive bids before it can make a decision to award the bid.
 - If the equipment is not on a state contract and the cost is estimated at \$25,000 or less, Central Oklahoma Community Action Agency shall:
 - o Coordinate the procurement with the Transit Programs Division;
 - o Develop specifications or standards that clearly and precisely define the equipment that is being requested;
 - o Solicit written price quotes from at least two vendors;
 - o Maintain a record of all bid solicitation activities;
 - o Award the contract to the lowest and best bid based on a fair and comparative analysis of the bid proposals. The Agency must have, at a minimum, two responsive bids before it can make a decision to award the bid; and
 - o Issue a purchase order to the successful vendor using the Agency's procurement procedures.

Note: It is the responsibilities of the purchaser to ensure that all special provisions and assurances are properly executed before finalizing any purchase. The Agency is Financially responsible for

the payment of all purchases. To help ease the financial burden of paying one hundred percent (100%) of the cost of major purchases and waiting for reimbursement of the federal share, ODOT will accept assigned claims that are for \$1,000 or more. The process for filing an assigned claim is outlined in the preceding section "Assignment of a Claim".

All equipment purchases are to be delivered directly to the Agency unless otherwise designated. Transit Programs Division personnel will oversee the bid process and delivery of all vehicles. They will assist the Agency during the bid review and delivery of the vehicles. They will ensure that all required certifications and assurances relative to the purchase have been executed. The ODOT reviewer will secure a copy of all documents relative to the procurement and bring them to the Division office for filing. Division personnel, who did not participate in the on-site post-delivery audit, will perform a secondary review by conducting a desk review of the documents to determine that all requirements had been met and that all documents relating to the purchase are on file at ODOT.

EXAMPLE

Certification of Local Match

Central Oklahoma Community Action Agency hereby certifies that it has, on deposit at a financial institution, the necessary local matching funds in the amount of \$_____ to pay the required local matching share for the item(s) as outlined in our notice of intent dated _____. Said funds will remain on deposit for the exclusive use to pay for said item(s) once delivered.

Signature

Date

Title

Other Provisions

The U.S. Department of Transportation imposes certain compliance provisions on recipients of Section 5311 Program funds. FTA does not review assurances made by individual applicants but requires ODOT to assure that certain requirements have been met. In order to make these assurances, ODOT requires that Central Oklahoma Community Action Agency sign assurances relating to compliance with Civil Rights, Disadvantaged Business Enterprises, Disabled Accessibility, Labor Protection, Drug and Alcohol Testing Program and other assurances as contained in Section "G" of the *Section 5311 Application Handbook*.

Additional Provisions

The following policies have been adopted by ODOT:

- Driver's License: A driver's license is a reimbursable expense only for volunteer drivers.
- Communications Equipment: Citizen Band Radio's (CB's) are not eligible items for reimbursement nor is the maintenance of such equipment. Installation charges for UHF and VHF equipment will be considered as part of the procurement cost.
- In-Kind Contributions: The value of donated personal services, materials, equipment and building space must be clearly identified and documented.
- Real Property: Any Agency wishing to use office, warehouse or garage space as a program cost or local match must request, in writing, an appraisal of the space from ODOT. The request must indicate the exact location(s) and describe the Section 5311 Program activities for which the space will be utilized. Requests for appraisal must include a drawing with dimensions of each office area the Agency would like appraised. ODOT appraisers will prepare a market analysis and determine a fair market value for the space. If the area(s) are shared by other agency programs, a methodology showing the division of the space cost and how much will be charged to the 5311 program must be provided. If the Agency will occupy real property acquired from a third party, either by donation (in-kind) or actual rental, ODOT's appraised value will set the maximum amount eligible as an expense to the project. Real property owned by the contracting Agency is not considered donated (in-kind) space. The contracting Agency may claim actual cost for real property that is used by the Agency's 5311 program. The method for determining actual cost must be submitted to ODOT for approval. Depreciation is not allowable for calculating actual cost for properties acquired with federal funds. If the structure occupied by the Agency's 5311 program was originally build with federal funds, the cost to occupy the space is not an eligible expense for the Section 5311 Program.
- Contract Revenue: Revenue generated through contracts with social service agencies and businesses for the express purpose of transporting their clients and/or employees, even if the client(s) are listed by name within the contract, need not be reported as "farebox revenue", but may be counted as contract services and used as local match for Section 5311 Program activities. All Section 5311 Program charter regulations apply, and no operational deficits may be reimbursed with Section 5311 Program funds. All profits earned from charter service must be applied to the promotion and development of the transit service.
 - o All profits earned from advertising services provided by the Agency, such as signs on the vehicles and bus benches, must be applied to the promotion and development of the Agency.
 - o All revenue generated through contract with the populace, for transportation services performed on behalf of an individual shall be regarded as fare box

revenue and shall be reported as such by deducting the amount received from the project's gross operating expenses.

- Three Year Plan: Central Oklahoma Community Action Agency must involve the general public in developing a "Three Year Plan." Public planning meetings should be held and minutes of the meetings retained for documentation. A sign-in sheet should be a part of the minutes. The plan must include efforts to coordinate transportation services with the other Federal, State, and local agencies.

As the costs associated with the operations of the Agency increase, financial planning for the program must extend beyond a single year. An increasing demand for new vehicles, expansion of services and requests for technical and administrative assistance is already evident. It is in the best interest of rural public transportation to plan for the future now. At a minimum, the "Three Year Plan" should include:

- o An outline of proposed transit activities, including additions to services or **service area;**
- o Requests for new vehicles by type; and
- o Major changes in administration, or an annual program budget.

The "Three Year Plan" will be a continuing planning document and will be required with the program's second year and each subsequent year's application/proposal. The "Three Year Plan" should be prepared and submitted as a separate document. Like all planning tools, this document should be flexible enough to adapt to changes that may occur.

- Training Program: Eligible expenses include only those costs that are directly associated with transit operations and administrative functions. These expenses require written approval from ODOT to be considered an eligible expense for Section 5311 funding.
- Dependent Insurance Coverage: Dependent insurance cost is not an eligible program cost.
- Volunteer Labor: The value of volunteer labor will be based on the rate approved in the budget for that service. Personnel services will be reimbursed limited to the value of the services rendered, and not at the value of the expertise of the person performing the service or on the basis of duties performed in another capacity. (Example: The local school superintendent drives the bus in the summer. The value of that work is based on the hourly wage of other drivers in the transit program, and not on his/her regular salary as a school official.)
- Shared Employee: If a paid employee works for more than one program operated by the Agency, the pay rate for the transit service employee will reflect only the value of like or similar service performed for the transit service. (Example: If the employee works half time as a foreman in the weatherization program and half time as a dispatcher for the transit service, the rate for the time spent dispatching should be comparable to other

dispatchers. The rate for dispatchers will be set in the line item justification of the program budget.)

- Interest: Interest on short-term loans (ninety days or fewer) is an eligible expense only when the Agency experiences a delay in receiving reimbursement from ODOT. The loan may cover operating and project administration expenses. The Agency should coordinate with the Transit Programs Division prior to obtaining such a loan. Interest on money borrowed to meet the Agency's local match requirement is not an eligible reimbursable expense.
- Non-Expendable Equipment: When purchasing non-expendable equipment, the Agency must follow the same procedures as outlined for capital procurements with the exception that they do not need to obtain a notice to proceed from the Transit Programs Division. Non-expendable equipment is defined in ODOT policy as "...items costing less than \$500 and not immediately consumed when placed in use. May also include inexpensive office equipment and furniture type items costing less than the above limit..." Examples of non-expendable equipment are letter trays, waste baskets, staplers, etc.
- All drivers of vehicles designed to transport sixteen or more passengers (including the driver) must have a Commercial Driver's License (CDL). Mechanics, program directors or other staff members who drive such vehicles must also have a CDL even though driving such vehicles may be uncommon.

Property Management and Disposition

Upon receipt of the vehicle(s), Central Oklahoma Community Action Agency is required to secure minimum levels of liability, collision and comprehensive vehicle insurance. (See Insurance section that follows):

Vehicle(s) acquired with Section 5311 Program funds shall be titled in the name of the Agency. The Agency will, at the time of registering the vehicle, name the Oklahoma Department of Transportation as first lien holder. ODOT will provide to the Agency a "Lien Entry Form" which will be presented to the tag agent when registering the vehicle.

When registering a new vehicle, the "Date of Security Agreement" section of the lien will be the date ODOT executes the current contract. When registering a vehicle which has been transferred from another Agency, the "Date of Security Agreement" section of the lien will be the date of the "Receipt of Transfer."

For the purpose of this program, the useful life of all vehicles, office furnishings and other equipment, with the exception of medium duty transit buses such as the city streetcar replica or forty foot buses, shall be 7 years or 200,000 miles. When the useful life has been reached, there is no longer a Federal interest in the equipment. After receiving a completed Request for Disposal of Equipment Form along with the justification for its sale, ODOT may, at its discretion, permit the Agency to sell the equipment and retain all proceeds for the purpose of

continuing and/or enhancing the program. Such funds may be used as local match for project expenses.

Note: Mileage for charter services must be deducted when determining useful life.

In the event that an Agency withdraws or is excluded from the Section 5311 Program, the following procedures (with prior approval from ODOT) will be used to dispose of all equipment acquired with Section 5311 Program Funds:

- If the equipment has not exceeded its useful life as defined above:
 - o The Agency may contact other sub-recipients operating in the State and negotiate a fair market value for the equipment. The withdrawing agency will be paid its local share equity in the equipment by the receiving sub-recipient; or
 - o The Agency disposing of the equipment may sell the equipment at public auction or by solicitation of sealed bids from all interested parties. The Agency would retain the local share equity of the sale price and return the balance to FTA; or
 - o The Agency may choose to retain the equipment by repaying to ODOT FTA's pro rata share of the equipment's fair market value.

- If the equipment has exceeded its useful life as defined above:
 - o ODOT may permit the Agency to keep the equipment if it can demonstrate that the equipment will be used for other acceptable mass transit purposes; or
 - o ODOT may instruct the Agency to sell the equipment at public auction or by solicitation of sealed bids from all interested parties. The Agency would retain the local share equity of the sale price and return the balance to ODOT.

If ODOT determines that any piece of equipment is serviceable and another Agency is willing and able to buy the equipment, the withdrawing Agency will be directed to contact the other Sub-recipient and negotiate a fair market value for the equipment. The withdrawing Agency will be paid its local share equity in the equipment by the receiving sub-recipient.

To establish the fair market value of the equipment, with the exception of vehicles, either the straight line depreciation method or "a statement of estimated value" from an industry vendor may be used. To establish the fair market value of vehicles, ODOT may use, at its discretion, the "average loan value" as stated by the National Automobile Dealers Association's Official Used Car Guide or other such industry periodical, a "statement of estimated value" from an industry vendor or the straight line depreciation method by applying the percentage of the vehicle's remaining useful life by mileage or years to the purchase price of the vehicle.

ODOT must give its approval regarding any action taken to dispose of any equipment purchased with Section 5311 Program funding.

Insurance

Central Oklahoma Community Action Agency is required to secure liability, collision and comprehensive vehicle insurance. Minimum amounts of coverage shall be:

Liability	Bodily Injury Property damage Claimants & arising out of a Single occurring accident	\$ 175,000 each person \$ 25,000 each occurrence \$1,000,000 each occurrence
Comprehensive		Deductible to be determined by local operator
Collision		Deductible to be determined by local operator

Grievance Procedure

Questions concerning the fairness of local procedures and decisions must first be addressed at the local level. Central Oklahoma Community Action Agency must develop a mechanism, preferably independent of agency personnel, to address disputes arising from its public transportation service. This procedure must be addressed in the grant application as outlined in Section G of the Section 5311 Application Handbook.

Complaints which cannot be resolved at the local level shall be forwarded, in writing, to the Transit Programs Division. A meeting will be scheduled (not more than ten working days after receipt of complaint) between the Agency and the complainant, at which, the Transit Programs Division will work with the parties in an attempt to resolve the conflict. If the conflict cannot be resolved at this level, the matter will be forwarded to the Deputy Director of ODOT who will review the proceedings and make a final decision for ODOT. The FTA Region VI Administrator will review complaints and only become involved if they are procedural in nature.

Facility Construction and Renovation

ODOT personnel or its representatives/ consultants will monitor all phases of the construction and/or renovation of facilities that involve the use of FTA funds.

- Design Phase
 - o ODOT must review and approve the process for solicitation of bids for project design, including award of bid and award of design contract;
 - o ODOT will participate in all pre-bid, pre-award and pre-design meetings; and
 - o ODOT must review and approve all plans and documents related to the project.

- Construction Phase
 - o ODOT must review and approve the process for solicitation of bids for a project, contractor, including awards of contracts;
 - o ODOT will participate in all pre-bid, pre-award and pre-construction meetings;
 - o ODOT must review and approve expenses claimed by the Agency before reimbursement will be made; and

- o Inspections will be made by ODOT personnel at prescribed stages of the project.
-

This policy statement may be supplemented as necessary to respond to changed conditions or additional regulations which may be forthcoming.

