

DEPARTMENT OF TRANSPORTATION**Federal Transit Administration****Over-the-Road Bus Accessibility Program Grants**

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of funds; Solicitation of grant applications.

SUMMARY: The U.S. Department of Transportation (DOT) Federal Transit Administration (FTA) announces the availability of funds in fiscal year (FY) 2001 for the Over-the-Road Bus (OTRB) Accessibility Program, authorized by Section 3038 of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178. The OTRB Accessibility Program makes funds available to private operators of over-the-road buses to finance the incremental capital and training costs of complying with DOT's over-the-road bus accessibility final rule, published in a **Federal Register** Notice on September 24, 1998. The OTRB Accessibility Program calls for national solicitation of applications, with grantees to be selected on a competitive basis. FTA's FY 2001 Appropriation Act makes Federal funds available to intercity fixed-route providers and other OTRB providers at up to 90 percent of the project cost.

A total of \$24.3 million is available for the program over the life of TEA-21. The guaranteed level of funding available for intercity fixed-route service was \$2 million in FYs 1999 and 2000, and is \$3 million in FY 2001, and \$5.25 million in FYs 2002 and 2003, for a total of \$17.5 million. The guaranteed level of funding for other over-the-road bus services, including charter and tour bus, is \$1.7 million per year from FYs 2000 and 2003, for a total of \$6.8 million.

For FY 2001, \$3 million was appropriated for intercity fixed-route service providers and \$1.7 million was appropriated for other over-the-road service providers. After applying the .22 percent reduction for the government-wide rescission required by the FY 2001 Omnibus Consolidated Appropriations Act, Pub.L. 106-554, the amount available for the OTRB Accessibility Program has been reduced to \$4,689,660. Of this amount, \$2,993,400 is available to providers of intercity fixed-route service, and \$1,696,260 is available to other providers of over-the-road bus services, including local fixed-route service, commuter service, and charter and tour service.

This announcement describes application procedures for the OTRB

Accessibility Program and the procedures FTA will use to determine which projects it will fund. It includes all of the information needed to apply for an OTRB Accessibility Program grant.

This announcement is available on the Internet on the FTA website at: [<http://www.fta.gov/library/legal/federalregister/2001/index.htm>]. FTA will announce final selections on the website and in the **Federal Register**.

DATES: Complete applications for OTRB Accessibility Program grants must be submitted to the appropriate FTA regional office (see Appendix A) by the close of business April 27, 2001. The appropriate FTA regional office is that office which serves the state in which an applicant's headquarters office is located. FTA intends to announce grant selections in July 2001, and it is anticipated that grants will be made by September 30, 2001, the end of the Federal fiscal year. FTA will accept comments on this notice until (30 days after date published). Based on input, FTA may provide amending or clarifying program information.

ADDRESSES: Comments and questions related to this notice can be mailed, faxed, or electronically submitted to the following: Sue Masselink, Federal Transit Administration, Room 9315, 400 7th Street, S.W., Washington, D.C. 20590 (FAX (202) 366-7951, e-mail address: sue.masselink@fta.dot.gov).

FOR FURTHER INFORMATION CONTACT: The appropriate FTA Regional Administrator (Appendix A) for application-specific information and issues. For general program information, contact Sue Masselink, Office of Program Management, (202) 366-2053, e-mail: sue.masselink@fta.dot.gov. A TDD is available at 1-800-877-8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION**Table of Contents**

- I. General Program Information
- II. Guidelines for Preparing Grant Applications
- III. Submission of Applications and Grant Review Process
- Appendix A FTA Regional Offices
- Appendix B Sample OTRB Accessibility Program Project Budget
- Appendix C Certifications and Assurances
- Appendix D Grant Application Checklist
- Appendix E OMB Standard Form 424, "Federal Assistance"

I. General Program Information**A. Authority**

The program is authorized under section 3038 of the Transportation Equity Act for the 21st Century (TEA-

21). Funds have been appropriated for this program under the Department of Transportation and Related Agencies Appropriations Act, 2001, Pub.L. 106-346; however, a .22 percent rescission was required pursuant to section 1403(a) of the FY 2001 Omnibus Consolidated Appropriations Act.

B. Background

Over-the-road buses are used in intercity fixed-route service as well as other services, such as charter and tour bus services. These services are an important element of the U.S. transportation system. TEA-21 authorized FTA's Over-the-road Bus Accessibility Program to assist over-the-road bus operators in complying with the Department's Over-the-road Bus Accessibility rule, "Transportation Services for Individuals with Disabilities (ADA)" (49 CFR part 37) published in a **Federal Register** notice on September 24, 1998.

Summary of DOT's Over-the-Road Bus Accessibility Rule. Under the over-the-road bus accessibility rule, all new buses obtained by large (Class I carriers, i.e., those with gross annual operating revenues of \$5.3 million or more), fixed-route carriers, starting in 2000, must be accessible, with wheelchair lifts and tie-downs that allow passengers to ride in their own wheelchairs. The rule requires the fixed-route carriers' fleets to be completely accessible by 2012. The buses acquired by small (gross operating revenues of less than \$5.3 million annually) fixed-route providers also are required to be lift-equipped, although they do not have a deadline for total fleet accessibility. Small providers also can provide equivalent service in lieu of obtaining accessible buses. Starting in 2001, charter and tour companies will have to provide service in an accessible bus on 48 hours' advance notice. Fixed-route companies must also provide this kind of service on an interim basis until their fleets are completely accessible.

Small carriers who provide mostly charter or tour service and also provide a small amount of fixed-route service can meet all requirements through 48-hour advance-reservation service. Small carriers have an extra year to begin complying with the requirements which apply to them starting in October 2001, compared to October 2000 for large carriers.

Specifications describing the design features that an over-the-road bus must have to be readily accessible to and usable by persons who use wheelchairs or other mobility aids required by the "Americans with Disabilities Act Accessibility Guidelines for Transportation Vehicles: Over-the-Road

Buses' rule (36 CFR part 1192) were published in another **Federal Register** Notice on September 28, 1998.

C. Scope

Improving mobility and shaping America's future by ensuring that the transportation system is accessible, integrated, efficient and offers flexibility of choices is a key strategic goal of the Department of Transportation. Over-the-road Bus Accessibility projects will improve mobility for individuals with disabilities by providing financial assistance to help make vehicles accessible and provide training to ensure that drivers and others understand how to use accessibility features as well as how to treat patrons with disabilities.

D. Eligible Applicants

Grants will be made directly to operators of over-the-road buses. Intercity, fixed-route over-the-road bus service providers may apply for the nearly \$3 million available to intercity fixed-route providers in FY 2001. Other over-the-road bus service providers, including operators of local fixed-route service, commuter service, and charter or tour service may apply for the nearly \$1.7 million available in FY 2001 for these providers. OTRB operators who provide intercity, fixed-route service and another type of service, such as commuter, charter or tour, may apply for both categories of funds with a single application. Private for-profit operators of over-the-road buses are eligible to be direct applicants for this program. This is a departure from the other FTA programs in which the direct applicant must be a state or local public body.

E. Vehicle and Service Definitions

An "over-the-road bus" is a bus characterized by an elevated passenger deck located over a baggage compartment.

Intercity, fixed-route over-the-road bus service is regularly scheduled bus service for the general public, using an over-the-road bus that: operates with limited stops over fixed routes connecting two or more urban areas not in close proximity or connecting one or more rural communities with an urban area not in close proximity; has the capacity for transporting baggage carried by passengers; and makes meaningful connections with scheduled intercity bus service to more distant points.

Other over-the-road bus service means any other transportation using over-the-road buses, including local fixed-route service, commuter service, and charter or tour service (including tour or excursion service that includes features

in addition to bus transportation such as meals, lodging, admission to points of interest or special attractions). While some commuter service may also serve the needs of some intercity fixed-route passengers, the statute includes commuter service in the definition of "other" service. Commuter service providers should apply for these funds, even though the services designed to meet the needs of commuters may also provide service to intercity fixed-route passengers on an incidental basis. If a service provider can document that more than 50 percent of its passengers are using the service as intercity fixed-route service, the provider may apply for the funds designated for intercity fixed-route operators.

F. Eligible Projects

Projects to finance the incremental capital and training costs of complying with DOT's over-the-road bus accessibility rule (49 CFR Part 37, subpart H) are eligible for funding. Incremental capital costs eligible for funding include adding lifts, tie downs, moveable seats, doors and all labor costs associated with work on the vehicle needed to make new vehicles accessible. Retrofitting vehicles with such accessibility components is also an eligible expense. Please see Buy America section for further determination of eligibility.

Funds may be awarded by FTA for costs already incurred by the applicants. For example, new wheelchair accessible vehicles delivered since June 9, 1998, the date that the TEA-21 was signed into law, are eligible for funding under the program. Vehicles of any age that have been retrofitted with lifts and other accessibility components since June 9, 1998 are also eligible for funding.

Eligible training costs are those required by the final accessibility rule as described in 49 CFR 37.209. These activities include training in proper operation and maintenance of accessibility features and equipment, boarding assistance, securement of mobility aids, sensitive and appropriate interaction with passengers with disabilities, and handling and storage of mobility devices. The costs associated with developing training materials or providing training for local providers of over-the-road bus services for these purposes are eligible expenses.

FTA has sponsored the development of accessibility training materials for public transit operators. FTA-funded Project Action is a national technical assistance program to promote cooperation between the disability community and transportation industry. Project Action provides training,

resources and technical assistance to thousands of disability organizations, consumers with disabilities, and transportation operators. It maintains a resource center with the most up-to-date information on transportation accessibility. Project Action may be contacted at: Project Action, 700 Thirteenth Street, N.W., Suite 200, Washington, DC 20590, Phone: 1-800-659-6428, Internet address: <http://www.projectaction.org/>.

G. Grant Criteria

FTA will award grants based on:

a. The identified need for over-the-road bus accessibility for persons with disabilities in the areas served by the applicant;

b. The extent to which the applicant demonstrates innovative strategies and financial commitment to providing access to over-the-road buses to persons with disabilities;

c. The extent to which the over-the-road bus operator acquires equipment required by DOT's over-the-road bus accessibility rule prior to the required timeframe in the rule;

d. The extent to which financing the costs of complying with DOT's rule presents a financial hardship for the applicant; and

e. The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of the requirements on service to rural areas and for low-income individuals.

These are the statutory criteria upon which funding decisions will be made. In addition to these criteria, FTA may also consider other factors, such as the size of the applicant's fleet and the approximate proportion of use the vehicle will get for the services eligible under the category of funds for which the applicant is applying. Funding decisions may also take into consideration whether intercity fixed-route carriers are large (Class I carriers, i.e., those with gross annual operating revenues of \$5.3 million or more) or small (gross operating revenues of less than \$5.3 million annually).

H. Grant Requirements

The grant application must include documentation necessary to meet the requirements of FTA's Nonurbanized Area Formula program (49 U.S.C. 5311). Technical assistance regarding these requirements is available in each FTA regional office. Federal requirements apply only to the incremental cost of adding the wheelchair accessibility features, either to new vehicles or when retrofitting existing vehicles.

Training costs are not subject to all requirements. For example, labor protections, Buy America, and school transportation are not applicable to training assistance.

1. *Buy America*. In the OTRB Accessibility program, FTA's Buy America regulations, 49 CFR part 661, apply to the incremental capital cost of making vehicles accessible. Those regulations do not apply to associated labor costs. The following discussion relates to the contract between the grantee and the prime contractor.

The "General Requirements" found at 49 CFR 661.5 apply to that portion of the accessibility system being funded. That section requires that all of the manufacturing processes for the product take place in the United States and that all components of the product be made in the United States. A component is considered domestic if it is manufactured in the U.S.A., regardless of the origin of its subcomponents. The lift, the moveable seats, and the securement devices will all be considered components for purposes of this program; accordingly, a "General Requirements" analysis should be applied to each of these items individually. Should a recipient choose to request funding for only a specific component, such as the lift or the securement device, then the Buy America requirements would apply only to that item funded by FTA.

Three exceptions to the general requirements that can be found at 49 CFR 661.7: first, a waiver may be requested when the application of the regulation is not in the public interest; second, the general requirements will not apply if materials and products being procured are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; and third, a price differential waiver will be available under this program only if the grantee conducts a competitive procurement (see Competitive Procurement Section, below). FTA approval must be received by the recipient of FTA funds prior to the execution of contract.

It should also be noted that FTA has issued a general public interest waiver for all purchases under the Federal "small purchase" threshold, which is currently set at \$100,000. This waiver can be found in 49 CFR 661.7, Appendix A(e). In section 3038(b) of TEA-21, Congress authorized FTA financing of the incremental capital costs of compliance with DOT's OTRB accessibility rule. Consistent with this provision, the small purchase waiver applies only to the incremental cost of the accessibility features FTA is

funding. Where more than one bus is purchased, the grantee must consider the incremental cost increase for the entire procurement when determining if the small purchase waiver applies. For example, if \$30,000 is the incremental cost for the accessibility features eligible under this program per bus (regardless of the Federal share contribution), then a procurement of three buses with a total such cost of \$90,000, would qualify for the small purchase waiver. No special application to FTA would be required.

The grantee must obtain a certification from the bus manufacturer that all items included in the incremental cost for which the applicant is applying for funds meet Buy America requirements.

The Buy America regulations can be found at www.fta.dot.gov/library/legal/49961.htm.

2. *Labor Protection*. Before FTA may award a grant for capital assistance, 49 U.S.C. 5333(b) requires that fair and equitable arrangements must be made to protect the interests of transit employees affected by FTA assistance. Those arrangements must be certified by the Secretary of Labor as meeting the requirements of the statute. When a labor organization represents a group of affected employees in the service area of an FTA project, the employee protective arrangement is usually the product of negotiations or discussions with the union. The grant applicant can facilitate Department of Labor (DOL) certification by identifying in the application any previously certified protective arrangements that have been applied to similar projects undertaken by the grant applicant, if any. Receiving funds under the OTRB Accessibility program, however, will not require the grantee's employees to be represented by organized labor. Upon receipt of a grant application requiring employee protective arrangements, FTA will transmit the application to DOL and request certification of the employee protective arrangements. In accordance with DOL guidelines, DOL notifies the relevant unions in the area of the project that a grant for assistance is pending and affords the grant applicant and union the opportunity to agree to an arrangement establishing the terms and conditions of the employee protections. If necessary, DOL furnishes technical and mediation assistance to the parties during their negotiations. The Secretary of Labor may determine the protections to be certified if the parties do not reach an agreement after good faith bargaining and mediation efforts have been exhausted. DOL will also set the protective conditions when affected

employees in the service area are not represented by a union. When DOL determines that employee protective arrangements comply with labor protection requirements, DOL will provide a certification to FTA. The grant agreement between FTA and the grant applicant incorporates by reference the employee protective arrangements certified by DOL.

Applicants must identify any labor organizations that may represent their employees and all labor organizations that represent the employees of any other transit providers in the service area of the project.

For each local of a nationally affiliated union, the applicant must provide the name of the national organization and the number or other designation of the local union. (For example, Amalgamated Transit Union local 1258.) Since DOL makes its referral to the national union's headquarters, there is no need to provide a means of contacting the local organization.

However, for each independent labor organization (i.e., a union that is not affiliated with a national or international organization) the local information will be necessary (name of organization, address, contact person, phone, fax numbers).

Where a labor organization represents transit employees in the service area of the project, DOL must refer the proposed protective arrangements to each union and to each recipient. For this reason, please provide DOL with a contact person, address, telephone number and fax number for your company, and associated union information.

DOL issued a **Federal Register** Notice addressing the new TEA-21 programs, including the OTRB Accessibility Program, "Amendment to Section 5333(b) Guidelines to Carry Out New Programs Authorized by the Transportation Equity Act for the 21st Century (TEA-21); Final Rule, dated July 28, 1999. FTA issued a "Dear Colleague" letter, dated December 5, 2000, addressing DOL processing of grant applications. Attached to the letter is an application checklist which provides information that DOL must have in order to review and certify FTA grant applications. This letter and attachment can be found at: <http://www.fta.dot.gov/office/public/c0019.html>. Questions concerning protective arrangements and related matters pertaining to transit employees should be addressed to the Division of Statutory Programs, Department of Labor, 200 Constitution Avenue, NW., Room N-5411, Washington, DC 20210;

telephone (202) 693-0126, fax (202) 219-5338.

3. *Competitive Procurement.* Federal procurement requirements apply to FTA funds awarded to state and local governments and private nonprofit agencies under 49 CFR parts 18 and 19. To the extent a direct recipient of FTA funds under this program is a private for-profit entity, the Federal procurement requirements do not apply.

4. *Debarment, Suspension and Other Responsibility Matters.* Pursuant to Executive Order 12549; 41 USC 701; and 49 CFR part 29, grantees must ensure that FTA funds are not given to anyone who has been debarred, suspended, or declared ineligible or voluntarily excluded from participation in federally assisted transactions. The burden of disclosure is on those debarred or suspended. The U.S. General Services Administration (GSA) issues a document titled "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs" monthly. The list is available on the GSA website (<http://www.gsa.gov/index>). If at any time the grantee or other covered entity learns that a certification it made or received was erroneous when submitted or if circumstances have changed, disclosure to FTA is required.

5. *Drug-Free Workplace.* Grantees must maintain a drug-free workplace for all employees and have an anti-drug policy and awareness program. The grant applicant must certify to FTA that it will provide a drug-free workplace and comply with all requirements of the Drug-Free Workplace Act of 1988 (Public Law 100-690) and U.S. DOT's implementing regulations, 49 CFR part 29, Subpart F. The grantee is required to provide a written Drug-Free Workplace policy statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and stating specific actions that will be taken for violations. The ongoing drug-free awareness program must inform employees about the dangers of drug abuse; about any available drug counseling, rehabilitation, and employee assistance programs; about penalties that may be imposed; and that employees are to be aware that the recipient operates a drug-free workplace. An employee of an FTA grantee is required to report in writing any conviction for a violation of criminal drug statute occurring in the workplace, and the grantee/employer is required to provide written notice to FTA within 10 days of having received the notice. Within 30 days of receiving

the notice of a conviction, the grantee/employer must have taken appropriate action against the employee or have required participation in a drug abuse assistance or rehabilitation program.

6. *Nondiscrimination Requirements.* 49 U.S.C. section 5332 states that "a person (defined broadly) may not be excluded from participating in, denied a benefit of, or discriminated against, under a project, program, or activity receiving financial assistance (from FTA) because of race, color, creed, national origin, sex, or age."

7. *Title VI.* Grantees must assure FTA that transit services and benefits obtained with FTA assistance will be provided in a nondiscriminatory manner, without regard to race, color, or national origin.

8. *Disadvantaged Business Enterprise.* Grantees must assure FTA that disadvantaged business enterprises (DBEs) are provided the maximum opportunity to compete for FTA-assisted contracts and procurements.

9. *Equal Employment Opportunity (EEO).* The grantee must assure that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, age or national origin.

10. *Americans with Disabilities Act and Section 504.* Compliance with the Americans with Disabilities Act of 1990 (ADA) (Public Law 101-336) and DOT's implementing regulations (49 CFR parts 27, 37, and 38) and section 504 of the Rehabilitation Act of 1973, as amended, are eligibility requirements for Federal financial assistance. Section 504 prohibits discrimination on the basis of disability by recipients of Federal financial assistance. The ADA prohibits discrimination against persons with disabilities in the provision of transportation services.

11. *Restrictions on Lobbying.* Federal financial assistance may not be used to influence any member of Congress or an officer or employee of any agency in connection with the making of any Federal contract, grant, or cooperative agreement. The state, subrecipients, and third party contractors at any tier awarded FTA assistance exceeding \$100,000 must sign a certification so stating and also must disclose the expenditure of non-Federal funds for such purposes (49 CFR part 20). Other Federal laws also govern lobbying activities. For example, Federal funds may not be used for lobbying congressional representatives or senators indirectly, such as by contributing to a lobbying organization or funding a grass-roots campaign to influence legislation (31 U.S.C. 1352). General advocacy for over-the-road bus

transportation and providing information to legislators about the services a recipient provides are not prohibited, nor is using non-Federal funds for lobbying, so long as the required disclosures are made.

12. *Environmental Protection.* Neither incremental capital costs associated with making vehicles wheelchair accessible nor training costs involve significant environmental impacts. Projects that do not involve significant environmental impacts are considered "categorical exclusions" in FTA's procedures because they have been categorically excluded from FTA's requirements to prepare environmental documentation. (49 USC part 622, incorporating 23 CFR part 771)

13. *Planning.* Applicants are encouraged to notify the appropriate state departments of transportation and metropolitan planning organizations (MPO) in areas likely to be served by equipment made accessible through funds made available in this program. Those organizations, in turn, should take appropriate steps to inform the public, and individuals requiring fully accessible services in particular, of operators' intentions to expand the accessibility of their services. Incorporation of funded projects in the plans and transportation improvement programs of states and metropolitan areas by states and MPOs also is encouraged, but is not required.

II. Guidelines for Preparing Grant Application

FTA is conducting a national solicitation for applications under the OTRB Accessibility program. Grant awards will be made on a competitive basis. Although most FTA grant applications are now submitted electronically, paper applications for the OTRB Accessibility program will be accepted. An original and two copies of the application must be submitted to the appropriate FTA Regional Office. The OTRB operators should submit the application to the office in the region in which its headquarters office is located. The application should provide information on all items for which you are requesting funding in FY 2001. The application must include the following elements:

1. Transmittal Letter

This addresses basic identifying information, including:

- a. Grant applicant.
- b. Contact name, address, fax and phone number.
- c. Amount of grant request.

d. Type of services for which funds are sought, either intercity fixed route services, other services, or both.

e. For fixed-route carriers, whether you are a large (Class I, with gross annual operating revenues of \$5.3 million or more) or small (gross operating revenues of less than \$5.3 million annually) carrier.

2. Project Eligibility

Every application must:

a. Describe the applicant's technical, legal, and financial capacity to implement the proposed projects.

b. Document matching funds, including amount and source.

c. Include OMB Standard Form 424, "Federal Assistance," which is a multi-purpose form which must be completed in its entirety. The forms are available from the FTA regional offices.

3. Project Information

Provide a summary of project activities for which you are requesting funds. The summary should include:

a. Description of the components included in request for funds, i.e., lifts, tie-downs, moveable seats, etc.

b. Each project's time line, including significant milestones such as date of contract for purchase of vehicle(s), and actual or expected delivery date of vehicle(s).

c. Project budget (See Appendix B).

4. Project Narrative

Provide the information that addresses the criteria set forth in this notice at Section G, "Grants Criteria". Grants will be awarded competitively based upon that criteria. Please also provide the following information, which may also be used for funding decisions:

a. *Fleet Information.* Provide information on the number of over-the-road buses in your fleet, how many of those vehicles are accessible, and whether the vehicles for which you are seeking funds will be used to replace vehicles in your current fleet or to expand your fleet.

b. *Service Information.* If funds are being sought for intercity fixed-route service, please describe how the service meets the definition of intercity fixed route service, including how the service makes meaningful connections with scheduled intercity bus service to more distant points. If you provide both intercity fixed-route service and another type of service, such as commuter, charter or tour service, please provide an estimate of the proportion of your service that is intercity fixed-route service. Describe your service area.

5. Labor Information

a. Identify any labor organizations that may represent your employees and all labor organizations that represent the employees of any transit providers in the service area of the project. For each local of a nationally affiliated union, the applicant must provide the name of the national organization and the number or other designation of the local union. (For example, Amalgamated Transit Union local 1258.) Since DOL makes its referral to the national union's headquarters, there is no need to provide a means of contacting the local organization.

b. For each independent labor organization (i.e., a union that is not affiliated with a national or international organization) the local information will be necessary (name of organization, address, contact person, phone, fax numbers).

c. Where a labor organization represents transit employees in the service area of the project, DOL must refer the proposed protective arrangements to each union and to each recipient. For this reason, please provide DOL with a contact person, address, telephone number and fax number for your company and associated union information.

III. Submission of Applications and Grant Review Process

Applications are to be submitted to the appropriate FTA Regional Office by the close of business on April 27, 2001. FTA will screen all applications to determine whether all required eligibility elements, as described in Section 2 of the application, are present. An FTA evaluation team will evaluate each application according to the criteria described in this announcement.

A. Notification

FTA expects to notify all applicants, both those selected for funding and those not selected, in July 2001. Grants are expected to be made by September 30, 2001, the end of Federal fiscal year 2001. FTA is committed to obligating FY 2001 OTRB Accessibility program funds expeditiously. Therefore, FTA urges applicants to develop and submit with their applications complete documentation necessary to meet the applicable FTA Section 5311 requirements.

Issued on: January 19, 2001.

Hiram J. Walker,

Associate Administrator for Program Management.

APPENDIX A—FTA REGIONAL OFFICES

Region I—Massachusetts, Rhode Island, Connecticut, New Hampshire, Vermont and Maine

Richard H. Doyle, FTA Regional Administrator, Volpe National Transportation Systems Center, Kendall Square 55 Broadway, Suite 920, Cambridge, MA 02142-1093, (617) 494-2055

Region II—New York, New Jersey, Virgin Islands

Letitia Thompson, FTA Regional Administrator, 26 Federal Plaza, Suite 2940, New York, NY 10278-0194, (212) 264-8162

Region III—Pennsylvania, Maryland, Virginia, West Virginia, Delaware, Washington, DC

Susan Schruth, FTA Regional Administrator, 1760 Market Street, Suite 500, Philadelphia, PA 19103-4124, (215) 656-7100

Region IV—Georgia, North Carolina, South Carolina, Florida, Mississippi, Tennessee, Kentucky, Alabama, Puerto Rico

Jerry Franklin, FTA Regional Administrator, 61 Forsyth Street, S.W., Suite 17T50, Atlanta, GA 30303, (404) 562-3500

Region V—Illinois, Indiana, Ohio, Wisconsin, Minnesota, Michigan

Joel Ettinger, FTA Regional Administrator, 200 West Adams Street, Suite 2410 Chicago, IL 60606-5232, (312) 353-2789

Region VI—Texas, New Mexico, Louisiana, Arkansas, Oklahoma

Robert Patrick, FTA Regional Administrator, 819 Taylor Street, Room 8A36, Ft. Worth, TX 76102 (817) 978-0550

Region VII—Iowa, Nebraska, Kansas, Missouri

Mokhtee Ahmad, FTA Regional Administrator, 901 Locust Street, Suite 404, Kansas City, MO 64106, (816) 329-3920

Region VIII—Colorado, North Dakota, South Dakota, Montana, Wyoming, Utah

Lee Waddleton, FTA Regional Administrator, Columbine Place, 216 16th Street, Suite 650, Denver, CO 80202-5120, (303) 844-3242

Region IX—California, Arizona, Nevada, Hawaii, American Samoa, Guam

Leslie Rogers, FTA Regional Administrator, 201 Mission Street, Suite 2210, San Francisco, CA 94105-1831, (415) 744-3133

Region X—Washington, Oregon, Idaho, Alaska

Helen Knoll, FTA Regional Administrator, Jackson Federal Building, 915 Second

Avenue, Suite 3142, Seattle, WA 98174—
1002, (206) 220-7954

APPENDIX B—SAMPLE OTRB ACCESSIBILITY PROGRAM PROJECT BUDGET

[Grantee: Hillsdale Intercity Services; Project: OR-38-0001]

	Federal share	Eligible project cost
Scope—111-01:		
Bus Rolling Stock		
Activity: 11.42.43 Incremental cost of lift, securement devices and labor quantity—1	\$20,700	\$23,000
Activity: 11.44.33 Retrofit vehicle with lift quantity—1	39,600	44,000
Scope—117-00:		
Bus—Other		
Activity: 11.7D.01 Training	18,000	20,000
Eligible project cost	87,000	
Federal share (10 percent)	78,300	
Applicant share (90 percent)	8,700	

APPENDIX C—CERTIFICATIONS AND ASSURANCES

List of Certifications and Assurances for Federal Transit Administration Over-the-Road-Bus Accessibility Grants

This list is a comprehensive compilation of the certifications and assurances required by Federal law for the OTRB Accessibility program. At the end of this list is a single Signature Page on which the applicant and its attorney certifies compliance with all certifications and assurances applicable to the OTRB Accessibility program.

All applicants are advised to read the entire list of 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.

References

The Transportation Equity Act for the 21st Century, Pub. L. 105-178, June 9, 1998, as amended, 49 U.S.C. chapter 53, Title 23, U.S.C., U.S. DOT and FTA regulations at 49 CFR, and FTA Circulars.

Over-the-Road Bus Accessibility Program Certifications and Assurances

1. 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. Consequently, FTA may not award any Federal assistance until the Applicant provides assurance of compliance by selecting category "I" 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 affirm 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 agreements 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 the FTA grant. The Applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant 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 for Primary Covered Transactions

As required by U.S. DOT regulations on Government-wide 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 (3) 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 all statements in paragraphs (1) and (2) above, it shall indicate so in 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 be given a copy of the statement required by paragraph (1) above;
- (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, 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 five (5) calendar days after that conviction;

(5) Notifying FTA in writing, within ten (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;

(6) Taking one of the following actions within thirty (30) calendar days of receiving notice under paragraph (4)(b) of this agreement 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; and

(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) of this agreement. 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 provisions to invoke the requirements of 49 U.S.C. 5332 and 49 CFR part 21, and include provisions to invoke 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.

1. 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 safeguard 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; and

(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, with the understanding that FTA will participate in the Applicant's eligible costs of providing payments for those expenses 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) To the extent applicable, will comply 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 pursuant to 23 U.S.C. 142(g), 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), requiring recipients in a special flood hazard area to participate in the program and 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 pursuant to the requirements of 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, 16 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.

(15) 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.

(16) 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.

(17) 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.

(18) 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 Federal assistance and DOT regulation, "Protection of Human Subjects," 49 CFR part 11.

(19) 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.

(20) Will have performed the financial and compliance audits required by 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 and Department of Transportation provisions of OMB A-133 Compliance Supplement, March 2000."

(21) Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the project.

2. 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. Consequently, 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 at the end of this document.

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.

Over-the-Road Bus Accessibility Program Certifications and Assurances for FTA Assistance

Name of applicant: _____

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

(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 _____

Over-the-Road Bus Accessibility Certifications and Assurances

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).

FTA intends that the certifications and assurances the Applicant selects on the other side of this document should apply, as required, to each project for which the applicant seeks FTA assistance.

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 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 name 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 and each FTA grantee with an active capital project must provide an attorney's affirmation of the Applicant's legal capacity.

APPENDIX D—GRANT APPLICATION CHECKLIST

1. Transmittal letter
2. Project Eligibility
3. Project Information
4. Project Narrative
5. Fleet Information
6. Service Information
7. Labor Information

[FR Doc. 01-2273 Filed 1-25-01; 8:45 am]

BILLING CODE 4910-57-P