

DEPARTMENT OF TRANSPORTATION

CFDA 20.205	HIGHWAY PLANNING AND CONSTRUCTION (Federal-Aid Highway Program)
CFDA 20.219	RECREATIONAL TRAILS PROGRAM
CFDA 20.224	FEDERAL LANDS ACCESS PROGRAM
CFDA 23.003	APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

I. PROGRAM OBJECTIVES

The objectives of the Highway Planning and Construction Cluster are to (1) assist States, tribal governments, and Federal land management agencies in the planning and development of an integrated, interconnected transportation system important to interstate commerce and travel by constructing, rehabilitating, and preserving the National Highway System (NHS), including Interstate highways, and other Federal-aid highways ; (2) provide aid for the repair of Federal-aid highways following disasters; (3) foster safe highway design and improve bridge conditions; (4) to support community-level transportation infrastructure; and (5) to provide for other special purposes. This cluster also provides for the improvement of roads in the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands, and on the Appalachian Development Highway System (ADHS). The objective of the ADHS program is to provide a highway system which, in conjunction with other federally aided highways, will open up areas with development potential within the Appalachian region where commerce and communication have been inhibited by lack of adequate access.

II. PROGRAM PROCEDURES

Federal-aid highway funds are generally apportioned by statutory formulas to the States and generally restricted to use on Federal-aid highways (i.e., roads open to the public and not functionally classified as local or rural minor collector roads). Exceptions to the use on Federal-aid highways include (1) planning and research activities; (2) bridge and safety improvements, which may be on any public road; (3) highway safety improvement projects, bicycle and pedestrian projects, transportation alternatives, and recreational trails projects, which may be located along any road or off road; and (4) projects funded under the Federal Lands and Tribal Transportation Program (FLTTP). Some limited categories of funds may be granted directly to other Federal agencies, tribal governments, other State agencies, or Local Public Agencies (LPAs), such as cities, counties, Metropolitan Planning Organizations (MPOs), and other political subdivisions. States also may pass funds through to such agencies, but the States retain overall stewardship responsibility. While each category of funds has individual eligibility requirements, in general Federal-aid funds may be used for (1) surveying; (2) engineering studies and design; (3) environmental studies; (4) right-of-way acquisition and relocation assistance; (5) capital improvements classified as new construction or reconstruction; (6) improvements for functional, geometric, or safety reasons; (7) 4R projects (restoration, rehabilitation, resurfacing, and reconstruction); (8) preservation; (9) planning; research, development, and technology transfer; (10) intelligent transportation systems projects; (11) roadside beautification; (12) vegetation management; (13) wetland and natural habitat mitigation; (14) traffic management and control improvements; (15) improvements necessary to accommodate other

transportation modes; (16) development and establishment of transportation management systems; (17) billboard removal; (18) fringe and corridor parking; (19) car pool and van pool projects; (20) historic preservation and rehabilitation of historic transportation facilities; (21) scenic and historic highway improvements; (22) inspection and evaluation of bridges, tunnels, and other highway assets; (23) asset management; (24) construction of ferry boats, ferry terminal facilities, and approaches to such facilities; (25) highway safety improvement projects; (26) bicycle and pedestrian projects; (27) transportation alternatives; (28) recreational trails; and (29) workforce development, training, and education. These funds generally cannot be used for routine highway operational activities, such as police patrols, mowing, snow plowing, or maintenance, unless it is preventative maintenance. Also, certain authorizations (e.g., FLTTP, National Highway Performance Program (NHPP), Surface Transportation Block Grant (STBG) Program, or Congestion Mitigation and Air Quality (CMAQ) Improvement Program) may be used for improvements to transit. CMAQ funds are for transportation projects and programs in air quality, nonattainment and maintenance areas for ozone, carbon monoxide, and particulate matter, which reduce transportation related emissions, though provision is made for States without air quality issues. ADHS projects are subject to the same standards, specifications, policies, and procedures as other Federal-aid highway projects. Eligibility criteria for the programs differ, so program guidance should be consulted.

Projects in urban areas of 50,000 or more population must be based on a transportation planning process, carried out by the MPOs in cooperation with the State and transit operators, and be included in the metropolitan long-range plan and the Transportation Improvement Program for the area. Projects in nonmetropolitan areas of a State must be consistent with the State's Transportation Plan. All Federal-aid projects must also be included in the approved Statewide Transportation Improvement Program (STIP) developed as part of the required statewide transportation planning process. The Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) must approve the STIP jointly.

Until FY 2013, the ADHS was a cost-to-complete program (i.e., funding was provided over time to complete the approved initial construction/upgrading of the system) authorized by Section 201 of the Appalachian Regional Development Act of 1965. The Moving Ahead for Progress in the 21st Century Act (MAP-21) (Pub. L. No. 112-141) did not provide dedicated funding for the ADHS, but did make ADHS activities eligible under the NHPP and STBG programs. The Fixing America's Surface Transportation (FAST) Act (Pub. L. 114-94) provided States through FY 2050 the authority to select a Federal share of up to 100 percent for the cost of constructing highways and access roads on the ADHS. The Appalachian Regional Commission (ARC) has programmatic oversight responsibilities, which include approval of the location of the corridors and of State-generated estimates of the cost to complete the ADHS. The FHWA has project-level oversight responsibilities for the ADHS program. If the location, scope, and character of proposed ADHS projects are in agreement with the latest approved cost-to-complete estimate and all Federal requirements have been satisfied, FHWA authorizes the work with the ADHS funds. FHWA provides oversight of the ADHS as part of its Risk-Based Stewardship and Oversight program.

The Federal Lands Access Program (FLAP) was established under the MAP-21 and continued under the Fixing America's Surface Transportation (FAST) Act (Pub. L. No. 114-94) (23 USC 204). The program makes funds available for projects that provide access to, are

adjacent to, or are located within Federal lands. Priority is given to projects accessing high-use Federal recreation sites or Federal economic generators, as identified by the Secretaries of the appropriate Federal land management agencies.

Source of Governing Requirements

The primary sources of program requirements are 23 USC (Highways). Implementing regulations are found in 23 CFR (Highways) and 49 CFR (Transportation).

Availability of Other Program Information

The FHWA maintains a website that provides program laws, regulations, and other general information (<http://www.fhwa.dot.gov/> and <https://www.fhwa.dot.gov/fastact/>).

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

Compliance Requirements											
A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement/Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y

A. Activities Allowed or Unallowed

1. Federal funds can be used only to reimburse costs that are (a) incurred subsequent to the date of authorization to proceed, except for certain property acquisition costs permitted under 23 USC 108, certain emergency repair work under 23 USC

125, and preliminary engineering under Section 1440 of the FAST Act (23 USC 121 note); (b) in accordance with the conditions contained in the project agreement and the plans, specifications, and estimates (PS&E); (c) allocable to a specific project; and (d) claimed for reimbursement subsequent to the date of the project agreement (23 CFR sections 1.9, 630.106, 630.205, and 635.112).

2. Federal funds can be used for administrative settlement costs incurred in defending contract claim proceedings before arbitration boards or State courts only if approved by FHWA for Federal-aid projects. If special counsel is used, it must be recommended by the State Attorney or State Department of Transportation (State DOT) legal counsel and approved in advance by FHWA (23 CFR section 140.505).
3. ADHS funds may be used only for work included in the ADHS cost estimate approved by the ARC.
4. FLTTP funds may be used for work on projects that provide access to or within Federal or Tribal lands (23 USC 201 through 204).

F. Equipment and Real Property Management

See also DOT Cross-Cutting Section.

The State shall charge, at a minimum, fair market value for the sale, use, lease, or lease renewal of real property acquired with Federal assistance from the Highway Trust Fund (other than the Mass Transit Account). The State shall use such income for projects eligible under 23 USC. Exceptions may be granted to allow use for social, environmental, or economic purposes (23 USC 156).

G. Matching, Level of Effort, Earmarking

1. Matching

- a. States generally are required to pay a portion of the project costs. Portions vary according to the type of funds authorized and the type of project and are stated in project agreements.
- b. A State's matching share for a project may be credited by FHWA-approved toll revenues used to build or improve highways, bridges, and tunnels (23 USC 120(i)).
- c. Donations of funds, materials, and services by a person or local government may be credited towards a State's matching share. Donated materials and services must meet the eligibility requirements of the project (23 USC 323(c)).
- d. The value of land provided by State or local governments for highway purposes is eligible for a credit towards the non-Federal share of project

costs. The value of the donated land shall not include any increase or decrease in value of donated land caused by the project. The value of donated land shall be based on the fair market value of the land, established as of the earlier of (1) the date on which the donation becomes effective, or (2) the date on which equitable title to the land vests in the State. Real property acquired with State funds and required for federally-assisted projects may be credited toward the non-Federal share of project costs (23 USC 323(b); 23 CFR section 710.507).

- e. For Transportation Enhancement (TE) projects using TE funds apportioned prior to October 1, 2012, funds from Federal agencies (except U.S. DOT) may be credited toward the non-Federal share of the cost of a project. The value of other non-cash contributions may be credited toward the non-Federal share. The non-Federal share may be calculated on a project, multiple-project, or program-wide basis. The total cost of an individual project may be funded with up to 100 percent Federal funds; however, for a fiscal year, the ratio of Federal funds to non-Federal funds for all TE funded projects must comply with the maximum Federal share provisions in 23 USC 120(b). FHWA guidance on these provisions is available at http://www.fhwa.dot.gov/environment/transportation_enhancements/guidance/.
- f. For projects funded under 23 USC or 49 USC Chapter 53, any Federal funds (except for funds available under 23 USC and 49 USC) may be used to pay the non-Federal share of any transportation project that is within, adjacent to, or provides access to Federal land (23 USC 120(j)).
- g. FLTTP funds may be used to pay the non-Federal share of projects which provide access to or within Federal or Indian lands which are funded under 23 USC or 49 USC Chapter 53 (23 USC 120(k)).
- h. For the Recreational Trails Program (RTP), funds from other Federal programs (including the U.S. Department of Transportation) may be credited toward the non-Federal share of the cost of a project. RTP funds may be used to match other Federal programs. The non-Federal share may be calculated on a project, multiple-project, or program-wide basis (23 USC 206(f)). FHWA guidance on these provisions is available at http://www.fhwa.dot.gov/environment/recreational_trails/guidance/matchingfunds.cfm.

Any project sponsor (except for Federal agencies), whether a private individual or organization or a public agency, may donate funds, materials, services (including volunteer labor), or new right-of-way to be credited to the non-Federal share of an RTP project. Federal project sponsors may provide funds, materials, or services as part of the Federal share, but may not provide new right-of-way (23 USC 206(h)(1)).

- i. Any cost in excess of 20 percent of the cost of the replacement or rehabilitation of a bridge not on a Federal-aid highway that is wholly funded with State and local funds may be used to meet the matching share requirement of projects funded under 23 USC 133 (23 USC 133(g)(3)).

2. Level of Effort – Not Applicable

3. Earmarking – Not Applicable

I. Procurement and Suspension and Debarment

See also DOT Cross-Cutting Section.

1. In general, State DOTs and LPAs must award construction contracts on the basis of the lowest responsive bid submitted by a bidder meeting the contracting agency's criteria for responsibility. Competitive bidding is required unless the contracting agency is able to demonstrate to FHWA that some other method is more cost effective or that an emergency exists (23 USC 112 (b)(1); 23 CFR sections 635.104 and 635.114). Contracting agencies also may procure construction services through competitive proposals by using design-build contracts (23 USC 112(b)(3); 23 CFR part 636) or construction manager/general contractor contracts (23 USC 112(b)(4)).
2. For construction contracts, bidding documents must be advertised for at least 3 weeks, unless a shorter period is justified in the project files. Recipients may not negotiate with the potential contractors during the time between bid opening and contract award (such negotiations would be noted in the contract files). Awards must be made to the lowest responsible bidder. If the award was made to a bidder other than the low bidder, then the project files must contain justification (23 CFR sections 635.112(b), 635.113, and 635.114).

J. Program Income

See also DOT Cross-Cutting Section.

State and local governments may only use the Federal share of net income from the sale, use, or lease of real property previously acquired with Federal funds if the income is used for projects eligible under 23 USC (23 USC 156).

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement – Not Applicable*
- b. *SF-271, Outlay Report and Request for Reimbursement for Construction Programs – Not Applicable*

- c. SF-425, *Federal Financial Report* – Not Applicable
- d. PR-20, *Voucher for Work Under Provisions of the Federal-Aid and Federal Highway Acts, as Amended (OMB No. 2125-0507)*

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable

M. Subrecipient Monitoring

State DOTs are responsible for determining that subrecipients of Federal-aid highway funds have adequate project delivery systems for projects approved under 23 USC. They also are required to determine whether subrecipients have sufficient accounting controls to properly manage such Federal-aid funds (23 USC 106(g)(4)(A)).

N. Special Tests and Provisions

1. Wage Rate Requirements

Compliance Requirement - The Wage Rate Requirements are applicable to construction work on Federal-aid highways or on projects using ADHS or FLTTP funds. These requirements apply to Federal-aid projects located within the right-of-way of a Federal-aid highway. These requirements also apply to Federal-aid projects funded by the STBG program that are located outside the right-of-way of a Federal-aid highway, including projects funded under the Transportation Alternatives Set-Aside (except for projects funded under the Recreational Trails Program). FHWA has provided guidance on the applicability of these requirements at <http://www.fhwa.dot.gov/construction/contracts/080625.cfm> (23 USC 113 and 40 U.S.C 14701).

See Wage Rate Requirements Cross-Cutting Section (page 4-20.001-1).

2. Use of Other State or Local Government Agencies

Compliance Requirement – A State may use other public land acquisition organizations or private consultants to carry out the State’s authorities under 23 CFR section 710.201(b) in accordance with a written agreement (23 CFR section 710.201(h)).

Audit Objective – Determine whether other public land acquisition organizations or private consultants are carrying out the State’s authorities under 23 CFR section 710.201(b) in accordance with their agreements with the State.

Suggested Audit Procedures

- a. Examine records and ascertain if other agencies were used for right-of-way activities on Federal-aid projects.

- b. Review a sample of right-of-way agreements with other agencies.
- c. Perform tests of selected right-of-way activities to other agencies to verify that they comply with the written agreement.

3. Replacement of Publicly Owned Real Property

Compliance Requirement – Federal funds may be used to reimburse the reasonable costs actually incurred for the functional replacement of publicly owned and publicly used real property provided that FHWA concurs that it is in the public interest. The cost of increases in capacity and other betterments are not eligible except (1) if necessary to replace utilities; (2) to meet legal, regulatory, or similar requirements; or (3) to meet reasonable prevailing standards for the type of facility being replaced (23 CFR section 710.509).

Audit Objective – Determine whether the functional replacement of real property was accomplished within FHWA requirements.

Suggested Audit Procedures

- a. Ascertain if there were any functional replacements of publicly owned real property.
- b. Verify that FHWA concurred in the State's determination that the functional replacement is in the public interest.
- c. Review a sample of transactions involving functional replacements and verify that the transactions were consistent with the FHWA requirements.

4. Quality Assurance Program

Compliance Requirement – A State DOT or LPA must have a quality assurance (QA) program, approved by FHWA, for construction projects on the NHS to ensure that materials and workmanship conform to approved plans and specifications. Verification sampling must be performed by qualified testing personnel employed by the State DOT, or by its designated agent, excluding the contractor (23 CFR sections 637.201, 637.205, and 637.207).

Audit Objective – Determine whether the State DOT or LPA is following a QA program approved by FHWA.

Suggested Audit Procedures

- a. Obtain an understanding of the recipient's QA program.
- b. Verify that the QA program has been approved by FHWA.

- c. Review documentation of test results on a sample basis to verify that proper tests are being taken in accordance with the QA program.
- d. Verify that verification sampling activities are performed by qualified testing personnel employed by the agency, or by its designated agent, excluding the contractor.

5. Contractor Recoveries

Compliance Requirement – When a State recovers funds from highway contractors for project overcharges due to bid-rigging, fraud, or anti-trust violations or otherwise recovers compensatory damages, the Federal-aid project involved shall be credited with the Federal share of such recoveries (Tennessee v. Dole 749 F.2d 331 (6th Cir. 1984); 57 Comp. Gen. 577 (1978); 47 Comp. Gen. 309 (1967)).

Audit Objective – Determine whether the proper credit was made to the Federal share of a project when recoveries of funds are made.

Suggested Audit Procedures

- a. Determine the extent to which the State has recovered overcharges and other compensatory damages on Federal-aid projects through appropriate interviews and a review of legal, claim, and cash receipt records.
- b. Review a sample of cash receipts and verify that appropriate credit is reflected in billings to the Federal Government.

6. Project Approvals

Compliance Requirements – FHWA project approval/authorization to proceed is required before costs are incurred for all phases or projects, except for certain property acquisition costs permitted under 23 USC 108, certain emergency repair work under 23 USC 125, and preliminary engineering under Section 1440 of the FAST Act (23 USC 121 note). Based on the Stewardship and Oversight agreement between the State DOT and the FHWA Division office, projects may be authorized under the authority in 23 USC 106(c), which allows the State DOT to assume responsibilities for designs, plans, specifications, estimates, contract awards, and inspection of progress. When FHWA authorizes a construction project or phase in a project agreement, the State DOT may incur costs, i.e., advertise for bids or use force account work (23 CFR sections 630.205(c), 635.112(a), 635.204, and 635.309).

Audit Objective – Determine whether project activities are started with required Federal approvals.

Suggested Audit Procedures

- a. Review a sample of projects and identify dates of the necessary approvals, authorizations, and concurrences.

- b. Identify dates that projects were advertised and contract or force account work was initiated and compare to the date of FHWA's project agreement.

7. Value Engineering

Compliance Requirement – State DOTs are required to establish a value engineering (VE) program and ensure that a VE analysis is performed on all applicable projects. The program should include procedures to approve or reject recommendations and for monitoring to ensure that resulting, approved recommendations are incorporated into the plans, specifications, and estimate. Applicable projects are (a) projects located on the NHS with an estimated total project cost of \$50 million or more that utilize Federal-aid highway program funding; (b) bridge projects located on the NHS with an estimated total cost of \$40 million or more that utilize Federal-aid highway program funding; and (c) any other projects that the FHWA determines to be appropriate. Projects utilizing the design-build method of construction do not require a VE analysis (23 USC 106(e)(5)). Critical elements of VE programs include identification of a State VE coordinator; establishment of a VE policy, and documented VE procedures, including requirements to identify applicable projects, verify required VE analyses are completed on State DOT and subrecipient projects; and monitor, assess, and report on the performance of the VE program (23 USC 106(e); 23 CFR part 627).

Audit Objective – Determine whether established VE programs include VE policies and procedures, documented analyses conducted for applicable projects, evaluations of VE recommendations, and incorporation of approved recommendations into the plans, specifications, and estimate for the project.

Suggested Audit Procedures

- a. Verify that the State DOT established a VE program in accordance with Federal requirements.
- b. Review a sample of applicable projects to ensure that a VE analysis was conducted, recommendations were evaluated, and approved recommendations were incorporated into the design of the project, and that the results of the analysis and recommendations implemented were documented in accordance with the established VE program's policies and procedures.

8. Utilities

Compliance Requirement – State DOTs are required to develop policies and procedures pertaining to the use, accommodation and/or relocation of public and private utility facilities on highway rights-of way using Federal-aid highway funds. State DOTs are required to develop, maintain, and obtain FHWA approval of their Utility Accommodation Policy (UAP) (23 CFR section 645.215). Expenses incurred for relocating utility facilities necessitated by highway construction projects using Federal-aid highway program funds are eligible for reimbursement from FHWA provided these costs were incurred in a manner consistent with State laws or FHWA regulations, whichever is more restrictive (23 CFR section 645.103(d)).

Plans, Specifications and Estimate (PS&E) packages for projects using Federal-aid highway program funds must have a utility agreement or statement verifying the appropriate coordination with all utilities on the project occurred prior to FHWA construction authorization. Each agreement or statement should specify that the utility use and occupancy of the right-of-way or any required utility work will be completed prior to the highway construction, or there were conditions specified allowing for the utility work to be coordinated with and completed in coordination with the highway construction schedule (23 CFR section 635.309(b)).

Utility agreements, permits, and supporting documentation define the conditions and provisions for accomplishing and reimbursing utility companies for utility relocation work that was required due to a Federal-aid highway program funded project. The agreements and supporting documentation, and the Federal requirements they reference, require that:

- a. There must be itemized cost estimates for the proposed utility work (23 CFR section 645.113(c));
- b. The utility agreement was approved prior to the utility incurring any costs or conducting any work that would be eligible for reimbursement (23 CFR section 645.113(g)(3));
- c. Reimbursement of utility costs will occur after the work is completed (23 CFR section 645.107(a));
- d. The utility incurred the costs and billings submitted verifying the work was completed in accordance with the utility agreement (23 CFR section 645.113(a-f) and 23 CFR section 645.117); and
- e. Billed costs were eligible for reimbursement (23 CFR section 645.117).

Audit Objective – Determine whether the agreements, supporting documentation, and reimbursement for the adjustment and/or relocation of utility facilities on Federal-aid highway projects were accomplished in a manner which complies with State laws and FHWA regulations.

Suggested Audit Procedures

- a. Verify that the State DOT has a current UAP approved by FHWA.
- b. Review a sample of PS&E packages on projects using Federal-aid highway program funds to verify that there is a utility agreement or statement confirming that the appropriate coordination with all utilities on the project has occurred prior to FHWA construction authorization.
- c. Review a sample of utility agreements and supporting documentation to verify required supporting material was prepared and that costs reimbursed met the requirements of the agreements.

9. Administration of Engineering and Design-Related Service Contracts

Compliance Requirement – In general, State DOTs and LPAs must use qualifications-based selection procedures (Brooks Act) when acting as contracting agencies to procure engineering and design-related services from consultants and sub-consultants for projects using Federal-aid highway funds (23 USC 112(b)(2); 23 CFR part 172). Requirements applicable to engineering and design-related services contracts include:

- a. Contracting agencies (State DOTs and LPAs) must have written policies and procedures for each method of procurement used to procure engineering and design services. State DOT policies and procedures, or recipient LPA policies and procedures, must be approved by FHWA. LPAs that are subrecipients may adopt written policies and procedures prescribed by the awarding State DOT or prepare and maintain their own written policies and procedures approved by the State DOT (23 CFR section 172.5(c)).
- b. Contracting agencies (State DOTs and LPAs) are required to accept the indirect cost rates for consultants and sub-consultants that have been established by a cognizant agency in accordance with the Federal Acquisition Regulation (48 CFR part 31) for 1-year applicable accounting periods, if such rates are not currently under dispute. Consultants and sub-consultants providing engineering and design-related services contracts must certify to contracting agencies that costs used to establish indirect cost rates are in compliance with the applicable cost principles contained in the Federal Acquisition Regulation (48 CFR part 31) by submitting a “Certificate of Final Indirect Costs” (23 USC 112(b)(2)(C); 23 CFR section 172.11).
- c. Contracts for a consultant to act in a management support role on behalf of a contracting agency or subrecipient for engineering or design related services must be approved by FHWA before the consultant is hired, unless an alternative approval procedure has been approved by FHWA (23 CFR section 172.7(b)(5)).

Audit Objective – Determine if consultants performing engineering and design-related services for projects using Federal-aid highway funding were procured using FHWA-approved qualifications-based selection procedures.

Suggested Audit Procedures

- a. Verify that the State DOT, or recipient LPA, has written policies and procedures (usually in the form of a Consultant Manual) for procurement of engineering and design services and that those procedures have been approved by FHWA. For subrecipient LPAs, verify that they are using written policies and procedures prescribed by the awarding State DOT or that the subrecipients’ written policies and procedures have been approved by the State DOT.
- b. Verify that contracting agencies are accepting the appropriate indirect cost rates.

- c. Verify that consultants and sub-consultants have submitted to the contracting agency a “Certificate of Final Indirect Costs.”
- d. Verify that contracts for consultants acting in a management support role have been approved by FHWA or are covered by an FHWA-approved alternate procedure.

DEPARTMENT OF TRANSPORTATION

CFDA 20.319 HIGH-SPEED RAIL CORRIDORS AND INTERCITY PASSENGER RAIL SERVICE – CAPITAL ASSISTANCE GRANTS

I. PROGRAM OBJECTIVES

The High-Speed Intercity Passenger Rail (HSIPR) Program is intended to develop and expand high-speed and intercity passenger rail service in the United States. The objectives of this program are twofold. In the long-term, the program aims to build an efficient, high-speed passenger rail network connecting major population centers that are 100 to 600 miles apart. In the near-term, the program will begin to lay the foundation for this high-speed passenger rail network by investing in intercity passenger rail infrastructure, equipment, and intermodal connections.

II. PROGRAM PROCEDURES

In 2009, the American Recovery and Reinvestment Act of 2009 (ARRA) (Pub. L. No. 111-5, 123 Stat. 208), under the title “Capital Assistance for High Speed Rail Corridors and Intercity Passenger Rail Service” provided \$8 billion for the HSIPR Program. A year later, Congress provided another \$2.5 billion for the HSIPR Program in its Fiscal Year 2010 Consolidated Appropriations Act (Title I of Div. A Pub. L. 111–117, December 16, 2009) under the title “Capital Assistance for High Speed Rail Corridors and Intercity Passenger Rail Service.” No additional funds have been appropriated to the program.

The 2009 funding under the HSIPR Program was advanced along four funding tracks in order to both aid in the near-term economic recovery efforts intended under ARRA and to establish the path to realize a fully-developed national high-speed intercity passenger rail network. Track 1 – Projects will fund “ready-to-go” construction projects and the completion of project-level environmental and preliminary engineering documents necessary to prepare projects for construction. Track 2 – Programs fund sets of inter-related projects that constitute the entirety or a distinct phase (or geographic section) of a long-range service development plan. Track 3 – Planning is aimed at helping establish a “pipeline” of future high-speed rail/intercity passenger rail projects and service development programs by advancing planning activities for applicants at an earlier stage of the development process. Track 4 – Fiscal Year (FY) 2009/FY 2008 Appropriations Projects provide an alternative for projects that would otherwise fit under Track 1.

Depending on the specific funding track applied for, States (including the District of Columbia), groups of States, interstate compacts, public agencies established by one or more States and having responsibility for providing high-speed rail service or intercity passenger rail service, and Amtrak are eligible for HSIPR Program grants. Applicants must provide documents that demonstrate the status of all agreements with relevant stakeholders involved in the particular construction investment, including interstate partners, host railroads, right-of-way owners, and the contract railroad operator providing service.

The 2010 funding under the HSIPR program was available for: (1) Individual Projects that result in service benefits or other tangible improvements on a corridor; (2) Service Development

Programs that include a set of inter-related capital projects resulting in the introduction of new or substantially improved high-speed or intercity passenger rail services; (3) Planning Projects that lead directly to “passenger rail corridor investment plans” (which include both service development plans and corridor-wide environmental documentation), and those that lead directly to a State rail plan; and (4) Multi-State Planning Projects that would result in a “passenger rail corridor investment plan.”

Source of Governing Requirements

The HSIPR Program consolidates the following recently authorized and closely related programs:

- a. High-Speed Rail Corridor Development program (49 USC 26106),
- b. Intercity Passenger Rail Service Corridor Capital Assistance program (49 USC Chapter 244),
- c. Congestion Grants program (49 USC 24105),
- d. Fiscal Year 2009 Capital Assistance to States – Intercity Passenger Rail Service Program (Pub. L. No. 111-8 (123 Stat. 934)), and
- e. Fiscal Year 2008 Capital Assistance to States – Intercity Passenger Rail Service Program (Pub. L. No. 110-161 (121 Stat. 2393)).

The funding appropriated under ARRA is for the programs authorized in 49 USC 26106, 49 USC Chapter 244, and 49 USC 24105, while the funding provided from the FY 2008 and FY 2009 appropriations acts is governed under provisions unique to those two pieces of legislation. The Notice of Funding Availability for High-Speed Intercity Passenger Rail (“HSIPR”) Program (Program Notice), June 23, 2009, *Federal Register*, 74 FR 29900, describes the interim program guidance applicable to the program. All subsequent HSIPR Notices of Funding Availability are listed on the Federal Railroad Administration (FRA) website at <https://www.fra.dot.gov/Page/P0089>.

Availability of Other Program Information

Additional information about the HSIPR Program is available on the Federal Railroad Administration (FRA) website at <http://www.fra.dot.gov/Page/P0140>. Included on the FRA website are two documents mandated under ARRA: The High-Speed Rail Strategic Plan and interim program guidance. The strategic plan outlines the initial vision for the program; the interim guidance builds upon the strategic plan by detailing the application requirements and procedures for obtaining funding under the program.

III. COMPLIANCE REQUIREMENTS

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Compliance Requirements											
A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement/Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y

A. Activities Allowed or Unallowed

1. Activities Allowed – ARRA (Tracks 1 and 2)

a. Activities funded under Track 1 must be eligible under the Intercity Passenger Rail Service Corridor Capital Assistance program (49 USC chapter 244) or the Congestion Grants program (49 USC 24105), and include:

- (1) Acquiring, constructing, improving, or inspecting equipment, track and track structures, or a facility for use in or for the primary benefit of Intercity Passenger Rail service, including High-Speed Rail; expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, inspecting, environmental studies, and acquiring rights-of-way); payments for the capital portions of rail trackage rights agreements; highway-rail grade crossing improvements related to Intercity Passenger Rail service; mitigating environmental impacts;

- communication and signalization improvements; and relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;
- (2) Rehabilitating, remanufacturing, or overhauling rail rolling stock and facilities used primarily in Intercity Passenger Rail service; and
 - (3) Projects to provide access to Intercity Passenger Rail service rolling stock for non-motorized transportation, including bicycles and recreational equipment, and to provide storage capacity in intercity passenger trains for such transportation, equipment, and other luggage, to ensure passenger safety (see Section 3.5.1 of the Program Notice (74 FR 29910)).
- b. Activities funded under Track 2 must be eligible under the High-Speed Rail Corridor Development program (49 USC 26106) or the Intercity Passenger Rail Service Corridor Capital Assistance program (49 USC chapter 244), and include:
- (1) Activities 1 through 3 listed above under Track 1; and
 - (2) Acquiring, constructing, improving or inspecting equipment, track and track structures, or a facility for use in or for the primary benefit of High-Speed Rail service; expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way); payments for the capital portions of rail trackage rights agreements; highway-rail grade crossing improvements related to High-Speed Rail service; mitigating environmental impacts; communication and signalization improvements; and relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing (see Section 3.5.2 of the Program Notice (74 FR 29910)).
2. *Activities Allowed* – Fiscal Year 2009 and 2008 appropriations acts (Tracks 3 and 4).
- a. Activities funded under Track 3 must be eligible under the provisions of the FY 2009 and FY 2008 Capital Assistance to States – Intercity Passenger Rail Service programs (Pub. L. No. 111-8 and Pub. L. No. 110-161, respectively), and include planning studies that—
- (1) Lead to the completion of a service development plan to support future applications for projects under Track 2;
 - (2) Identify and compare the costs, benefits, and impacts of a range of transportation alternatives, including High-Speed Rail and/or

Intercity Passenger Rail, as a means of providing decision makers with the information necessary to implement appropriate transportation solutions;

- (3) Support the preparation of environmental documents that are prerequisite to the fulfillment of “service” NEPA studies; and
 - (4) Consist of operational analyses and simulations, and projections of future service requirements, leading to systematic and rational priority lists of projects that could be eligible for funding under the Intercity Passenger Rail Service Corridor Capital Assistance program (49 USC chapter 244) or the Congestion Grants program (49 USC 24105), and could ultimately contribute to service development plans (see Section 3.5.2 of the Program Notice (74 FR 29911)).
- b. Activities funded under Track 4 must be eligible under the provisions of the FY 2009 and FY 2008 Capital Assistance to States – Intercity Passenger Rail Service programs (Pub. L. No.111-8 and Pub. L. No.110-161, respectively), and include
- (1) Acquiring, constructing, or improving equipment, track and track structures, or a facility for use in or for the primary benefit of Intercity Passenger Rail service including High-Speed Rail service;
 - (2) Expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, environmental studies, and acquiring rights-of-way);
 - (3) Highway rail grade crossing improvements related to Intercity Passenger Rail service;
 - (4) Mitigating environmental impacts;
 - (5) Communication and signalization improvements; and
 - (6) Rehabilitating, remanufacturing, or overhauling rail rolling stock and facilities used primarily in Intercity Passenger Rail service (see Section 3.5.2 of the Program Notice (74 FR 29911)).
3. Activities Allowed – Fiscal Year 2010 appropriations act:
- a. High-speed rail projects as authorized under 49 USC 26106, capital investment grants to support intercity passenger rail service as authorized under 49 USC 24406, and congestion grants as authorized under 49 USC 24105.

- b. Not less than 85 percent of the funds are for cooperative agreements that lead to the development of entire segments or phases of intercity or high-speed rail corridors.
4. *Activities Unallowed* – In no case are Federal funds awarded under the HSIPR Program eligible to be used for rail operating expenses associated with the operation of intercity passenger rail service or for first-dollar liability costs for insurance related to the provision of intercity passenger rail service (49 USC 24404; June 23, 2009, *Federal Register* (74 FR 29916)).

F. Equipment and Real Property Management

See DOT Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking

1. **Matching**
 - a. The matching share of allowable costs for a particular grant is established in the grant agreement.
 - b. For HSIPR projects funded under the authority of the High-Speed Rail Corridor Development program (49 USC 26106(f)), the Intercity Passenger Rail Service Corridor Capital Assistance program (49 USC 24402(g)(1)(B)), or the Congestion Grants program (49 USC 24105(c)), the Federal share for the cost of the project cannot exceed 80 percent.
 - c. For ARRA-funded projects, the Federal share for projects funded under 49 USC 26106, 49 USC chapter 244, and 49 USC 24105 shall be, at the option of the recipient, up to 100 percent (ARRA, 123 Stat 208).
 - d. For HSIPR projects funded from annual appropriations in the FY 2009 and FY 2008 Capital Assistance to States – Intercity Passenger Rail Service programs, the Federal share for the cost of the project cannot exceed 50 percent (Pub. L. No. 111-8, 123 Stat. 934 and Pub. L. No. 110-161, 121 Stat. 2393).

2. Level of Effort – Not Applicable

3. Earmarking

No more than 10 percent of funds made available under the FY 2009 and FY 2008 Capital Assistance to States – Intercity Passenger Rail Service programs may be used for planning activities that lead directly to the development of a passenger rail corridor investment plan (Pub. L. No. 111-8, 123 Stat. 934 and Pub. L. No. 110-161, 121 Stat. 2393).

H. Period of Performance

Funding for grants under ARRA must be expended by September 30, 2017 (ARRA, 123 Stat. 208; June 23, 2009, *Federal Register* (74 FR 29916)). Funding for HSIPR grants under the FY 2010 Appropriations Act remain available until expended.

I. Procurement and Suspension and Debarment

See DOT Cross-Cutting Section.

J. Program Income

See DOT Cross-Cutting Section.

L. Reporting**1. Financial Reporting**

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Applicable

2. Performance Reporting – Not Applicable**3. Special Reporting** – Not Applicable**N. Special Tests and Provisions****Wage Rate Requirements**

Compliance Requirements - Two provisions related to the Wage Rate Requirements are included in ARRA. The first requires that funded projects comply with the requirements of 40 USC 3141–3144, 3146 and 3147. The second provides that 49 USC 24405 shall also apply to the funded projects. The first provision mandates compliance with the Wage Rate Requirements generally. The second provision also mandates compliance the Wage Rate Requirements through 49 USC 24405(c), which provides that the Secretary of Transportation shall require as a condition of making any grant that uses rights-of-way owned by a railroad that the applicant agree to comply with the standards of 49 USC 24312 with respect to the project in the same manner that Amtrak is required to comply with those standards for construction work financed under an agreement made under 49 USC 24308(a). 49 USC 24312 provides that Amtrak shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed under an agreement made under 49 USC 24308 will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under 40 USC 3141–3144, 3146 and 3147 and that wages in a collective bargaining

agreement negotiated under the Railway Labor Act are deemed to comply with 40 USC 3141–3144, 3146 and 3147. 49 USC 24308 authorizes Amtrak to enter into agreements with rail carriers or regional transportation authorities to use facilities of and have services provided by the carrier or authority under terms on which the parties agree.

FRA has concluded that the two Wage Rate Requirements can be reconciled in a manner that allows the HSIPR Program to be implemented in a way that is both reasonable and consistent with current practices. For projects that use or propose to use rights-of-way owned by a railroad, the specific provisions of 49 USC 24405(c) apply and recipients are required to comply with the standards of 49 USC 24312 (prevailing wages) in the same manner that Amtrak is required to comply with those standards for construction projects it might undertake. Wages specified in a collective bargaining agreement negotiated under the Railway Labor Act would be deemed to comply with Wage Rate Requirements for these projects. For projects that do not propose to use rights-of-way owned by a railroad, normal Wage Rate Requirements apply and there would be no specific exemption for wages arrived at through a collective bargaining agreement negotiated under the Railway Labor Act. Wage rates on these projects would have to meet the Secretary of Labor's prevailing wage standards as described above (see June 23, 2009, *Federal Register* (74 FR 29927)).

See Wage Rate Requirements Cross-Cutting Section (page 4-20.001-1).

DEPARTMENT OF TRANSPORTATION

CFDA 20.500	FEDERAL TRANSIT – CAPITAL INVESTMENT GRANTS (Fixed Guideway Capital Investment Grants)
CFDA 20.507	FEDERAL TRANSIT – FORMULA GRANTS (Urbanized Area Formula Program)
CFDA 20.525	STATE OF GOOD REPAIR GRANTS PROGRAM
CFDA 20.526	BUS AND BUS FACILITIES FORMULA PROGRAM (Bus Program)

I. PROGRAM OBJECTIVES

Urbanized Area Formula Program (Section 5307)

The objective of the Urbanized Area Formula Program (5307 program) is to assist in financing the planning, acquisition, construction, preventive maintenance, and improvement of facilities and equipment in public transportation services. Operating expenses are also eligible under the 5307 program in urbanized areas with populations of less than 200,000 and, under some limited exceptions, to some urbanized areas with population of 200,000 and above.

Fixed Guideway Capital Investment Grants (Section 5309)

The objective of the Fixed Guideway Capital Investment Grants program (5309 program) is to provide funds for construction of new or extended fixed guideway systems, corridor-based bus rapid transit systems, and core capacity improvement projects that increase capacity by at least 10 percent in existing fixed guideway corridors that are at capacity today or will be in 5 years. In addition, the Pilot Program for Transit-Oriented Development (TOD) Planning provides funding for corridor-level comprehensive planning activities conducted in conjunction with the development of Section 5309 Fixed Guideway Capital Investment Grant program projects.

State of Good Repair Grants Program (Section 5337)

The objective of the State of Good Repair Grants Program (5337 program) is to provide financial assistance for maintaining, rehabilitating, and replacing transit assets for fixed guideway transit systems and high-intensity motor bus systems.

Buses and Bus Facilities Program (Section 5339)

The objective of the Buses and Bus Facilities Program (5339 program) is to provide financial assistance to replace, rehabilitate, lease and purchase buses and related equipment as well as construct bus-related facilities through both formula and competitive selection procedures. The Buses and Bus Facilities program includes three tiers. The 5339(a) formula tier provides funds based on population, ridership, and vehicle mileage. The 5339(b) portion of the Buses and Bus Facilities program is dedicated to a competitive competition for buses, bus facilities and bus related equipment. The 5339(c) portion of the Bus and Bus Facilities program is dedicated to the Low or No Emissions competitive competitions for low or no emissions buses, bus facilities, and bus related equipment.

II. PROGRAM PROCEDURES

The Fixing America's Surface Transportation Act (FAST) (Pub. L. No. 114-94), enacted December 4th, 2015 added a Bus and Bus Facilities (5339(b)) competitive program and the Low or No Emissions (5339(c)) competitive program. The State of Good Repair Grants program replaced the Fixed Guideway Modernization Program. The 5309 program continues, but now as the Fixed Guideway Capital Investment Grants program. The program was formerly known as the Major Capital Investments program or New Starts/Small Starts. The Pilot Program for TOD Planning was established in Section 20005(b) of MAP-21 with additional funding provided by the FAST Act. A Passenger Ferry Grant Program component awards funding on a competitive basis.

Grants are awarded to public agencies on approval of applications for specific programs or projects submitted to the Federal Transit Administration (FTA). FTA monitors the progress of those projects through on-site inspections, telephone contacts, correspondence, quarterly progress and financial status reports, and, where applicable, Triennial Reviews.

FTA is required to perform reviews and evaluations of 49 USC 5307 grant activities at least every 3 years. The most recent FTA Triennial Review Workshop Workbook provides guidance to FTA staff and recipients on the conduct of triennial reviews and is available at <https://www.transit.dot.gov>. These reviews are conducted with specific reference to compliance with statutory and administrative requirements and consistency of program activities with (1) the approved program of projects, and (2) the planning process required under 49 USC 5303. Copies of these triennial reviews are available from the regional offices. Regional office addresses and telephone numbers are available on the FTA website listed below.

Source of Governing Requirements

The programs in this cluster are authorized by 49 USC 5307, 5309, 5337, and 5339. Program regulations are at 49 CFR parts 601 through 665.

Availability of Other Program Information

Additional information is available on the FTA website at <http://www.transitfta.dot.gov/>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

Compliance Requirements											
A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period of Performance	Procurement/Suspension and Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y

A. Activities Allowed or Unallowed

1. *Activities Allowed*

- a. Generally, under all programs, unless otherwise specified below, capital activities, as defined in 49 USC 5302(3), are eligible activities, including preventive maintenance and certain expenses related to crime prevention and security (49 USC 5307(a), 5309(b), 5337(b), and 5339(a)).
- b. Under the 5307 program, for projects awarded before October 1, 2012, operating expenses related to the conduct of emergency response drills with public transportation agencies and local first-response agencies, and security training for public transportation employees are eligible capital expenses (49 USC 5302(a)(1)(J)).
- c. Under the 5307 program, operating assistance for all urbanized areas under 200,000 population, and certain larger urbanized areas under limited exceptions, and planning for all urbanized areas (49 USC 5307(a)(2)).
- d. Under the 5307 and 5339 program, human resources and workforce development activities, including training, and training provided at the National Transit Institute or through a State-contracted training provider (see III.G.3.b, “Matching, Level of Effort, Earmarking – Earmarking,” below) (49 USC 5314 (b) and (c)).
- e. Under the 5337 program, the only capital projects authorized are projects that implement a transit asset management plan and projects that maintain, rehabilitate, and replace assets for high intensity fixed guideway and motorbus systems in a state of good repair (49 USC 5337(b)).

- f. Under the 5339 program, the only capital projects authorized are bus, bus facilities, and bus-related equipment projects (49 USC 5339(a)).
 - g. Under the 5309 program, for projects awarded before October 1, 2012, the only capital projects authorized are those for
 - (1) bus and bus facilities;
 - (2) new fixed guideways, including Small Starts;
 - (3) fixed guideway modernization; or
 - (4) corridor improvements (49 USC 5309(b)(1) through (b)(4)).
 - h. Under the 5309 program, for projects awarded on or after October 1, 2012, the only capital projects authorized are those for
 - (1) new or extended fixed guideway capital projects;
 - (2) corridor-based bus rapid transit projects; or
 - (3) core capacity improvement projects (49 USC 5309(b)).
 - i. Under the 5309 program, for projects awarded under the Pilot Program for TOD Planning, only comprehensive planning associated with a Section 5309 project is allowable (Section 20005(b) of MAP-21).
2. *Activities Unallowed*
- a. Under the 5309, 5337, and 5339 programs, the following:
 - (1) Mobility management;
 - (2) Operating expenses; and
 - (3) Alternatives analysis, including planning, with funds appropriated after FY 2005 (49 USC 5309(b) and 5337).
 - b. Under the 5307 program, operating assistance in areas over 200,000, unless under certain limited exceptions (49 USC 5307(a)(2)).
 - c. Under the 5339 program, preventive maintenance and rail-related activities (49 USC 5339).

F. Equipment and Real Property Management

See DOT Cross-Cutting Section.

G. Matching, Level of Effort, Earmarking

1. Matching

The matching share of allowable costs for a particular grant is established in the grant agreement.

- a. Under the 5307 program, the maximum Federal share is 80 percent of the net project cost for a capital project and 50 percent of the net project cost for operating assistance (49 USC 5307(d)(1) and (2)).
- b. Under the 5309 program, the maximum Federal share is 80 percent of the net project cost (49 USC 5309).
- c. Under the 5337 program, the maximum Federal share is 80 percent of the net project cost. MAP-21 is silent on this issue. FTA has administratively continued the match requirement from the previous authorization in 49 USC 5309.
- d. Under the 5339 program, the maximum Federal share is 80 percent of the net project cost (49 USC 5339(f)(1)).
- e. For awards on or after October 1, 2012, for all programs, the maximum Federal share is 85 percent of the net project cost for vehicle purchases, and 90 percent of the net project cost for vehicle-related equipment and facilities, required to comply with the Clean Air Act or the Americans with Disabilities Act of 1990 (49 USC 5323(i)).

2. Level of Effort – Not Applicable

3. Earmarking

- a. One percent of 5307 program funds apportioned to urbanized areas with a population of at least 200,000 shall be expended for public transportation security projects. These projects may include increased lighting in, or adjacent to, a public transportation system (including bus stops, subway stations, parking lots, and garages); increased camera surveillance of an area in or adjacent to that system; providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system; and any other project intended to increase the security and safety of an existing or planned public transportation system. If the recipient certifies that the expenditure for security projects is not necessary, the one percent expenditure is not required. This requirement applies at the UZA level, not to an individual grant or grantee (49 USC 5307 (d)(1)(J)(i)).

- b. Under the 5307 and 5339 program, not more than 0.5 percent of funds may be expended for human resources and workforce development activities, including training. An additional 0.5 percent may be expended for training provided at the National Transit Institute or through a State-contracted training provider (49 USC 5314 (b) and (c)).

I. Procurement and Suspension and Debarment

See DOT Cross-Cutting Section.

Recipients must use qualifications-based selection procedures (Brooks Act or an equivalent qualifications-based requirement of a State) when acting as contracting agencies to procure engineering and design-related services for construction of a transit project (49 USC 5325(b)(1)).

J. Program Income

See DOT Cross-Cutting Section.

L. Reporting

1. Financial Reporting

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting – Not Applicable

N. Special Tests and Provisions

1. Charter Service

See DOT Cross-Cutting Section.

2. School Bus Operation

See DOT Cross-Cutting Section.

3. Wage Rate Requirements

Compliance Requirement - The Wage Rate Requirements apply to construction work financed with a grant or loan under this program (49 USC 5333).

See Wage Rate Requirements Cross-Cutting Section (page 4-20.001-1).

4. Environmental Review

Compliance Requirement – The National Environmental Policy Act (NEPA) and the joint FTA-FHWA implementing regulation (23 CFR part 771) require that the significant environmental effects of public transportation projects proposed for FTA assistance be documented, and that alternatives to avoid, minimize, and mitigate the adverse effects be considered (42 USC 4321 *et seq.*). A sponsor of an FTA-assisted project (i.e., the grant recipient) must comply with all design and mitigation commitments made in any environmental document prepared for the project (49 USC 139(c)(4)).

For projects requiring an Environmental Impact Statement (EIS), mitigation measures are summarized in a Record of Decision. For projects requiring an Environmental Assessment, mitigation measures are summarized in a Finding of No Significant Impact (FONSI). For categorically excluded projects, mitigation usually is not required, but if any mitigation measure is required, it will be documented in the FTA approval memorandum for the project. In all cases, these environmental documents should be referenced in the construction grant agreement.

Audit Objective – Determine whether the measures to mitigate the adverse impacts on the community and the environment that were specified in the environmental documents referenced in the grant agreement for construction projects were implemented.

Suggested Audit Procedures

- a. Identify any FTA-assisted construction projects and review the grant agreement and environmental documents to identify mitigation measures specified.
- b. For a sample of mitigation measures, compare the status of implementation with the commitments made in the environmental documents or grant agreement.