

DEPARTMENT OF TRANSPORTATION**Federal Transit Administration****Fiscal Year 1999 Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements**

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice.

SUMMARY: This Notice contains FTA's comprehensive compilation of the Federal Fiscal Year 1999 certifications and assurances to be used in connection with all Federal assistance programs administered by FTA during Federal Fiscal Year 1999. (See Appendix A.) These certifications and assurances include all annual certifications required by 49 U.S.C. 5307(d)(1) for FTA's Urbanized Area Formula Program as well as other certifications and assurances needed for compliance with various other Federal statutes and regulations affecting FTA's assistance programs.

EFFECTIVE DATE: November 6, 1998.

FOR FURTHER INFORMATION CONTACT: Pat Berkley, Office of Program Management, Federal Transit Administration, (202) 366-6470; the FTA Web Site at <http://www.fta.dot.gov>; or contact FTA staff in the appropriate Regional Office listed below. For copies of other related documents, contact the Office of Public Affairs, Federal Transit Administration (202) 366-4019.

Region 1: Boston

States served: Maine, New Hampshire, Vermont, Connecticut, Rhode Island, and Massachusetts, Telephone #617-494-2055

Region 2: New York

States served: New York, New Jersey, and Virgin Islands, Telephone #212-264-8162

Region 3: Philadelphia

States served: Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and District of Columbia, Telephone #215-656-7100

Region 4: Atlanta

States served: Kentucky, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, and Puerto Rico, Telephone #404-562-3500

Region 5: Chicago

States served: Minnesota, Wisconsin, Michigan, Illinois, Indiana, and Ohio, Telephone #312-353-2789

Region 6: Dallas/Ft. Worth

States served: Arkansas, Louisiana, Oklahoma, Texas, and New Mexico, Telephone #817-860-9663

Region 7: Kansas City

States served: Missouri, Iowa, Kansas, and Nebraska, Telephone #816-523-0204

Region 8: Denver

States served: Colorado, Utah, Wyoming, Montana, North Dakota, South Dakota, Telephone #303-844-3242

Region 9: San Francisco

States served: California, Hawaii, Guam, Arizona, Nevada, American Samoa, and the Northern Mariana Islands, Telephone #415-744-3133

Region 10: Seattle

States served: Idaho, Oregon, Washington, and Alaska, Telephone #206-220-7954

SUPPLEMENTARY INFORMATION: Before FTA may award a Federal grant or cooperative agreement, the applicant must provide to FTA all certifications and assurances required by Federal laws and regulations for the applicant or its project.

This Notice provides the text of certifications and assurances that may be required by Federal law, regulations, or directives for the various Federal assistance programs administered by FTA including the Capital Program, the Urbanized Area Formula Program, the Nonurbanized Area Formula Program, the Metropolitan Planning Program, the Rural Transit Assistance Program, the Elderly and Persons With Disabilities Program, the Human Resource Program, the National Training Institute Program, the State Planning and Research Program, the National Planning and Research Program, the *Joint Partnership Program for Deployment of Innovation Program and the International Mass Transportation Program*, all codified at 49 U.S.C. chapter 53. When administering Federal assistance programs authorized by other Federal statutes, such as Title 23, United States Code, FTA uses these same certifications and assurances during Federal Fiscal Year 1999. In addition FTA will also use these certifications in administering the new Job Access and Reverse Commute Program, the Over-the-road Bus Accessibility Program, the State Infrastructure Bank Pilot Program, and the Pilot Program for Intercity Rail Infrastructure authorized by the Transportation Equity Act for the 21st Century (TEA-21).

This Notice provides the applicant with a single Signature Page on which the applicant and its attorney certifies compliance with all certifications and assurances applicable to each grant or cooperative agreement for which the applicant wishes to apply in Federal Fiscal Year 1999. (See Signature Page of Appendix A.)

An applicant's Annual Certifications and Assurances applicable to a specific grant or cooperative agreement generally remain in effect for the life of the grant or cooperative agreement to closeout, or the life of the project or project property when a useful life or standard industry life is in effect. If in a later year, however, the Applicant provides certifications and assurances that differ from the certifications and assurances previously made, the later certifications and assurances will apply to the grant, cooperative agreement, project, or project property, except as FTA otherwise permits.

Electronic Submission

FTA has expanded the use of the electronic programs for applicants, first introduced in 1995. Beginning with Fiscal Year 1999, FTA expects applicants to submit their applications as well as certifications and assurances electronically by means of the FTA electronic grant award and management system. If an applicant is not able to submit the certifications electronically, the applicant should use the Signature Page form in Appendix A of this **Federal Register** Notice. The Signature Page contains the current fiscal year's certifications and, when properly attested to and submitted to FTA, assures FTA that the applicant intends to comply with the requirements for the specific program involved. Applicants may contact the appropriate Regional Office shown above for more information.

1999 Changes

(1) All Applicants for FTA capital program or formula program assistance, and current Grantees with an active project financed with FTA capital program or formula program assistance, will be required to provide the Appendix A Certifications and Assurances within 90 days from the date of this publication or with its first grant application in Fiscal Year 1999, whichever comes first. (2) The attorney signature from previous years on the Single Signature Page will not be acceptable. FTA requires a current attorney's affirmation of the Applicant's legal authority to certify compliance with the funding obligations in this document. Additional changes include

clarification and reference sources. It is important that each applicant be familiar with all fifteen certification and assurance categories contained in this document as they may be a prerequisite for receiving FTA financial assistance. (3) Recipients of funds apportioned under Section 5336 serving a population of 200,000 or more are required by Section 5307(k) to make 1 per cent of their funds available for transit enhancement activities. In addition, those recipients are also required to submit a report annually listing the projects carried out during the preceding fiscal year with those funds. (See Signature Page.) (4) A recipient of funds under sections 5312(d) *Joint Partnership Program for Deployment of Innovation* and 5312(e), *International Mass Transportation Program* will be required to comply with the requirements of the 1999 Annual Certifications and Assurances. (5) A recipient of funds under the Transportation Equity Act for the 21st Century programs under section 3021, *Pilot Program for Intercity Rail Infrastructure* (only Oklahoma); *Job Access and Reverse Commute Grant Program* (section 3037); and *Over-the-road Bus Accessibility Program* (3038) will be required to comply with the requirements of the 1999 Annual Certification Program.

FTA directs your attention to Appendix C in FTA Circular 9300.1A, "Capital Program Grant Application Instructions," which was published on October 1, 1998; to Exhibit D in FTA Circular 9040.1E, dated October 1, 1998, "Nonurbanized Area Formula Program Guidance and Grant Application Instructions; and Appendix G of FTA Circular 9030.1C, dated October 1, 1998, Urbanized Area Formula Program: Grant Application Instructions. These circulars contain a previous version of the Annual Certifications and Assurances which includes some but not all of the most current and valid changes. Do not use the document contained in these circulars. They are examples only and will not be considered acceptable or valid. Therefore the provisions of this Notice supersede conflicting statements in those circulars. Note especially that the Applicant must use the most current Signature Pages shown in this Federal Fiscal Year 1999 **Federal Register** document or provide the signature concurrently through the transportation electronic award and management system for all applicants. A copy of an earlier fiscal year's Certification Signature page is not acceptable.

Background

With the publication of the Federal Fiscal Year 1995 version of this Notice, certifications and assurances for Federal assistance programs administered by FTA were for the first time consolidated into one document. This marked the beginning of an effort to assist applicants in reducing time and paper work in certifying compliance with various Federal laws and regulations. It coincided with the on-line program and the electronic initiative described above, which also reduced the time and paper required to process an application.

FTA intends to continue publishing this document annually with any changes or additions specifically highlighted, in conjunction with its publication of the FTA annual apportionment Notice, which allocates funds in accordance with the latest U.S. Department of Transportation (U.S. DOT) annual appropriations act.

Procedures

Following is a detailed compilation of Certifications and Assurances and the Signature Page (Appendix A). The Signature Page is to be signed by the applicant's authorized representative and its attorney. It is to be electronically transmitted through the FTA computerized on-line system, to the appropriate FTA Regional office within 90 days of this **Federal Register** publication date or with the applicant's first Federal assistance application in Federal Fiscal Year 1999, whichever comes first.

All applicants are advised to read the entire 1999 Certifications and Assurances to be confident of their responsibilities and commitments. The applicant may signify compliance with all Categories by placing a single "X" in the appropriate space at the top of the Signature Selection Page in Appendix A. However, the applicant's Attorney Affirmation continues to be required as indicated on the Signature Page at the end of Appendix A, regardless of the applicant's selection of a single selection for all fifteen Categories, or individual options selected from the fifteen Categories.

The Signature Page, when electronically transmitted to FTA or properly signed and submitted, assures FTA that the applicant intends to comply with the requirements for the specific program(s) involved, should they apply for an FTA grant during this fiscal year. All applicants must read the selection portion and the signature portion of this document and signify compliance by marking, where appropriate, with an "X" on the

category selection side, and then signifying compliance as indicated. (See Appendix A.) An applicant participating in the electronic award and management program, described above, may submit its Signature Page (both the selection side and the signature side) electronically. The applicant should not hesitate to consult with the appropriate Regional Office or Headquarters Office before submitting its certifications and assurances.

References

The Transportation Equity Act for the 21st Century, Pub. L. 105-178, June 9, 1998, as amended by the TEA-21 Restoration Act 105-206, 112 Stat. 685, July 22, 1998, 49 U.S.C. chapter 53, Title 23 U.S.C., U.S. DOT and FTA regulations under 49 CFR, and FTA Circulars.

Issued on: October 29, 1998.

Gordon J. Linton,
Administrator.

Appendix A

Federal Fiscal Year 1999 Certifications and Assurances for Federal Transit Administration Assistance Programs

In accordance with 49 U.S.C. 5323(n), the following certifications and assurances have been compiled for the various Federal Transit Administration (FTA) programs. FTA requests each Applicant provide as many of the following certifications and assurances as needed to cover the various types of programs for which the Applicant intends to seek FTA assistance in Federal Fiscal Year 1999. A state providing certifications and assurances on behalf of its prospective subrecipients is expected to obtain sufficient documentation from those subrecipients needed to provide informed certifications and assurances. The fifteen categories of certifications and assurances are listed by Roman numerals I through XV on the other side of the Signature Page of this document. Categories II through XV will apply to some, but not all, applicants. The designation of the categories corresponds to the circumstances mandating submission of specific certifications, assurances, or agreements.

I. Certifications and Assurances Required of Each Applicant

Each Applicant for Federal assistance awarded by FTA *must* provide all certifications and assurances in this Category I. Accordingly, FTA may not award any Federal assistance until the Applicant provides assurance of compliance by selecting Category I on the Signature Page at the end of this document.

A. Authority of Applicant and Its Representative

The authorized representative of the Applicant and legal counsel who sign these certifications, assurances, and agreements attest that both the Applicant and its authorized representative have adequate authority under state and local law and the

by-laws or internal rules of the Applicant organization to:

- (1) Execute and file the application for Federal assistance on behalf of the Applicant,
- (2) Execute and file the required certifications, assurances, and agreements on behalf of the Applicant binding the Applicant, and
- (3) Execute grant and cooperative agreements with FTA on behalf of the Applicant.

B. Standard Assurances

The Applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out any project supported by an FTA grant or cooperative agreement. The Applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant or cooperative agreement issued for its project with FTA. The Applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and affect the implementation of the project. The Applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise.

C. Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

As required by U.S. DOT regulations on Governmentwide Debarment and Suspension (Nonprocurement) at 49 CFR 29.510:

- (1) The Applicant (Primary Participant) certifies, to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not, within a three-year period preceding this certification, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction, violation of Federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of any of the offenses listed in subparagraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this certification had one or more public transactions (Federal, state, or local) terminated for cause or default.
- (2) The Applicant also certifies that, if it later becomes aware of any information contradicting the statements of paragraph (1) above, it will promptly provide that information to FTA.
- (3) If the Applicant (Primary Participant) is unable to certify to the statements in

paragraphs (1) and (2) above, it shall indicate so on its Signature Page and provide a written explanation to FTA.

D. Drug-Free Workplace Agreement

As required by U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 CFR Part 29, Subpart F, as modified by 41 U.S.C. 702, the Applicant agrees that it will provide a drug-free workplace by:

- (1) Publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace and specifying the actions that will be taken against its employees for violation of that prohibition;
- (2) Establishing an ongoing drug-free awareness program to inform its employees about:
 - (a) The dangers of drug abuse in the workplace,
 - (b) Its policy of maintaining a drug-free workplace,
 - (c) Any available drug counseling, rehabilitation, and employee assistance programs, and
 - (d) The penalties that may be imposed upon its employees for drug abuse violations occurring in the workplace;
- (3) Making it a requirement that each of its employees to be engaged in the performance of the grant or cooperative agreement be given a copy of the statement required by paragraph (1);
- (4) Notifying each of its employees in the statement required by paragraph (1) that, as a condition of employment financed with Federal assistance provided by the grant or cooperative agreement, the employee will be required to:
 - (a) Abide by the terms of the statement, and
 - (b) Notify the employer (Applicant) in writing of any conviction for a violation of a criminal drug statute occurring in the workplace no later than 5 calendar days after that conviction;
- (5) Notifying FTA in writing, within 10 calendar days after receiving notice required by paragraph (4)(b) above from an employee or otherwise receiving actual notice of that conviction. The Applicant, as employer of any convicted employee, must provide notice, including position title, to every project officer or other designee on whose project activity the convicted employee was working. Notice shall include the identification number(s) of each affected grant or cooperative agreement.
- (6) Taking one of the following actions within 30 calendar days of receiving notice under paragraph (4)(b) above with respect to any employee who is so convicted:
 - (a) Taking appropriate personnel action against that employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or
 - (b) Requiring that employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state, or local health, law enforcement, or other appropriate agency;

- (7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5), and (6) above.

The Applicant agrees to maintain a list identifying its headquarters location and each workplace it maintains in which project activities supported by FTA are conducted, and make that list readily accessible to FTA.

E. Intergovernmental Review Assurance

The Applicant assures that each application for Federal assistance submitted to FTA has been or will be submitted, as required by each state, for intergovernmental review to the appropriate state and local agencies. Specifically, the Applicant assures that it has fulfilled or will fulfill the obligations imposed on FTA by U.S. DOT regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17.

F. Nondiscrimination Assurance

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Applicant assures that it will comply with all requirements of 49 CFR part 21; FTA Circular 4702.1, "Title VI Program Guidelines for Federal Transit Administration Recipients", and other applicable directives, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Applicant receives Federal assistance awarded by the U.S. DOT or FTA as follows:

- (1) The Applicant assures that each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
- (2) The Applicant assures that it will take appropriate action to ensure that any transferee receiving property financed with Federal assistance derived from FTA will comply with the applicable requirements of 49 U.S.C. 5332 and 49 CFR part 21.
- (3) The Applicant assures that it will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Applicant assures that it will submit the required information pertaining to its compliance with these requirements.

(4) The Applicant assures that it will make any changes in its 49 U.S.C. 5332 and Title VI implementing procedures as U.S. DOT or FTA may request.

(5) As required by 49 CFR 21.7(a)(2), the Applicant will include in each third party contract or subagreement appropriate provisions to impose the requirements of 49 U.S.C. 5332 and 49 CFR part 21, and include appropriate provisions imposing those requirements in deeds and instruments recording the transfer of real property, structures, improvements.

G. Assurance of Nondiscrimination on the Basis of Disability

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR part 27, implementing the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended, the Applicant assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Applicant assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.* at 49 CFR parts 27, 37, and 38, and any applicable regulations and directives issued by other Federal departments or agencies.

H. Procurement Compliance

The Applicant certifies that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements," and other implementing requirements FTA may issue. The Applicant certifies that it will include in its contracts financed in whole or in part with FTA assistance all clauses required by Federal laws, executive orders, or regulations, and will ensure that each subrecipient and each contractor will also include in its subagreements and contracts financed in whole or in part with FTA assistance all applicable clauses required by Federal laws, executive orders, or regulations.

I. Certifications Prescribed by the Office of Management and Budget (SF-424B and SF-424D)

The Applicant certifies that it:

(1) Has the legal authority to apply for Federal assistance and the institutional, managerial, and financial capability

(including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in its application.

(2) Will give FTA, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

(3) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain.

(4) Will initiate and complete the work within the applicable project time periods following receipt of FTA approval.

(5) Will comply with all statutes relating to nondiscrimination including, but not limited to:

(a) Title VI of the Civil Rights Act, 42 U.S.C. 2000d, which prohibits discrimination on the basis of race, color, or national origin;

(b) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681, 1683, and 1685 through 1687, which prohibits discrimination on the basis of sex;

(c) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicaps;

(d) The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 through 6107, which prohibit discrimination on the basis of age;

(e) The Drug Abuse Office and Treatment Act of 1972, Pub. L. 92-255, March 21, 1972, and amendments thereto, relating to nondiscrimination on the basis of drug abuse;

(f) The Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, Pub. L. 91-616, Dec. 31, 1970, and amendments thereto, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;

(g) The Public Health Service Act of 1912, as amended, 42 U.S.C. 290dd-3 and 290ee-3, related to confidentiality of alcohol and drug abuse patient records;

(h) Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*, relating to nondiscrimination in the sale, rental, or financing of housing;

(i) Any other nondiscrimination provisions in the specific statutes under which Federal assistance for the project may be provided including, but not limited to section 1101(b) of the Transportation Equity Act for the 21st Century, 23 U.S.C. 101 note, which provides for participation of disadvantaged business enterprises in FTA programs; and

(j) The requirements of any other nondiscrimination statute(s) that may apply to the project.

(6) Will comply, or has complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (Uniform Relocation Act) 42 U.S.C. 4601 *et seq.*, which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of

Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. As required by U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," at 49 CFR 24.4, and sections 210 and 305 of the Uniform Relocation Act, 42 U.S.C. 4630 and 4655, the Applicant assures that it has the requisite authority under applicable state and local law and will comply or has complied with the requirements of the Uniform Relocation Act, 42 U.S.C. 4601 *et seq.*, and U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR part 24 including, but not limited to the following:

(a) The Applicant will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24;

(b) The Applicant will provide fair and reasonable relocation payments and assistance required by 42 U.S.C. 4622, 4623, and 4624; 49 CFR part 24; and any applicable FTA procedures, to or for families, individuals, partnerships, corporations or associations displaced as a result of any project financed with FTA assistance;

(c) The Applicant will provide relocation assistance programs offering the services described in 42 U.S.C. 4625 to such displaced families, individuals, partnerships, corporations or associations in the manner provided in 49 CFR part 24 and FTA procedures;

(d) Within a reasonable time before displacement, the Applicant will make available comparable replacement dwellings to displaced families and individuals as required by 42 U.S.C. 4625(c)(3);

(e) The Applicant will carry out the relocation process in such a manner as to provide displaced persons with uniform and consistent services, and will make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin;

(f) In acquiring real property, the Applicant will be guided to the greatest extent practicable under state law, by the real property acquisition policies of 42 U.S.C. 4651 and 4652;

(g) The Applicant will pay or reimburse property owners for necessary expenses as specified in 42 U.S.C. 4653 and 4654, understanding that FTA will participate in the Applicant's costs of providing those payments and that assistance for the project as required by 42 U.S.C. 4631;

(h) The Applicant will execute such amendments to third party contracts and subagreements financed with FTA assistance and execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement the assurances provided herein; and

(i) The Applicant agrees to make these assurances part of or incorporate them by reference into any third party contract or subagreement, or any amendments thereto, relating to any project financed by FTA

involving relocation or land acquisition and provide in any affected document that these relocation and land acquisition provisions shall supersede any conflicting provisions.

(7) Will comply, as applicable, with provisions of the Hatch Act, 5 U.S.C. 1501 through 1508, and 7324 through 7326, which limit the political activities of state and local agencies and their officers and employees whose principal employment activities are financed in whole or part with Federal funds including a Federal loan, grant, or cooperative agreement, but does not apply to a nonsupervisory employee of a transit system (or of any other agency or entity performing related functions) receiving FTA assistance to whom the Hatch Act does not otherwise apply.

(8) To the extent applicable will comply with the Davis-Bacon Act, as amended, 40 U.S.C. 276a through 276a(7), the Copeland Act, as amended, 18 U.S.C. 874 and 40 U.S.C. 276c, and the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 327 through 333, regarding labor standards for federally-assisted subagreements.

(9) To the extent applicable, will comply with flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

(10) Will comply with environmental standards that may be prescribed to implement the following Federal laws and executive orders:

(a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.* and Executive Order No. 11514, as amended, 42 U.S.C. 4321 note;

(b) Notification of violating facilities pursuant to Executive Order No. 11738, 42 U.S.C. 7606 note;

(c) Protection of wetlands pursuant to Executive Order No. 11990, 42 U.S.C. 4321 note;

(d) Evaluation of flood hazards in floodplains in accordance with Executive Order 11988, 42 U.S.C. 4321 note;

(e) Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*

(f) Conformity of Federal actions to State (Clean Air) Implementation Plans under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 *et seq.*;

(g) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300h *et seq.*;

(h) Protection of endangered species under the Endangered Species Act of 1973, as amended, Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*; and

(i) Environmental protections for Federal transit programs, including, but not limited to protections for a park, recreation area, or wildlife or waterfowl refuge of national, state, or local significance or any land from a

historic site of national, state, or local significance used in a transit project as required by 49 U.S.C. 303.

(11) Will comply with the Wild and Scenic Rivers Act of 1968, as amended, 15 U.S.C. 1271 *et seq.* relating to protecting components of the national wild and scenic rivers systems.

(12) Will assist FTA in assuring compliance with section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f, Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note, and the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469a-1 *et seq.*

(13) Will comply with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4801, which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

(14) Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities on which a construction project supported with FTA assistance takes place without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with FTA directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.

(15) Will comply with FTA requirements concerning the drafting, review, and approval of construction plans and specifications of any construction project supported with FTA assistance. As required by U.S. DOT regulations, "Seismic Safety," 49 CFR 41.117(d), before accepting delivery of any building financed with FTA assistance, it will obtain a certificate of compliance with the seismic design and construction requirements of 49 CFR part 41.

(16) Will provide and maintain competent and adequate engineering supervision at the construction site of any project supported with FTA assistance to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by FTA or the State.

(17) Will comply with the National Research Act, Pub. L. 93-348, July 12, 1974, as amended, regarding the protection of human subjects involved in research, development, and related activities supported by the FTA assistance.

(18) Will comply with the Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. 2131 *et seq.* pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by FTA assistance.

(19) Will have performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.* and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

(20) Will comply with all applicable requirements of all other Federal laws,

executive orders, regulations, and policies governing the project.

II. Lobbying Certification for an Application Exceeding \$100,000

An Applicant that submits, or intends to submit this fiscal year, an application for Federal assistance exceeding \$100,000 must provide the following certification. FTA may not provide Federal assistance for an application exceeding \$100,000 until the Applicant provides this certification by selecting Category II on the Signature Page.

A. As required by U.S. DOT regulations, "New Restrictions on Lobbying," at 49 CFR 20.110, the Applicant's authorized representative certifies to the best of his or her knowledge and belief that for each application for a Federal assistance exceeding \$100,000:

(1) No Federal appropriated funds have been or will be paid, by or on behalf of the Applicant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress pertaining to the award of any Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; and

(2) If any funds other than Federal appropriated funds have been or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application to FTA for Federal assistance, the Applicant assures that it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," including the information required by the form's instructions, which may be amended to omit such information as permitted by 31 U.S.C. 1352.

B. The Applicant understands that this certification is a material representation of fact upon which reliance is placed and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. The Applicant also understands that any person who fails to file a required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

III. Effects on Private Mass Transportation Companies

An Applicant that is a state or local government seeking Federal assistance under 49 U.S.C. chapter 53 to acquire property or an interest in property of a private mass transportation company or operate mass transportation equipment or a facility in competition with or in addition to transportation service provided by an existing mass transportation company must provide the following certification. FTA may not award Federal assistance for that project until the Applicant provides this certification by selecting Category III on the Signature Page.

As required by 49 U.S.C. 5323(a)(1), the Applicant certifies that before it acquires

property or an interest in property of a private mass transportation company or operates mass transportation equipment or a facility in competition with or in addition to transportation service provided by an existing mass transportation company it has or will have:

A. Found that the assistance is essential to carrying out a program of projects as determined by the plans and programs of the metropolitan planning organization;

B. Provided for the participation of private mass transportation companies to the maximum extent feasible; and

C. Paid or will pay just compensation under state or local law to a private mass transportation company for its franchises or property acquired.

D. The assistance falls within the labor standards compliance requirements of 49 U.S.C. 5333(a) and 5333(b).

IV. Public Hearing Certification for a Capital Project That Will Substantially Affect a Community or its Transit Service

An Applicant seeking Federal assistance under 49 U.S.C. chapter 53 for a capital project that will substantially affect a community or the transit service of a community must provide the following certification. FTA may not award Federal assistance for that project until the Applicant provides this certification by selecting Category IV on the Signature Page.

As required by 49 U.S.C. 5323(b), the Applicant certifies that it has, or before submitting its application, will have:

A. Provided an adequate opportunity for a public hearing with adequate prior notice of the proposed project published in a newspaper of general circulation in the geographic area to be served;

B. Held that hearing and provided FTA a transcript or detailed report summarizing the issues and responses, unless no one with a significant economic, social, or environmental interest requests a hearing;

C. Considered the economic, social, and environmental effects of the project; and

D. Determined that the project is consistent with official plans for developing the urban area.

V. Certification of Pre-Award and Post-Delivery Reviews Required for Acquisition of Rolling Stock

An Applicant seeking FTA assistance to purchase rolling stock must provide the following certification. FTA may not provide assistance for any rolling stock acquisition until the Applicant provides this certification by selecting Category V on the Signature Page.

As required by 49 U.S.C. 5323(m), and implementing FTA regulations at 49 CFR 663.7, the Applicant certifies that it will comply with the requirements of 49 CFR part 663, in the course of purchasing revenue service rolling stock. Among other things, the Applicant will conduct or cause to be conducted the prescribed pre-award and post-delivery reviews, and will maintain on file the certifications required by 49 CFR part 663, subparts B, C, and D.

VI. Bus Testing Certification Required for New Bus Acquisitions

An Applicant seeking FTA assistance to acquire new buses must provide the following certification. FTA may not provide assistance for the acquisition of new buses until the Applicant provides this certification by selecting Category VI on the Signature Page.

As required by FTA regulations, "Bus Testing," at 49 CFR 665.7, the Applicant certifies that before expending any Federal assistance to acquire the first bus of any new bus model or any bus model with a new major change in configuration or components or authorizing final acceptance of that bus (as described in 49 CFR part 665):

A. The model of the bus will have been tested at a bus testing facility approved by FTA; and

B. It will have received a copy of the test report prepared on the bus model.

VII. Charter Service Agreement

An Applicant seeking FTA assistance to acquire or operate transportation equipment or facilities acquired with Federal assistance authorized by 49 U.S.C. chapter 53 or Title 23 U.S.C. (except 49 U.S.C. 5310) must enter into the following charter service agreement. FTA may not provide assistance for those projects until the Applicant enters into this agreement by selecting Category VII on the Signature Page.

A. As required by 49 U.S.C. 5323(d) and FTA regulations, "Charter Service," at 49 CFR 604.7, the Applicant agrees that it and its recipients will: (1) provide charter service that uses equipment or facilities acquired with Federal assistance authorized for 49 U.S.C. 5307, 5309, or 5311 or Title 23 U.S.C., only to the extent that there are no private charter service operators willing and able to provide the charter service that it or its recipients desire to provide, unless one or more of the exceptions in 49 CFR 604.9 applies, and (2) comply with the provisions of 49 CFR part 604 before they provide any charter service using equipment or facilities acquired with Federal assistance authorized for the above statutes.

B. The Applicant understands that the requirements of 49 CFR part 604 will apply to any charter service provided, the definitions in 49 CFR part 604 apply to this agreement, and violation of this agreement may require corrective measures and the imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

VIII. School Transportation Agreement

An Applicant seeking FTA assistance to acquire or operate transportation facilities and equipment acquired with Federal assistance authorized by 49 U.S.C. chapter 53 must agree as follows. FTA may not provide assistance for transportation facilities until the Applicant enters into this Agreement by selecting Category VIII on the Signature Page.

A. As required by 49 U.S.C. 5323(f) and FTA regulations, "School Bus Operations," at 49 CFR 605.14, the Applicant agrees that it and all its recipients will:

(1) Engage in school transportation operations in competition with private

school transportation operators only to the extent permitted by an exception provided by 49 U.S.C. 5323(f), and implementing regulations, and

(2) Comply with the requirements of 49 CFR part 605 before providing any school transportation using equipment or facilities acquired with Federal assistance awarded by FTA and authorized by 49 U.S.C. chapter 53 or Title 23 U.S.C. for transportation projects.

B. The Applicant understands that the requirements of 49 CFR part 605 will apply to any school transportation it provides, the definitions of 49 CFR part 605 apply to this school transportation agreement, and a violation of this agreement may require corrective measures and the imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

IX. Certification Required for the Direct Award of FTA Assistance to an Applicant for its Demand Responsive Service

An Applicant seeking direct Federal assistance to support its demand responsive service must provide the following certification. FTA may not award Federal assistance directly to an Applicant to support its demand responsive service until the Applicant provides this certification by selecting Category IX on the Signature Page.

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," at 49 CFR 37.77, the Applicant certifies that its demand responsive service offered to persons with disabilities, including persons who use wheelchairs, is equivalent to the level and quality of service offered to persons without disabilities. When viewed in its entirety, the Applicant's service for persons with disabilities is provided in the most integrated setting feasible and is equivalent with respect to: (1) response time, (2) fares, (3) geographic service area, (4) hours and days of service, (5) restrictions on trip purpose, (6) availability of information and reservation capability, and (7) constraints on capacity or service availability.

X. Substance Abuse Certifications

If the Applicant is required by Federal regulations to provide the following substance abuse certifications, FTA may not provide Federal assistance to that Applicant until it provides these certifications by selecting Category X on the Signature Page.

A. Alcohol Testing Certification

As required by FTA regulations, "Prevention of Alcohol Misuse in Transit Operations," at 49 CFR 654.83, the Applicant certifies that it has established and implemented an alcohol misuse prevention program complying with the requirements of 49 CFR part 654; and if the Applicant has employees regulated by the Federal Railroad Administration (FRA), the Applicant also certifies that it has for those employees an alcohol misuse prevention program complying with FRA regulations, "Control of Alcohol and Drug Use," 49 CFR part 219.

B. Anti-Drug Program Certification

As required by FTA regulations "Prevention of Prohibited Drug Use in

Transit Operations.” at 49 CFR 653.83, the Applicant certifies that it has established and implemented an anti-drug program and has conducted employee training complying with the requirements of 49 CFR part 653; and if the Applicant has employees regulated by the U.S. Federal Railroad Administration (FRA), the Applicant also certifies that it has for those employees an anti-drug program complying with FRA regulations, “Control of Alcohol and Drug Use,” 49 CFR part 219.

XI. Certification for a Project Involving Interest or Other Financing Costs

The Applicant must provide the following certification in connection with requests for reimbursements of interest or other financing costs of capital projects. FTA may not provide assistance to support those costs until the Applicant provides this certification by selecting Category XI on the Signature Page.

As required by 49 U.S.C. 5307(g), 49 U.S.C. 5309(g)(2)(B), 49 U.S.C. 5309(g)(3)(A), and 49 U.S.C. 5309(n), the Applicant certifies that it will not seek reimbursement for interest and other financing costs unless its records demonstrate it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA might require.

XII. Certifications for the Urbanized Area Formula Program and the Job Access and Reverse Commute Program

Each Applicant to FTA for Urbanized Area Formula Program assistance authorized for 49 U.S.C. 5307 and each Applicant for Job Access and Reverse Commute Program assistance authorized for Section 3037 of the Transportation Equity Act for the 21st Century, 49 U.S.C. 5309 note, must provide the following certifications in connection with its application. FTA may not award Urbanized Area Formula Program assistance or Job Access and Reverse Commute Program assistance to the Applicant until the Applicant provides these certifications and assurances by selecting Category XIV on the Signature Page.

In addition, each Applicant with a population of 200,000 or more awarded funds apportioned under 49 U.S.C. 5307(k) after June 9, 1998, must submit a report listing the Transit Enhancement projects carried out during Federal fiscal year 1998 with those funds. FTA may not award Urbanized Area Formula Program assistance to any Applicant with a population of 200,000 or more until that Applicant indicates that it has submitted this Report by selecting “Transit Enhancement Activities Report Submitted” on the Signature Page under Category XII.

A. Certifications Required by Statute

As required by 49 U.S.C. 5307(d)(1) (A) through (J), the Applicant certifies that:

- (1) It has or will have the legal, financial, and technical capacity to carry out the proposed program of projects;
- (2) It has or will have satisfactory continuing control over the use of the equipment and facilities;
- (3) It will adequately maintain the equipment and facilities;

(4) It will ensure that the elderly and handicapped persons, or any person presenting a Medicare card issued to himself or herself under title II or title XVIII of the Social Security Act (42 U.S.C. 401 *et seq.* or 42 U.S.C. 1395 *et seq.*), will be charged during non-peak hours for transportation using or involving a facility or equipment of a project financed with Federal assistance authorized for 49 U.S.C. 5307 or Section 3037 of the Transportation Equity Act for the 21st Century (TEA-21), 49 U.S.C. 5309 note, not more than 50 percent of the peak hour fare;

(5) In carrying out a procurement financed with Federal assistance authorized for the Urbanized Area Formula Program at 49 U.S.C. 5307 or Section 3037 of TEA-21, 49 U.S.C. 5309 note, it will use competitive procurement (as defined or approved by the Secretary), it will not use a procurement using exclusionary or discriminatory specifications, and it will comply with applicable Buy America laws in carrying out a procurement;

(6) It has complied or will comply with the requirements of 49 U.S.C. 5307(c); specifically, it has or before submitting its application it will: (a) make available to the public information on amounts available for the Urbanized Area Formula Program at 49 U.S.C. 5307 and, if applicable, the Job Access and Reverse Commute Grant Program, 49 U.S.C. 5309 note, and the program of projects it proposes to undertake with those funds; (b) develop, in consultation with interested parties, including private transportation providers, a proposed program of projects for activities to be financed; (c) publish a proposed program of projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed program and submit comments on the proposed program and the performance of the Applicant; (d) provide an opportunity for a public hearing to obtain the views of citizens on the proposed program of projects; and (e) ensure that the proposed program of projects provides for the coordination of transportation services assisted under 49 U.S.C. 5336 with transportation services assisted by another Federal Government source; (f) consider comments and views received, especially those of private transportation providers, in preparing the final program of projects; and (g) make the final program of projects available to the public;

(7) It has or will have available and will provide the amount of funds required by 49 U.S.C. 5307(e) and applicable FTA policy (specifying Federal and local shares of project costs);

(8) It will comply with: (a) 49 U.S.C. 5301(a) (requirements to develop transportation systems that maximize mobility and minimize fuel consumption and air pollution); (b) 49 U.S.C. 5301(d) (requirements for transportation of the elderly and persons with disabilities); (c) 49 U.S.C. 5303 through 5306 (planning requirements); and (d) 49 U.S.C. 5310 (a) through (d) (programs for the elderly and persons with disabilities);

(9) It has a locally developed process to solicit and consider public comment before

raising fares or implementing a major reduction of transportation; and

(10) As required by 49 U.S.C. 5307(d)(1)(J), unless the Applicant has determined that it is not necessary to expend one percent of the amount of Federal assistance it receives for this fiscal year apportioned in accordance with 49 U.S.C. 5336 for transit security projects, it will expend at least one percent of the amount of that assistance for transit security projects, including increased lighting in or adjacent to a transit system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, emergency telephone line or lines 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 transit system.

B. Certification Required for Capital Leasing

As required by FTA regulations, “Capital Leases,” at 49 CFR 639.15(b)(1) and 639.21, to the extent the Applicant uses Federal assistance authorized for 49 U.S.C. 5307 or Section 3037 of TEA-21, 49 U.S.C. 5309 note, to acquire any capital asset by lease, the Applicant certifies that:

(1) It will not use Federal assistance authorized for 49 U.S.C. 5307 or Section 3037 of TEA-21, 49 U.S.C. 5309 note, to finance the cost of leasing any capital asset until it performs calculations demonstrating that leasing the capital asset would be more cost-effective than purchasing or constructing a similar asset;

(2) It will complete these calculations before entering into the lease or before receiving a capital grant for the asset, whichever is later; and

(3) It will not enter into a capital lease for which FTA can only provide incremental funding unless it has the financial capacity to meet its future obligations under the lease in the event Federal assistance is not available for capital projects in subsequent years.

C. Certification Required for Sole Source Purchase of Associated Capital Maintenance Item

As required by 49 U.S.C. 5325(c), to the extent that the Applicant procures an associated capital maintenance item under the authority of 49 U.S.C. 5307(b)(1), the Applicant certifies that it will use competition to procure an associated capital maintenance item unless the manufacturer or supplier of that item is the only source for the item and the price of the item is no more than the price similar customers pay for the item, and maintain sufficient records pertaining to each such procurement on file easily retrievable for FTA inspection.

XIII. Certifications and Assurances for the Elderly and Persons with Disabilities Program

An Applicant that intends to administer, on behalf of the state, the Elderly and Persons with Disabilities Program must provide the following certifications and assurances. FTA may not award assistance for the Elderly and Persons with Disabilities Program until the Applicant provides these certifications and

assurances by selecting Category XIII on the Signature Page.

Based on its own knowledge and, as necessary, on information submitted by the subrecipient, the Applicant administering on behalf of the state the Elderly and Persons with Disabilities Program authorized by 49 U.S.C. 5310 certifies and assures that the following requirements and conditions will be fulfilled:

A. The state organization serving as the Applicant and each subrecipient has or will have the necessary legal, financial, and managerial capability to apply for, receive, and disburse Federal assistance authorized for 49 U.S.C. 5310; and to implement and manage the project.

B. The state assures that each subrecipient either is recognized under state law as a private nonprofit organization with the legal capability to contract with the state to carry out the proposed project, or is a public body that has met the statutory requirements to receive Federal assistance authorized for 49 U.S.C. 5310.

C. The subrecipient's application for 49 U.S.C. 5310 assistance contains information from which the state concludes that the transit service provided or offered to be provided by existing public or private transit operators is unavailable, insufficient, or inappropriate to meet the special needs of the elderly and persons with disabilities.

D. The state assures that sufficient non-Federal funds have been or will be committed to provide the required local share.

E. The subrecipient has, or will have by the time of delivery, sufficient funds to operate and maintain the vehicles and equipment purchased with Federal assistance awarded for this project.

F. The state assures that before issuing the state's formal approval of a project, its Elderly and Persons with Disabilities Formula Program is included in the Statewide Transportation Improvement Program as required by 23 U.S.C. 135; all projects in urbanized areas recommended for approval are included in the annual element of the metropolitan Transportation Improvement Program in which the subrecipient is located; and any public body that is a prospective subrecipient of capital assistance has provided an opportunity for a public hearing.

G. The subrecipient has, to the maximum extent feasible, coordinated with other transportation providers and users, including social service agencies authorized to purchase transit service.

H. The subrecipient is in compliance with all applicable civil rights requirements, and has signed the Nondiscrimination Assurance. (Category I.F., "Certifications and Assurances Required of Each Applicant.")

I. The subrecipient will comply with applicable requirements of U.S. DOT regulations on participation of disadvantaged business enterprises in U.S. DOT programs.

J. The state will comply with all existing Federal requirements regarding transportation of elderly persons and persons with disabilities. Each subrecipient has provided to the state an Assurance of Nondiscrimination on the Basis of Disability,

as set forth in the Certifications and Assurances required of each applicant for FTA assistance at Category 1.G of this document. If non-accessible vehicles are being purchased for use by a public entity in demand responsive service for the general public, the state will obtain from the subrecipient a "Certification of Equivalent Service," which states that when viewed in its entirety the public entity's demand responsive service offered to persons with disabilities, including persons who use wheelchairs, meets the standard of equivalent service set forth in 40 CFR section 37.77(c).

K. The subrecipient has certified to the state that it will comply with applicable provisions of 49 CFR part 605 pertaining to school transportation operations. (See Category VIII, "School Transportation Agreement.")

L. Unless otherwise noted, each of the subrecipient's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," at 23 CFR 771.117(c). The state certifies that financial assistance will not be provided for any project that does not qualify for a categorical exclusion described in 23 CFR 771.117(c) until FTA has made the required environmental finding. The state further certifies that no financial assistance will be provided for a project requiring a conformity finding in accordance with the Environmental Protection Agency's Clean Air Conformity regulations at 40 CFR parts 51 and 93, until FTA makes the required conformity finding.

M. The subrecipient has submitted (or will submit) all applicable certifications and assurances currently required, including, but not limited to: a certification that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements," and other implementing requirements FTA may issue; a certification that its project provides for the participation of private mass transportation companies to the maximum extent feasible; a certification it has paid or will pay just compensation under state or local law to each private mass transportation company for its franchise or property acquired under the project; a nonprocurement suspension and debarment certification; a bus testing certification for new models; a pre-award and post-delivery review certification; and a lobbying certification for each application exceeding \$100,000. Certifications and assurances applicable to and submitted by the subrecipient should be substantially similar to the text of parallel certifications and assurances text of Categories I–XI of this document, but modified as necessary to accommodate the subrecipient's circumstances.

N. The state will enter into a written agreement with each subrecipient stating the terms and conditions of assistance by which the project will be undertaken and completed.

O. The state recognizes FTA's authority to conduct audits and reviews to verify compliance with the foregoing requirements and stipulations.

XIV. Certifications and Assurances for the Nonurbanized Area Formula Program

An Applicant that intends to administer, on behalf of the state, the Nonurbanized Area Formula Program must provide the following certifications and assurances. FTA may not award Nonurbanized Area Formula Program assistance to the Applicant until the Applicant provides these certifications and assurances by selecting Category XIV on the Signature Page.

Based on its own knowledge and, as necessary, on information submitted by the subrecipient, the Applicant administering on behalf of the state the Nonurbanized Area Formula Program authorized by 49 U.S.C. 5311 certifies and assures that the following requirements and conditions will be fulfilled:

A. The state organization serving as the Applicant and each subrecipient has or will have the necessary legal, financial, and managerial capability to apply for, receive and disburse Federal assistance authorized for 49 U.S.C. 5311; and to implement and manage the project.

B. The state assures that sufficient non-Federal funds have been or will be committed to provide the required local share.

C. The subrecipient has, or will have by the time of delivery, sufficient funds to operate and maintain the vehicles and equipment purchased with Federal assistance authorized for this project.

D. The state assures that before issuing the state's formal approval of the project, its Nonurbanized Area Formula Program is included in the Statewide Transportation Improvement Program as required by 23 U.S.C. 135; to the extent applicable, projects are included in a metropolitan Transportation Improvement Program.

E. The state has provided for a fair and equitable distribution of Federal assistance authorized for 49 U.S.C. 5311 within the state, including Indian reservations within the state.

F. The subrecipient has, to the maximum extent feasible, coordinated with other transportation providers and users, including social service agencies authorized to purchase transit service.

G. The subrecipient is in compliance with all applicable civil rights requirements, and has signed the Nondiscrimination Assurance. (See Category I.F., "Certifications and Assurances Required of Each Applicant.")

H. The subrecipient will comply with applicable requirements of U.S. DOT regulations on participation of disadvantaged business enterprise in U.S. DOT programs.

I. The state will comply with all existing Federal requirements regarding transportation of elderly persons and persons with disabilities. Each subrecipient has provided to the state an Assurance of Nondiscrimination on the Basis of Disability, as set forth in the Certifications and Assurances required of each applicant for FTA assistance at Category 1.G of this document. If non-accessible vehicles are

being purchased for use by a public entity in demand responsive service for the general public, the state will obtain from the subrecipient a "Certification of Equivalent Service," which states that when viewed in its entirety the public entity's demand responsive service offered to persons with disabilities, including persons who use wheelchairs, meets the standard of equivalent service set forth in 40 C.F.R. section 37.77(c).

J. The subrecipient has complied with the transit employee protective provisions of 49 U.S.C. 5333(b), by one of the following actions: (1) signing the Special Warranty for the Nonurbanized Area Formula Program, (2) agreeing to alternative comparable arrangements approved by the Department of Labor (DOL), or (3) obtaining a waiver from DOL; and the state has certified the subrecipient's compliance to DOL.

K. The subrecipient has certified to the state that it will comply with 49 CFR part 604 in the provision of any charter service provided with equipment or facilities acquired with FTA assistance, and will also comply with applicable provisions of 49 CFR part 605 pertaining to school transportation operations. (See Category VII, "Charter Service Agreement," and Category VIII, "School Transportation Agreement.")

L. Unless otherwise noted, each of the subrecipient's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," at 23 CFR 771.117(c). The state certifies that financial assistance will not be provided for any project that does not qualify for a categorical exclusion described in 23 CFR 771.117(c) until FTA has made the required environmental finding. The state further certifies that no financial assistance will be provided for a project requiring a conformity finding in accordance with the Environmental Protection Agency's Clean Air Conformity regulations at 40 CFR parts 51 and 93, until FTA makes the required conformity finding.

M. The subrecipient has submitted (or will submit) all applicable certifications and assurances currently required, including but not limited to: a certification that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements," and other implementing requirements FTA may issue; a certification that its project provides for the participation of private mass transportation companies to the maximum extent feasible; a certification it has paid or will pay just compensation under state or local law to each private mass transportation company for its franchise or property acquired under the project; a nonprocurement suspension and debarment certification; a bus testing certification for new bus models; a pre-award and post-delivery review certification; and a lobbying certification for each application exceeding \$100,000. Certifications and assurances applicable to and submitted by the subrecipient should be substantially similar

to the text of parallel certifications and assurances text of Categories I-XI of this document, but modified as necessary to accommodate the subrecipient's circumstances.

N. The state will enter into a written agreement with each subrecipient stating the terms and conditions of assistance by which the project will be undertaken and completed.

O. The state recognizes FTA's authority to conduct audits and reviews to verify compliance with the foregoing requirements and stipulations.

P. As required by 49 U.S.C. 5311(f), it will expend not less than fifteen percent of the Federal assistance authorized for 49 U.S.C. 5311(f) it receives during this fiscal year to carry out a program to develop and support intercity bus transportation, unless the chief executive officer of the state or his or her duly authorized designee certifies that the intercity bus service needs of the state are being adequately met.

XV. Certifications and Assurances for the State Infrastructure Bank Program

A state Applicant for a grant of Federal assistance for deposit in the Transit Account of the State Infrastructure Bank (SIB) within that state must provide the following certifications and assurances. The Federal Transit Administration (FTA) may not award Federal assistance to capitalize a SIB until the state Applicant provides these certifications and assurances by selecting Category XV on the Signature Page.

Based on its own knowledge and, as necessary, on information submitted by the participating parties, the state Applicant for Federal assistance for the Transit Account of its state SIB program authorized by either section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 101 note, or the State Infrastructure Bank Pilot Program, 23 U.S.C. 181 note, certifies and assures that the following requirements and conditions will be fulfilled pertaining to any project financed with Federal assistance derived from the Transit Account of the SIB:

A. The state organization serving as the Applicant (state) agrees and assures the agreement of the SIB and each recipient of Federal assistance derived from the Transit Account of the SIB within the state (subrecipient) that each Project financed with Federal assistance derived from the Transit Account will be administered in accordance with: (1) the requirements of section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 101 note, or the State Infrastructure Bank Pilot Program, 23 U.S.C. 181 note, (2) the provisions of FTA's SIB Guidelines, and any amendments thereto, (3) the provisions of FHWA and FTA Cooperative Agreement with the state to establish the state's SIB program, and (4) the provisions of the FTA Grant Agreement with the state that obligating Federal assistance for the SIB, except that any provision of the Federal Transit Administration Master Agreement incorporated by reference into that Grant Agreement will not apply if it conflicts with any provision of National Highway System

Designation Act of 1995, as amended, 23 U.S.C. 101 note, or section 1511 of TEA-21, as amended, and FTA SIB Guidelines, the provisions of the Cooperative Agreement establishing the SIB program within the state, or the text within the FTA Grant Agreement.

B. The state agrees to comply with and assures the compliance of the SIB and each subrecipient of all applicable requirements for the SIB program, as those requirements may be amended from time to time. Pursuant to subsection 1511(h)(2) of TEA-21, applicants for assistance authorized by the State Infrastructure Bank Pilot Program, 23 U.S.C. 181 note, agree that previous cooperative agreements entered into with States under section 350 of the National Highway System Designation Act of 1995, as amended, will be revised to comply with new requirements.

C. The state assures that the SIB will provide Federal assistance from its Transit Account only for transit capital projects eligible under section 1511 of TEA-21, and that those projects will fulfill all requirements imposed on comparable capital transit projects financed by FTA.

D. The state understands that the total amount of funds to be awarded for a Grant Agreement will not be immediately available for draw down. Consequently, the state assures that it will limit the amount of Federal assistance it draws down for deposit in the Transit Account of its SIB to amounts that do not exceed the limitations specified in the underlying Grant Agreement or the Approved Project Budget for that Grant Agreement.

E. The state assures that each subrecipient has or will have the necessary legal, financial, and managerial capability to apply for, receive, and disburse Federal assistance authorized by Federal statute for use in the Transit Account of the SIB, including the ability to comply with Year 2000 (Y2K) management of funds and investments, and to implement, manage, operate, and maintain the project and project property for which such assistance will support.

F. The state assures that the SIB will provide Federal assistance derived from the Transit Account only to a subrecipient that is either a public or private entity recognized under state law as having the legal capability to contract with the state to carry out its proposed project.

G. The state assures that sufficient non-Federal funds have been or will be committed to provide the required local share.

H. The state assures that the SIB will enter into a written agreement with each subrecipient stating the terms and conditions of assistance by which the project will be undertaken and completed, including specific provisions that any security or debt financing instrument the SIB may issue will contain an express statement that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

I. The state assures that before the SIB enters into an agreement with a subrecipient under which Federal assistance within the Transit Account of the SIB will be disbursed to the subrecipient, the subrecipient's project

is included in the Statewide Transportation Improvement Program; all projects in urbanized areas recommended for approval are included in the annual element of the metropolitan Transportation Improvement Program in which the subrecipient is located; and it has obtained from each subrecipient of capital assistance that is also a public body a certification that an opportunity for a public hearing has been provided.

J. The state assures that the subrecipient has, to the maximum extent feasible, coordinated with other transportation providers and users, and other interested parties within the area.

K. The state assures that the subrecipient is in compliance with all applicable civil rights requirements, and has signed the Nondiscrimination Assurance. (See Category I.F, "Certifications and Assurances Required of Each Applicant," of the Federal Fiscal Year 1999 Certifications and Assurances for the Federal Transit Administration Programs.)

L. The state assures that the subrecipient will comply with applicable requirements of U.S. DOT regulations on participation of disadvantaged business enterprises in U.S. DOT programs.

M. To the extent applicable, the state will comply with all existing Federal requirements regarding transportation of elderly persons and persons with disabilities. The state assures that the SIB will provide to the state an Assurance of Nondiscrimination on the Basis of Disability from each subrecipient, as set forth in the Certifications and Assurances required of each Applicant for FTA assistance. (See Category I.G, "Certifications and Assurances Required of Each Applicant," of the Federal Fiscal Year 1999 Certifications and Assurances for the Federal Transit Administration Programs.) If non-accessible vehicles are being purchased for use by a public entity in demand responsive service for the general public, the state will obtain from the subrecipient a "Certification of Equivalent Service," which states that the public entity's demand responsive service offered to persons with disabilities, including persons who use wheelchairs, is equivalent to the level and quality of service the public entity offers to persons without disabilities. (See Category IX, "Certifications Required for the Direct

Award of FTA Assistance to an Applicant for its Demand Responsive Service," of the Federal Fiscal Year 1999 Certifications and Assurances for the Federal Transit Administration Programs.) This "Certification of Equivalent Service" must also state that the public entity's demand responsive service, when viewed in its entirety, is provided in the most integrated setting feasible and has equivalent: (1) response time, (2) fares, (3) geographic service area, (4) hours and days of service, (5) restrictions or restraints on trip purpose, (6) availability of information and reservation capability, and (7) constraints on capacity or service availability.

N. The state assures that before the SIB provides Federal assistance from the Transit Account, each subrecipient will have complied with the applicable transit employee protective provisions of 49 U.S.C. 5333(b) as required for that subrecipient and its project.

O. The state assures that each subrecipient has certified or will certify to the state that it will comply with applicable provisions of 49 CFR part 604 in the provision of any charter service provided with equipment or facilities acquired with FTA assistance, and will also comply with applicable provisions of 49 CFR part 605 pertaining to school transportation operations. (See Category VII, "Charter Service Agreement," and Category VIII, "School Transportation Agreement," of the Federal Fiscal Year 1999 Certifications and Assurances for the Federal Transit Administration Programs.)

P. Unless otherwise noted, the state assures that each of the subrecipient's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in paragraph Q of this Category XVI. Unless otherwise noted, the state assures that each of the subrecipient's projects qualifies for a categorical exclusion and does not require further environmental approvals, as described in the joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," at 23 CFR 771.117(c). The state certifies that the SIB will not provide financial assistance from the Transit Account for any project that does not qualify for a categorical exclusion described in 23 CFR 771.117(c) until FTA has made the required environmental finding. The state

further certifies that the SIB will provide no financial assistance from its Transit Account for a project requiring a conformity finding in accordance with the Environmental Protection Agency's Clean Air Conformity regulations at 40 CFR parts 51 and 93, until FTA makes the required conformity finding.

Q. The state assures that the subrecipient has submitted (or will submit), when applicable, all certifications and assurances currently required, including, but not limited to: a certification that its procurements and procurement system will comply with all applicable requirements imposed by Federal laws, executive orders, or regulations and the requirements of FTA Circular 4220.1D, "Third Party Contracting Requirements," and other implementing requirements FTA may issue; a certification that its project provides for the participation of private mass transportation companies to the maximum extent feasible; a certification it has paid or will pay just compensation under state or local law to each private mass transportation company for its franchise or property acquired under the project; a nonprocurement suspension and debarment certification; a bus testing certification for new models; a pre-award and post-delivery review certification; and a lobbying certification for each application exceeding \$100,000; assurances FTA requires for projects involving real property; and if required by FTA, an anti-drug program certification and an alcohol testing certification. Certifications and assurances applicable to and submitted by the subrecipient should be substantially similar to the text of parallel certifications and assurances of Categories I–XI of the Federal Fiscal Year 1999 Certifications and Assurances for the Federal Transit Administration Programs, but modified as necessary to accommodate the SIB and the subrecipient's circumstances.

R. The state agrees and assures that the SIB and each subrecipient will agree to permit FTA, U.S. DOT, and the Comptroller General to conduct audits to verify compliance with the foregoing requirements and stipulations.

Selection and Signature Pages follow.

BILLING CODE 4910-13-U

Appendix A

FEDERAL FY 1999 CERTIFICATIONS AND ASSURANCES FOR FTA ASSISTANCE

Name of Applicant: _____

The Applicant agrees to comply with applicable requirements of Categories I - XV. _____

(The Applicant may make this selection in lieu of individual selections below.)

OR

The Applicant agrees to comply with the applicable requirements of the following categories it has selected:

- I. Certifications and Assurances Required of Each Applicant. _____
- II. Lobbying Certification _____
- III. Effects on Private Mass Transportation Companies _____
- IV. Public Hearing Certification for a Project with Substantial Impacts _____
- V. Certification for the Purchase of Rolling Stock _____
- VI. Bus Testing Certification. _____
- VII. Charter Service Agreement. _____
- VIII. School Transportation Agreement. _____
- IX. Certification for Demand Responsive Service _____
- X. Substance Abuse Certifications _____
- XI. Certification for a Project Involving Financing Costs _____
- XII. Certifications for the Urbanized Area Formula Program and
the Job Access and Reverse Commute Program
Transit Enhancement Activities Report Submitted _____
(Required for Recipients with 200,000 or more population) _____
- XIII. Certifications for the Elderly and Persons with Disabilities Program _____
- XIV. Certifications for the Nonurbanized Area Formula Program _____
- XV. Certifications for the State Infrastructure Bank (SIB) Program _____

(Both sides of this Signature Page must be appropriately completed and signed where indicated.)

Appendix A

FEDERAL FISCAL YEAR 1999 FTA CERTIFICATIONS AND ASSURANCES

(Required of all Applicants for FTA assistance and all FTA Grantees with an active capital or formula project)

Name of Applicant: _____

Name and Relationship of Authorized Representative: _____

BY SIGNING BELOW I, _____ (name), on behalf of the Applicant, declare that the Applicant has duly authorized me to make these certifications and assurances and bind the Applicant's compliance. Thus, the Applicant agrees to comply with all Federal statutes, regulations, executive orders, and administrative guidance required for each application it makes to the Federal Transit Administration (FTA) in Federal Fiscal Year 1999.

FTA intends that the certifications and assurances the Applicant selects on the other side of this document, as representative of the certifications and assurances in Appendix A, should apply, as required, to each project for which the Applicant seeks now, or may later, seek FTA assistance during Federal Fiscal Year 1999.

The Applicant affirms the truthfulness and accuracy of the certifications and assurances it has made in the statements submitted herein with this document and any other submission made to FTA, and acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 *et seq.*, as implemented by U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31 apply to any certification, assurance or submission made to FTA. The criminal fraud provisions of 18 U.S.C. 1001 apply to any certification, assurance, or submission made in connection with the Urbanized Area Formula Program, 49 U.S.C. 5307, and may apply to any other certification, assurance, or submission made in connection with any other program administered by FTA.

In signing this document, I declare under penalties of perjury that the foregoing certifications and assurances, and any other statements made by me on behalf of the Applicant are true and correct.

Signature _____

Date: _____

Name _____

Authorized Representative of Applicant

AFFIRMATION OF APPLICANT'S ATTORNEY

for _____ (Name of Applicant)

As the undersigned legal counsel for the above named Applicant, I hereby affirm to the Applicant that it has authority under state and local law to make and comply with the certifications and assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the certifications and assurances have been legally made and constitute legal and binding obligations on the Applicant.

I further affirm to the Applicant that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these certifications and assurances, or of the performance of the project. Furthermore, if I become aware of circumstances that change the accuracy of the foregoing statements, I will notify the Applicant promptly, which may so inform FTA.

Signature _____

Date: _____

Name _____

Applicant's Attorney

Each Applicant for FTA financial assistance (except 49 U.S.C. 5312(b) assistance) and each FTA Grantee with an active capital or formula project must provide an Attorney's affirmation of the Applicant's legal capacity. The Applicant may enter its PIN number in lieu of the electronic signature of its Attorney, provided the Applicant has on file this Affirmation of its Attorney in writing dated this Federal fiscal year.