

EXHIBIT V**EXECUTIVE ORDER NO. 12372 PROVISIONS**

Executive Order 12372 of July 14, 1982, amended April 8, 1983, 31 U.S.C. Section 6506 note, and DOT regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR Part 17, specify the State and local processes for State and local governments' coordination and review of proposed Federal financial assistance and direct Federal development. The Executive Order:

"Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance and direct Federal development;

"Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why not;

"Allows States to simplify, consolidate, or substitute State plans; and

"Revokes OMB Circular No. A-95."

Three major elements are required to implement the Order - - the State process, the single point of contact, and the Federal agency's "accommodate or explain" response to State and local comments submitted in the form of a recommendation.

STATE PROCESS. A State must tell the Federal agency (DOT/FTA) which programs and activities are being included under the State process and provide assurances that it has consulted with local officials whenever it changes the list of selected programs and activities. The State processes are given sixty (60) days from the date the application is received by the State to comment on proposed Federal Assistance. A State is not required to establish a State process; however, if no process is established, the Federal agency must still notify the State that an application has been received for Federal assistance.

SINGLE POINT OF CONTACT. This section establishes the State single point of contact, which may be an official or organization, as the only party that can initiate the "accommodate or explain" response by Federal agencies (DOT/FTA). A State need not designate a single point of contact.

However, if a State fails to designate a single point of contact, no other entity or official can transmit recommendations and be assured of an "accommodation or explain" response by the Federal agency. The single point of contact, and not the applicant, must transmit the recommendations to DOT/FTA.

ACCOMMODATE OR EXPLAIN. If a State process review of an FTA activity results in a formal recommendation through the single point of contact, FTA is obligated to act upon the recommendation by either "accommodating" the State process recommendation or by "explaining" to the State single point of contact, in writing, the reasons FTA is taking an action contrary to the process recommendation. "Accommodation" in this sense means either accepting the recommendation or reaching a mutually agreeable solution with the State process.

If there is no accommodation, FTA will wait 15 days after sending an explanation of the non-accommodation to the single point of contact before taking final action.

Since the regulation does not provide any particular procedures for applications involving interstate situations, the DOT/FTA will work with officials of States and designated area-wide agencies involved in an interstate metropolitan area situation on a case-by-case basis, as appropriate, in order to give the “accommodate or explain” treatment providing the application was sent through a State single point of contact, and if the area-wide entity has been delegated a review and comment role for the program or activity being commented on by a State process.

Notwithstanding application instructions previously published for various planning, capital and operating program grants, the applicant must also certify that it has complied with the provisions of the final rule. The following certification should be prepared for each application.

“Certification is given by _____, the applicant, with respect to its application for assistance pursuant to (specify statute and section thereof), filed with the Federal Transit Administration (FTA) that the recipient has complied with the provision of 49 CFR 17, “Intergovernmental Review of Department of Transportation Programs and Activities.”