FTA Session
August 22, 2013

Michigan Public Transit Association
Annual Conference

Moderated by:
Marisol Simon, Regional Administrator

Presented by: Tim Steinitz, Stewart McKenzie,
Sharletha Johnson and Marjorie Espina
Major Changes for FTA

- FTA Funding Programs
- National Environmental Policy Act
- Grant Closeout and Oversight
- Safety Program Oversight
- Civil Rights Requirements
Moving Ahead for Progress in the 21st Century Act (MAP-21)
About MAP-21

- Went into full effect October 1, 2012
- Authorizes programs for two years, through September 30, 2014
- FY2013 full year apportionments made available on May 13, 2013.
  - Michigan grantees apportioned about $142.5 million (1.4%) of the total $10.375 billion available for grants in FY2013.

### Highlights of Program Changes

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<th><strong>Repealed</strong></th>
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<th><strong>Modified</strong></th>
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<td>Clean Fuels Grants (5308)</td>
<td>Urbanized Area Formula Grants (5307) [JARC]</td>
<td>Fixed Guideway Capital Investment Grants (5309)</td>
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<td>State of Good Repair Grants (5337)</td>
<td>Job Access and Reverse Commute (5316) [JARC]</td>
<td>Enhanced Mobility of Seniors and Individuals with Disabilities (5310) [New Freedom]</td>
<td>Metropolitan and Statewide Planning (5303 &amp; 5304)</td>
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<td>Rural Area Formula Grants (5311) [JARC]</td>
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<td>TOD Planning Pilot Grants (20005(b) of MAP-21)</td>
<td>Over-the-Road Bus (Sec. 3038 – TEA-21)</td>
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*JARC* stands for Joint Agreement Resolution Calendar.
So... where are we?

- FTA is working to issue over two dozen new or updated programmatic circulars and rulemakings.
- All proposed circulars and proposed rulemakings will be available for public review and comment in the Federal Register.
  - Monitor FTA’s recent activities via our public Federal Register publication page:
Published Proposed Circulars

• Joint Development Circular
  – Published March 6, 2013.

• Urbanized Area Formula Program (9030.1E)
  – Published April 22, 2013.

• Enhanced Mobility of Seniors and Individuals with Disabilities (9070.1G)
  – Published July 11, 2013.
  – Comments due September 9, 2013.
Status of Rulemakings

• Environmental Impact and Related Procedures (Categorical Exclusions)

• Emergency Relief Program
  – Interim final rule published March 29, 2013.

• Alcohol and Controlled Substances
  – Final rule published March 31, 2013.
Other MAP-21 Priorities

• New Starts Policy Guidance:
  – The rule and guidance pertain only to evaluating and rating New Starts/Small Starts projects.
  – MAP-21 elements are subject to future rulemakings and policy guidance.

• Notices of Funding Availability
  – Ferry Discretionary Grant Program ($29.9m) announced on August 21, 2013.
What’s Next?

- FTA is in the process of finalizing Joint Development and Urbanized Area program circulars.
- FHWA and FTA will jointly issue the final rule for NEPA categorical exclusions.
- Based on public comments, FTA will develop State Safety Oversight grant program formula.
- Comments to the proposed circular for Enhanced Mobility of Seniors and Individuals with Disabilities Program are due to FTA by September 9, 2013.
What’s Next?

• Upcoming Proposed Circulars:
  – Rural Area Formula Program (5311)
  – State of Good Repair Program (5337)
  – Bus and Bus Facilities Formula Program (5339)

• Upcoming Proposed Rulemakings:
  – Safety Program
  – Transit Asset Management
  – Joint FTA/FHWA Metropolitan and Statewide Planning
NEPA

• The National Environmental Policy Act of 1969 (42 USC 4321 et seq.), as amended

• The primary law governing the Federal Transit Administration’s environmental protection process
Initial Project Development

• Talk to your FTA grant manager – talk early and often

• Consider NEPA early in your project development
Project Description

A good project description has these components:

• Summary of prior planning work
• Project’s general purpose and need or a general statement of need
• Graphics/maps/design layouts of the planned facility, project location, proposed termini, and station locations/sizes
• Maintenance facility details (existing or proposed)
• Other project features
• Proposed NEPA Class of Action and justification rationale
NEPA Class of Action

- Determines the breadth and depth of the environmental review and technical analysis, and whether certain requirements apply
- Establishes the level of involvement and review by the public and resource agencies
- Influences project budget and schedule
- Affects the success of potential legal challenges
- Knowing the triggers for each class of action can save time and effort
NEPA Class of Action Definitions
23 CFR 771.115

Class I – Environmental Impact Statement (EIS)
- New major capital projects
- Projects with substantial public controversy
- Projects with significant, unavoidable adverse impacts

Class II – Categorical Exclusion (CE)
- Projects with none to a few minor impacts
- Often entirely within existing transportation right-of-way
- Typically no public involvement required

Class III – Environmental Assessment (EA)
- Projects that do not qualify for CE
- Unclear whether impacts are significant
Categorical Exclusion (CE)

- Categorical Exclusions (CEs) are actions which do not individually or cumulatively have a significant effect on the human and natural environment (40 CFR 1508.4)
- CEs are those projects that are either listed in 23 CFR 771.118(c), or other actions shown not to have the potential for a significant environmental effect through documentation under 23 CFR 771.118(d)
- Have no “Unusual Circumstances” pursuant to 23 CFR 771.118(b)
- Neither an EA nor an EIS is required
- If the proposed project and its impacts are very unclear, a CE is not appropriate
Program Management and Oversight (PMO)
PMO Overview

- Grant Closeouts
- Triennial Reviews
- Report Requirements
- Safety Program Oversight
Grants and Oversight

- **170 Active Grantees, 1300 Open Grants**
  Please close grants when possible

- **250 Separate Oversight Actions this Year**
  Please respond to findings by due date or request an extension in advance

- **Technical Assistance**
  Please call your Program Manager
Triennial Reviews

Findings Summary

- Diligent; Attentive; Knowledgeable and Passionate
- Key Concerns—Technical, Procurement, Financial, Drug & Alcohol, Satisfactory Continuing Control—56% in 5 areas

Grantee Ideas for Successful Review

- Maintain file in each Review Area
- Study the previous Review
- Schedule to include Agency Staff
- Gain ideas from Consultant when on-site
- Follow-up on Findings before due date
Reporting Requirements

ARRA Grants

1201c   Done-No New Reporting Needed
1512c   Quarterly 15 days after QTR---OMB Online

All Grants in TEAM

FFR/MPR  Quarterly for ARRA Grants
Quarter/Annual
30 days after Quarter end
Safety Program Oversight
State Safety Oversight (SSO)

49 CFR part 659

- RFGS not regulated by Federal Railroad Administration
- State Designated Authority

FTA Region 5 - SSO Agencies

- Minnesota Department of Public Safety
- IL Regional Transportation Authority
- Ohio DOT
- Michigan DOT
- Wisconsin DOT
Transit Safety and Oversight (TSO)

Sign up for email updates on this topic.

For a summary of FTA's new safety provisions and related funding, click here.

Overview

The goal of FTA's Transit Safety and Oversight is to achieve the highest practical level of safety and security for all modes of transit.

Under MAP-21, FTA is ushering in a new era for transit safety, and we are committed to working with our state leaders to strengthen and help fund robust state safety oversight agencies to carry out this vitally important mission.

MAP-21 grants FTA the authority to establish and enforce a new comprehensive framework to oversee the safety of public transportation throughout the United States.

In doing so, we are closing a loophole in how transit safety oversight is regulated and enforced that is long overdue. For the first time since 1964, FTA will be able to establish basic safety standards to better ensure the safety of tens of millions of passengers that ride public transportation each day.

FTA's new authority is the culmination of a concerted effort that began in December 2009 when Transportation Secretary Ray LaHood formally transmitted to Congress President Obama's legislative proposal to establish and enforce minimum federal safety standards for rail transit systems.

MAP-21 includes many of the new authorities included in the Administration's original proposal and also includes important safety provisions for bus-only operators.
Resources & Training

Transit Safety & Oversight
http://www.fta.dot.gov/tso.html

National Transit Database
http://www.ntdprogram.gov/ntdprogram/

FTA MAP-21 Website
http://www.fta.dot.gov/map21/index.html

TRACS Working Groups  TRACS@dot.gov
http://www.fta.dot.gov/12419_12497.html

National Transit Institute (NTI)
http://www.ntionline.com/

Transportation Safety Institute (TSI)
http://www.tsi.dot.gov
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Civil Rights Requirements
Civil Rights Requirements

- Title VI Plan
  - FTA Circular 4702.1B
- Equal Employment Opportunity (EEO) Plan
  - FTA Circular 4704.1
- Disadvantaged Business Enterprise (DBE) Plan
Title VI Circular 4702.1B

- Provides grantees with clear guidance on the relationship between Title VI Program requirements and DOT’s Title VI regulation
- Clearly describes what grantees must include in their Title VI programs
- Adds in-depth appendices to provide examples to grantees (Includes graphs, sample forms, and flow charts)
General Requirements

• The circular applies to all grantees:
  – Transit agencies
  – MPOs
  – State DOTs
  – Recipients of special funds such as TIGER and Urban Circulator grants
  – Subrecipients
Subrecipients and Contractors

• Each subrecipient develops its own Program but may use some elements of primary recipient’s Title VI Program

• Contractor must implement recipient’s program
Submitting Title VI Program

• All recipients must submit Title VI Program every three years (TEAM)
  – Team will have notation on status of program (e.g., concur, in review, expired)

• Title VI Program must be approved by grantee’s Board of Directors or appropriate governing entity (including subrecipients) and submit documentation of such action

• Title VI Programs will be due 60 days prior to expiration dates
Requirements for ALL Recipients

Eight elements contained in every Title VI Program:

- Notice of Rights under Title VI
- How to File a Complaint, copy of complaint form
- List of Title VI investigations, complaints or lawsuits
- Public Participation Plan
- Limited English Proficiency (LEP) Plan
- Racial Breakdown of Non-elected Advisory Councils
- Narrative Describing Subrecipient Monitoring
- Board of Directors resolution or meeting minutes demonstrating the board approved the Title VI Program
## Requirements for Fixed Route Transit Providers

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Fixed Route Transit Providers that do not meet the threshold</th>
<th>Transit Providers with 50 or more fixed route vehicles in peak service, located in large UZA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Set system-wide standards and policies</td>
<td>Required</td>
<td>Required</td>
</tr>
<tr>
<td>Collect and report data</td>
<td>Not required</td>
<td>Required:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Demographic and service profile maps and charts</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Survey data regarding customer demographic and travel patterns</td>
</tr>
<tr>
<td>Evaluate service and fare equity changes</td>
<td>Not required</td>
<td>Required</td>
</tr>
<tr>
<td>Monitor transit service</td>
<td>Not required</td>
<td>Required</td>
</tr>
</tbody>
</table>
Requirements for Fixed Route Transit Providers

All

- Submit Title VI Program
- Set System Wide Service Standards and Policies

50+ vehicles in peak and 200k UZA

- Collect and Report Data
- Service and Fare Equity Analysis
- Monitor Transit Service

Demand Response

- Providers only subject to general requirements
Service and Fare Equity Analyses

• Only section where low-income is included
• Clearly defines when to do a Title VI analysis and when to do a low-income analysis
• Requires recipients to develop major service change policy, disparate impact policy, disproportionate burden policy, and evaluate adverse effects based on degree of impact
• Recipients may use population of service area or ridership for comparisons
Requirements for Metropolitan Planning Organizations

- Clearly defines reporting requirements
- Demographic profile of the metropolitan area that incl. locations of minorities
- Description of procedures by which the mobility needs of minorities are identified and considered
- Demographic maps analyzing impacts of State and Federal funds for public transportation & analyzing any disparate impacts
- Reporting requirements based on role of MPO
- References FTA/FHWA certification reviews
Equal Employment Opportunity Plan (EEO)

• Detailed, results-oriented set of procedures designed to achieve prompt and full utilization of minorities and women at all levels and in all parts of the contractor’s workforce

• Submitted every three years
Threshold Requirements

• 50 or more transit-related employees, and
• Receives capital or operating assistance in excess of $1 million, or
• Receives planning assistance in excess of $250,000
EEO Plan Purpose

• Establish strong company policy and commitment to equal employment opportunity
• Assign responsibility and authority for the program to top company officials
• Analyze present workforce to identify jobs and departments where minorities and females are underrepresented
EEO Plan Purpose

• Set specific measurable hiring and promotion goals with target dates in each area of underutilization
• Make every manager and supervisor responsible and accountable for helping to meet these goals
• Re-evaluate job descriptions and hiring criteria to ensure that they include only actual job needs
• Find minorities and females who qualify or can become qualified to fill goals
EEO Program Components

1. Statement of Policy
2. Dissemination
3. Designation of Personnel Responsibility
4. Utilization Analysis
5. Goals and Timetables
6. Assessment of Employment Practices
7. Monitoring and Reporting
Additional EEO Plan Guidance

- Additional training materials on compliance with EEO Plan requirements are available on the FTA Website at:
  
  http://www.fta.dot.gov/civilrights/12885.html
DBE Program

Disadvantaged Business Enterprise Program (DBE) Program Objectives

• Ensure non-discrimination in DOT-assisted contracts
• Create a “level playing field” for DBE firms to compete fairly on DOT-assisted contracts
• Remove barriers to DBE participation in DOT-assisted contracts
• Develop DBE firms that can compete outside the DBE program and assist in business development
• Achieve full compliance with 49 C.F.R. § 26
Who must have a DBE Program?

49 C.F.R. § 26.21

• (a)(2)
  – “FTA recipients receiving planning, capital, or and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) exceeding $250,000 in FTA funds in a Federal fiscal year.”

• Separate statutory and regulatory provisions apply to FHWA- and FAA-assisted contracts
DBE Program

• DBE Program
  – Approved program a precondition to receiving DOT federal financial assistance
  – One-time submission; need only resubmit when significant changes in the program occur
  – No quotas/set asides

• Annual DBE Goal Setting
  – If anticipating meeting threshold, must submit annual goal and methodology to relevant operating administration by August 1
  – Goal based on demonstrable evidence of availability of ready, able and willing DBEs relative to all ready, able, and willing firms
DBE Program

• DBE regulations apply as under normal grants
  – Goal Setting Issues
  – DBE capacity/utilization
  – Reporting

• For more information, see:
  http://osdbu.dot.gov/DBEProgram/dbeqna.cfm#economic_recovery; and/or http://www.fta.dot.gov/index_9118.html

• FTA Office of Civil Rights ARRA Toll-Free Hotline:
  1-866-525-5561
DBE Program

- **PowerPoint Presentations**
- **DBE Small Business Element**
- DBE Goals (Coming Soon)
- DBE Programs (Coming Soon)
- **DBE Reporting (Beginner)**
- **DBE Reporting (Intermediate)**
- **Training Videos**
- DBE training videos can be found [here](http://www.fta.dot.gov/civilrights/12885.html).
- **FTA Training Website:**
FTA Region 5
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