

# State Management Plan

**For United States Department of Transportation  
Federal Transit Administration  
Public Transportation Programs**

February 2017

Multimodal Planning Division  
Bureau of Planning  
Maine Department of Transportation



State of Maine

Public Transportation Programs

**STATE MANAGEMENT PLAN**

49 USC § 5303 Metropolitan Transportation Planning, MAP-21 Section 20005, FAST Act Section 3003

49 USC § 5304 Statewide and Nonmetropolitan Planning Programs, MAP-21 Section 20006

49 USC § 5305 Planning Programs

49 USC § 5307 Urbanized Formula Program, MAP-21 Section 20007, FAST Act Sections 3004, 3016

49 USC § 5309 Bus and Bus Facilities Program, FAST Act Section 3005

49 USC § 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program  
MAP-21 Section 20009, FAST Act Section 3006

49 USC § 5311 Rural Area Formula Program  
MAP-21 Section 20010, FAST Act Section 3007

49 USC § 5337 State of Good Repair, MAP-21 Section 20027, FAST Act Section 3015

49 USC § 5339 Bus and Bus Facilities Program, MAP-21 Section 20029, FAST Act Section 3017

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## ***Prefatory Notices***

### **Americans with Disabilities Act (ADA) Alternative Format Information**

Circular 4710.1

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#### **Maine Department of Transportation**

Civil Rights Office

State House Station 16

Augusta, Maine 04333

Phone: (207) 624-3042 ~ TTY Users dial Maine Relay 711

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Circular 4702.1B

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**Supporting Documents Available Under Separate Cover Upon Request**

- MaineDOT Organizational Chart
- Authorizing Resolution from Governor Paul R. LePage, dated 6/9/11
- Map of MaineDOT Transit Regions
- Guidelines for Development of Locally Coordinated Transit Plans
- 49 USC § 5310 Census and Demographics
- 49 USC § 5311 Census and Demographics
- MaineDOT FTA Site Visit Review Form
- Review of Federally Funded Vehicles
- Transit Vehicle Inspection Form
- Maintenance and Facilities Inspection Form

Note: references to selection of projects for § 5316 Job Access Reverse Commute (JARC) and § 5317 New Freedom have been removed from this document; however, references to reporting and monitoring processes have been retained.

# Maine Department of Transportation Public Transportation State Management Plan

## *Introduction and Legal Authority*

The Federal Transit Administration (FTA) provides financial assistance to states through a number of programs to develop new transit systems and improve, maintain, and operate existing systems. The Governor of the state of Maine has designated the Maine Department of Transportation (MaineDOT) as the agency of authority and responsibility for administering assistance received in Maine through Title 49 USC as described below. FTA requires that each state produce a plan describing the state's policies and procedures for the state-managed portion of these programs.

This State Management Plan (SMP) describes the State's policies and procedures of MaineDOT in administration of the public transportation programs funded by the Federal Transit Administration. These programs are:

Prior to October 1, 2012:

- 5307 Urbanized Area Formula Program (for the State of Maine, applicable § 5307, 50,000-200,000 in population)
- 5309 Capital Investment Program
- 5310 Elderly Individuals and Persons with Disabilities Program
- 5311 Rural Area Formula Program
- 5316 Job Access and Reverse Commute Program
- 5317 New Freedoms Program
- Other

Beginning October 1, 2012:

- 5307 Urbanized Area Formula Program (for the State of Maine, applicable § 5307, 50,000-200,000 in population)
- 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program
- 5311 Rural Area Formula Program
- 5337 State of Good Repair
- 5339 Bus and Bus Facilities Program
- 5303, 5304, Metropolitan and Statewide Planning Programs

This Plan provides information on management of each of the listed programs. The Department adheres to all FTA requirements that are set out in the respective program guidance circulars published by the FTA or exceeds FTA requirements where appropriate. MaineDOT follows the FTA circular that was in place at the time of the award.

# **State Program Goals and Objectives**

Maine Department of Transportation's mission is:

***“To responsibly provide our customers the safest and most reliable transportation system possible given available resources.”***

Consistent with the stated mission of MaineDOT, the primary objective of this Plan is to provide customers with the safest and most reliable transportation system possible through the improvement of the mobility for all Maine citizens including seniors, persons with disabilities and low income persons in the rural, small urban, and urbanized areas of the State of Maine. This includes support for the continuation of existing services; the inauguration of new services where need is demonstrated; and support for and improvements to existing intercity or long distance common carrier services throughout the State. Integral to this objective is the coordination of new and existing services to those recipients of other federal, state and locally funded programs. Procedures for the submission of plans and implementation of services are described in the Standard Operating Procedures for Development of Locally Coordinated Transit Plans.

The current goals and objectives for guiding the transit activities of MaineDOT were set out in the Maine Strategic Transit Plan 2025 and are shown in the following section. The objectives revolve around the three goals which were developed as part of the Department wide strategic plan. All the activities of the Department seek to achieve the three goals shown below. Activities and initiatives to achieve the goals and objectives are an ongoing process and are reviewed annually as part of the legislatively mandated Maine Department of Transportation Public Transit Advisory Council.

## **Goal 1: Manage the Existing System. Effectively manage Maine's existing transportation system for safety and effectiveness within reliable funding levels.**

- a. Improve and update the State Management Plan
- b. Elevate and clarify the message that MaineDOT's focus is on general public transportation
- c. Administer state, federal, and local funding for public transportation
- d. Improve the grant decision making process
- e. Use population density of a geographic area to determine types of service offered
- f. Use a demand based capital priority setting process
- g. Establish and use performance measures and provide technical assistance to increase the efficiency and effectiveness of sub-grantees.

## **Goal 2: Support Economic Opportunity. Wisely invest available resources to support economic opportunity for our customers.**

- a. Support general public transportation systems
- b. Support a mix of transit services
- c. Support new systems and expand existing services
- d. Encourage volunteer networks and alternatives to traditional transit services. Provide incentives for local communities and transit providers to leverage new sources of private funding for transit services
- e. Explore ways to increase state and all sources of potential funding for public transportation.



**Goal 3: Build Trust. Demonstrate our core values of integrity, competence, and service, both individually and organizationally.**

- a. Establish a public transportation advisory group (completed 2016)
- b. Expand education, outreach, and marketing
- c. Reinvigorate provisions of Maine Revised Statutes Title 30-a, Part 2, Subpart 5, Chapter 163 concerning regional transportation corporations and transition to government or quasi-governmental governing bodies.

## ***Federal Program Goals***

### **49 USC § 5303, § 5304, Metropolitan and Statewide Planning Programs**

These programs provide funding and procedural requirements for multimodal transportation planning in metropolitan areas and states that is cooperative, continuous, and comprehensive, resulting in long-range plans and short-range programs of transportation investment priorities. The planning programs are jointly administered by FTA and FHWA, which also provides additional funding.

- *Establishes a performance-based planning process.* MAP-21 requires Metropolitan Planning Organizations (MPOs) and states to establish performance targets that address national performance measures issued by the U.S. DOT and are based on goals outlined in law – safety, infrastructure condition, congestion reduction, system reliability, economic vitality, environmental sustainability, reduced project delivery delays, transit safety, and transit asset management. Transportation Improvement Programs (TIPs) must include a description of the anticipated progress toward achieving the targets brought about by implementing the TIP. Five years after enactment of MAP-21, the U.S. DOT will report to Congress on the effectiveness of performance-based planning and assess the technical capacity of MPOs in smaller areas to undertake performance-based planning.
- *Requires transit representation on MPO policy boards in large areas.* Within two years of the date of enactment, MPOs in urbanized areas designated as transportation management areas must include transit officials on their policy boards.
- *Supports optional scenario development.* MPOs may undertake scenario development exercises in preparing the long-range transportation plan that consider alternative demographic growth, revenue options, and other factors.
- *Allows designation of regional transportation planning organizations.* Regional transportation planning organizations comprised of volunteer local government and transportation officials may be designated to assist the state in addressing the needs of non-metropolitan areas. Accordingly, “statewide planning” has been renamed “statewide and non-metropolitan planning” to signify the important role local officials play in the development of statewide plans and programs in non-metropolitan areas of states.

## 49 USC § 5307 Urbanized Area Formula Grants

The largest of FTA's grant programs, this program provides grants to urbanized areas to support public transportation. An urbanized area is an area with a population of 50,000 or more that has been defined and designated in the most recent decennial census as an "urbanized area" by the Census Bureau. Funding is distributed by formula based on the level of transit service provision, population and other factors. Activities allowed are:

- *Job access and reverse commute activities.* Activities eligible under the former Job Access and Reverse Commute (JARC) program, which focused on providing services to low-income individuals to access jobs, are eligible under the Urbanized Area Formula program. This includes operating assistance with a 50 percent local match for job access and reverse commute activities. In addition, the urbanized area formula for distributing funds includes the number of low-income individuals as a factor. There is no floor or ceiling on the amount of funds that can be spent on job access and reverse commute activities.
- *Operating expenses for systems with 100 or fewer buses.* Transit systems in urbanized areas over 200,000 can use their formula funding for operating expenses if they operate no more than 100 buses. Systems operating between 76 and 100 buses in fixed route service during peak service hours may use up to 50 percent of their "attributable share" of funding for operating expenses. Systems operating 75 or fewer buses in fixed-route service during peak service hours may use up to 75 percent of their "attributable share" of funding for operating expenses. This eligibility for operating assistance under the urbanized formula program excludes all rail systems.
- *Discretionary passenger ferry grants.* Nationally \$30 million per year is set aside from the urban formula program totals to support passenger ferries. Funding will be awarded on a competitive basis.
- *Takedown for safety oversight.* MAP-21 sets aside one half of one percent of Urbanized Area Formula funds for state safety oversight grants.
- *Flexible Funds.* Transfer of FTA Flexible Funds to Section 5307 is allowed.

## 49 USC § 5310 Enhanced Mobility of Seniors and Individuals with Disabilities

This program provides formula funding to increase the mobility of seniors and persons with disabilities. Funds are apportioned based on each state's share of the targeted populations and are now apportioned to both states (for all areas under 200,000) and large urbanized areas (over 200,000). Eligible activities include services for individuals with disabilities that went above and beyond the requirements of the Americans with Disabilities Act (ADA) such as improve access to fixed-route service and decrease reliance by individuals with disabilities on complementary paratransit; or alternatives to public transportation that assist seniors and individuals with disabilities. Eligible activities also include mobility management which consists of short-range planning and management activities and projects for improving coordination among public transportation and other transportation-service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a government entity, under 49 USC. Chapter 53 (other than Section 5309). Mobility management does not include operating public transportation services.

Projects selected for funding must be included in a locally developed, coordinated public transit-human services transportation plan. At least 55 percent of program funds must be spent on the

types of capital projects —public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable. The remaining 45 percent may be used for: public transportation projects that exceed the requirements of the ADA; public transportation projects that improve access to fixed-route service and decrease reliance by individuals with disabilities on complementary paratransit; or, alternatives to public transportation that assist seniors and individuals with disabilities. Using these funds for operating expenses requires a 50 percent local match while using these funds for capital expenses (including acquisition of public transportation services) requires a 20 percent local match. The federal share for eligible capital expenses does not exceed 80% but may exceed 80% for certain projects related to the *Clean Air Act Amendments of 1990 (CAAA)*; or required to comply with the *Americans with Disabilities Act of 1990 (ADA)*. (See FTA Circular, 9070.1G, page III-16 and III-17).

#### **49 USC § 5311 Rural Area Formula Grants**

This program provides capital, planning, and operating assistance to support public transportation in rural areas, defined as areas with fewer than 50,000 residents. Funding is based on a formula that uses land area, population, and transit service. The program remains largely unchanged with a few exceptions:

- *Job access and reverse commute activities eligible.* Activities eligible under the former Job Access and Reverse Commute (JARC) program, which provided services to low-income individuals to access jobs, are eligible under the Rural Area Formula program. In addition, the formula includes the number of low-income individuals as a factor. There is no floor or ceiling on the amount of funds that can be spent on job access and reverse commute activities.
- *Tribal Program.* The Tribal program consists of formula program and a discretionary grant program. Formula factors include vehicle revenue miles and the number of low-income individuals residing on tribal lands.
- *Appalachian Development Public Assistance Program.* MAP-21 authorizes \$20 million each for FY 2013 and FY 2014 for grants to support public transportation in the Appalachian region.
- *Other changes.* The set-aside for states for administration, planning and technical assistance is reduced from 15 to 10 percent. The cost of the unsubsidized portion of privately provided intercity bus service that connects feeder service is eligible as in-kind match.

## **49 USC § 5337 State of Good Repair**

MAP-21 established a new grant program to maintain public transportation systems in a state of good repair. This program replaced the fixed guideway modernization program (Section 5309). Funding is limited to fixed guideway systems (including rail, bus rapid transit, and passenger ferries) and high intensity bus (high intensity bus refers to buses operating in high occupancy vehicle [HOV] lanes). Projects are limited to replacement and rehabilitation, or capital projects required to maintain public transportation systems in a state of good repair. Projects must be included in a transit asset management plan to receive funding. The new formula comprises: (1) the former fixed guideway modernization formula; (2) a new service-based formula; and (3) a new formula for buses on HOV lanes.

## **49 USC § 5339 Bus and Bus Facilities Program (5339)**

The Federal Transit Act (USC Title 49, Chapter 53), as amended, includes a formula grant program to assist eligible recipients in financing capital projects to replace, rehabilitate, and purchase buses and related equipment, and to construct bus-related facilities known as Section 5339. The Section 5339 program, through these eligible activities, supports the continuation and expansion of public transportation services in Maine. Funding is apportioned to urbanized areas within Maine and to the MaineDOT, Multimodal Planning Division, authorized by the Governor as the designated recipient responsible for administering the Section 5339 program in Maine. The Multimodal Planning Division is responsible for receiving and apportioning Federal Transit Administration (FTA) funds to eligible projects and applying for funds on behalf of eligible subrecipients within the applicable urban and rural areas. Each year, \$65.5 million will be allocated with each state receiving \$1.25 million and each territory (including DC and Puerto Rico) receiving \$500,000. The remaining funds will be distributed by formula based on population, vehicle revenue miles and passenger miles. Capital projects may not exceed 80% for the federal share except for certain projects related to ADA, CAAA and certain bicycle projects.

### **Eligible Capital Projects**

Section 5339 funding may be used to fund projects to replace, rehabilitate, and purchase buses and related equipment, and projects to construct bus-related facilities. This includes but is not limited to:

1. The acquisition of buses for fleet and service expansion;
2. Bus maintenance and administrative facilities;
3. The acquisition of vans for fleet and service expansion, including specialized vans and related facilities used to provided ADA complementary paratransit service;
4. Transfer facilities;
5. Bus malls;
6. Transportation centers;
7. Intermodal terminals;
8. Intercity facilities which are a part of a joint development project;
9. Park-and-ride stations;
10. Acquisition of replacement vehicles;

11. Bus rebuilds;
12. Bus overhauls;
13. Passenger amenities such as passenger shelters and bus stop signs;
14. Accessory and miscellaneous equipment such as:
  - a. Mobile radio units;
  - b. Supervisory vehicles;
  - c. Fare boxes;
  - d. Computers; and
  - e. Shop and garage equipment.
15. Clean Fuel projects (See Circular FTA 5100.1);
16. Introduction of new technology (see Circular FTA 5100.1);
17. Costs associated with environmental compliance including engineering and design activities including preparation of environmental documents;
18. Design and art in transit (see Circular FTA 5100.1);
19. Leasing of capital assets (see Circular FTA 5100.1);
20. Capitol cost of contracting (see Circular FTA 5100.1);
21. Project administration ((see Circular FTA 5100.1);
22. Innovative financing (see Circular FTA 5100.1);
23. Bicycle facilities (see Circular FTA 5100.1).

### **Availability of Funds**

FTA funds are available to the state during the period of availability of the funds. Therefore, the state need not apply for all its funds the year the funds are apportioned. The following table shows the period of availability of funds for selected programs.

<b>Period of Availability of Funds</b>	
Section 5307	Year of apportionment plus 5
Section 5310	Year of apportionment plus 2
Section 5311	Year of apportionment plus 2
Section 5337	Year of apportionment plus 2
Section 5339	Year of apportionment plus 3

# ***Roles and Responsibilities***

## **State Administration**

The role of MaineDOT includes:

- Documenting the state's procedures in a state management plan (SMP) and making it available to grantees, planning organizations, and the general public after FTA approval.
- Notifying potential participants about the program and soliciting applications.
- Developing project selection criteria and competitive selection process.
- Arranging for the evaluation of potential projects for funding.
- Reviewing, prioritizing and selecting projects for approval.
- Developing elements of the state transportation improvement program (STIP) for each FTA Section.
- Developing and forwarding an annual program of projects and grant application to FTA.
- Certifying eligibility of applicants and project activities.
- Developing agreements with selected agencies.
- Monitoring local project activity.
- Ensuring that applicants utilize older grants first.
- Declining to distribute grant money of the same type of funds if an applicant has an open contract that is at least two years old and has not been closed out.
- Ensuring grantee compliance with all federal requirements, including all certifications and assurances.
- Overseeing project audits and closeouts.
- Submitting reports as required by FTA including National Transit Database (NTD) reporting for § 5311 grantees and other specialty reporting for § 5307 JARC projects, § 5310, § 5316, and § 5317, § 5337, § 5339 grantees.
- Certifying that funds are distributed in a fair and equitable basis.
- Supporting and overseeing the development of Locally Coordinated Transit Plans (LCPs) in rural and small urban areas of the State of Maine, which are developed in each region through a process including representatives from public transportation, private and non-profit transportation, human services providers, the public and MaineDOT.
- Certifying that all projects funded through § 5310, 5311, and § 5339 are from a Locally Coordinated Transit Plan.
- Requiring that projects within the MPO boundaries (5307, 5337, 5339) are included in the MPO TIP for inclusion in MaineDOT STIP and that planning projects (5303) are included in the MPO UPWP.

Besides the above responsibilities MaineDOT's role in programs funding capital purchases includes:

- Purchase of equipment.
- Ensuring that equipment purchased with grant funds is maintained to manufacturers' specifications and operated consistent with project objectives.
- Ensure purchases conform to CFR Title 2, Part 200, Uniform Guidance.

MaineDOT responsibilities also include the following program-specific elements:

#### **§ 5311**

Developing and implementing a program of training and technical assistance under § 5311 (b) (2), the rural transit assistance program (RTAP.)

Developing and implementing the intercity bus program under § 5311 (f).

Ensuring that projects funded through § 5311 have been developed in coordination with transportation projects assisted by other federal sources.

#### **§ 5310 and § 5311**

Planning for future transportation needs, and ensure coordination among transportation modes and subrecipients.

### **Technical Assistance and Training**

MaineDOT informs subrecipients of applicable Federal requirements, provides technical assistance in meeting those requirements, and oversees compliance with those requirements. Technical assistance is provided through orientations, informal conversations, formal correspondence, on-site performance reviews, and conferences. MaineDOT provides RTAP funds to assist subrecipients in meeting their technical assistance and training needs.

### **Locally Coordinated Transit Plans**

The following sections present information about how MaineDOT goes about meeting the above responsibilities with emphasis on the development of the Locally Coordinated Transit Plans (LCPs).

The coordination of the public transportation programs (hereafter referred to as "the Program"), including social service transportation, is required by both Federal requirements and State law. In order to implement Title 49 U.S.C. Chapter 53 in the State of Maine, the Governor has designated MaineDOT as the agency to receive and administer funds allocated by FTA (<http://www.mainelegislature.org/legis/statutes/23/title23sec4209.html>).

The legislation, 23 M.R.S.A. § 4209 § 1, also provided that the State be divided into geographic regions. The State was divided into eight geographic regions. In the legislation a Biennial Operations Plan (BOP) (now called the Locally Coordinated Transit Plan (LCP)) was required to plan and describe the provision of public transportation in Maine. The LCP is prepared with the full participation of the MaineDOT and locally affected groups and services. It is the intent and purpose of the Program to insure that duplicate transportation services exist only where there is a clear justification for such duplication in so far as the Department has control over that service. The LCP also ensures public participation in the process of developing regional plans for transit. LCP public hearings are currently held in each region under the auspices of either the relevant local transportation provider or a local collaborative group. The following diagram presents the general framework for development of the LCP.

## Development Process for the Locally Coordinated Transit Plan (LCP)



**FTA Requirement:** Federal law establishes programs and funding for the Federal Transit Administration and requires the development of Locally-Coordinated Public Transit Human Services Transportation Plan.



**Coordination Effort:** The Locally Coordinated Plan informs how FTA funds will be spent in each region and developed through a process that includes representatives of social service agencies, disability associations, private and nonprofit transportation providers and participation by the public. This could include services provided by public transit agencies, municipalities, human service agencies and private providers such as taxi. The process covers all FTA-funded programs but emphasis is paid to the three FTA-funded programs including persons with disabilities, older adults (60+), and individuals with lower incomes Rural 5311/Urban 5307 Job Access and Reverse Commute program, and Section 5310 Vehicles & Equipment Grant program to serve Older Adults and People with Disabilities and Section 5310/ New Freedom.



**Public Outreach:** Public input for the Locally Coordinated Plan is gathered through Regional Transit Workshops held in each of Maine's eight regions. Public meeting notices are offered as hand-outs on public buses, printed advertisements and by targeted mailings.



**Transit Workshops:** Regional meetings identify gaps in service, unmet travel needs, potential projects and initiatives. Another objective is to build a database of interested participants and develop proposals to address gaps in service.



**Summary Report:** A list of recommended projects for each region is published in the Statewide Transportation Improvement Program.

Statewide dissemination of information relating to the Program is provided to the transportation providers, those agencies which have been designated to receive Federal Transit Administration (FTA) and State Transit funds, and to the public by a number of procedures which include direct mailing, press releases by MaineDOT and the regional transportation operators and by listing on the MaineDOT website. Public hearings are held as appropriate and information pertaining to each program. Regional Transportation Providers named in the LCP are charged with providing, within the limits of funding, access to transportation in their region. More detailed responsibilities dependent on the individual program requirements include:

1. Notifying eligible local entities of funding availability
2. Developing project selection criteria
3. Determining applicant eligibility



4. Conducting a competitive selection process
5. Forwarding an annual program of projects (POP) and grant application to FTA
6. Ensuring that all subrecipients comply with Federal requirements
7. Documenting the State's or designated recipient's procedures in a State Management Plan
8. Certifying that allocations of grants to subrecipients are distributed on a fair and equitable basis

MaineDOT executes a contract with the transportation providers in each region following the recommendations of the LCP and the results of any competitive processes. Program funds are distributed on a reimbursement basis and it is required that the transportation providers file invoices with the Department of Transportation on a monthly basis.

## ***Eligible Recipients***

Eligibility requirements in the State of Maine are no more restrictive than FTA requirements. Eligible subrecipients include State agencies, local public bodies and agencies thereof, private non-profit organizations, regional transit providers who also meet other requirements, Indian Tribes and groups, and operators of public transportation services.

MaineDOT purchases all subrecipient vehicles. Regional and Flex route providers hold title to the vehicles with a lien naming MaineDOT as the lien holder. All titles are maintained until such time as the vehicle is disposed or its useful life is ended. On a case-by-case basis, MaineDOT may hold title to vehicles used by other providers. Funds are allocated to each region by formula and the Bureau of Planning will keep track of the amounts available. However, the purchase of vehicles is handled by the State. This simplifies the internal tracking of contracts and allows tighter adherence to State and Federal guidelines.

The following sections list the specific eligible recipients by program.

### **49 USC § 5307 Urbanized Area Formula Grants**

Under the 49 USC § 5307 Program, funds are made available for or grants may be made to:

- Public entities (direct recipients)
- Private, non-profit agencies (subrecipients under MaineDOT for continuation of JARC projects)
- Other public entities which are not direct recipients.

## **49 USC § 5310 Enhanced Mobility of Seniors and Individuals with Disabilities**

### **Eligible Sub-Recipients:**

Under the 49 USC § 5310 Program, funds are made available for or grants may be made in accordance with FTA Circular 9070.1G to:

- Recipients in Urbanized Areas over 200,000 in population;
- Subrecipients in Rural and Small Urbanized Areas under 200,000 in population;
- Tribes;
- A non-profit organization;
- A State or local government authority that:
  - a. Is approved by the State to coordinate services for seniors and individuals with disabilities; or
  - b. Certifies that there are no non-profit organizations available in the area to provide the service;
- An operator of public transportation that receives a Section 5310 grant indirectly through a recipient;
- Private taxi companies that provide shared-ride taxi service to the general public on a regular basis or special categories of users (such as seniors or individuals with disabilities).

MaineDOT requires private non-profit applicants to:

- Hold a 501 (c) (3) certificate verifying non-profit status.
- Register with the Maine State Secretary of State.

### **Activities:**

Projects may be included in a locally developed, coordinated public transit-human services transportation plan developed through a process that includes seniors and people with disabilities. At least 55 percent of program funds must be used on traditional projects that are:

- Public transportation projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities when public transportation is insufficient, inappropriate, or unavailable.

Acquisition of public transportation services is permitted as a capital expense.

Up to 45 percent may be used for capital and/or operating projects:

- Public transportation projects that exceed the requirements of the ADA.
- Public transportation projects that improve access to fixed-route service and decrease reliance by individuals with disabilities on complementary paratransit.
- Alternatives to public transportation that assist seniors and individuals with disabilities.

A public transportation service provider that receives assistance under this section may coordinate and assist in regularly providing meal delivery service for homebound individuals, if the delivery

service does not conflict with providing public transportation service or reduce service to public transportation passengers.

## **49 USC § 5311 Rural Area Formula Program**

### **Recipients:**

The following entities are eligible to receive § 5311 capital and operating grant funds and (for the intercity bus program only) purchase of service agreements:

- State agencies.
- Local governmental agencies and their authorities.
- Indian Tribal governments.
- Private non-profit organizations.
- Operators of public transportation services or intercity bus service providers that receive FTA grant funds directly through the state or a subrecipient.
- Private intercity bus operators, § 5311(f) intercity bus program, only includes bus service for the general public that:
  - Operates with limited stops over fixed routes connecting two or more “urban areas” 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, if such service is available.
- Private for-profit operators of transit or paratransit services may participate in the 5311 program as contractors for the State or grantees but not as sub-recipients. Private for profit companies may contract directly with the State for Intercity services. State agencies do not define 49 USC § 5311 recipient eligibility requirements further than those stated above.

### **Activities:**

The following grants are authorized for recipients located in rural areas:

- Planning - provided that a grant under this section for planning activities are in addition to funding awarded to a state under section 5305 for planning activities that are directed specifically at the needs of rural areas in the State.
- Public transportation capital projects.
- Operating costs of equipment and facilities for use in public transportation.
- Job access and reverse commute projects.
- Acquisition of public transportation services, including service agreements
- With private providers of public transportation services.
- Small urban transits may qualify for Section 5311 funding if the route is predominantly for connecting rural riders with the city. If the route is part rural and part urban, the cost of operating must be allocated accordingly

## **49 USC § 5337 State of Good Repair**

*Fixed guideway operators* are eligible to receive § 5337 capital grant funds. Funds are awarded directly to recipients.

## **49 USC § 5339 Bus and Bus Facilities Program**

**The following entities are eligible to receive § 5339 capital grant funds:**

- Private non-profit organizations.
- State or local governmental authorities.
- Operators of public transportation services, including private operators of public transportation services.
- Tribal governments.

## ***Eligible Services and Service Areas***

The State of Maine adds no limitations to the Federal rules on Eligible Services and Service Areas. 49 USC § 5311 funds are available for expenditure for public transportation projects in areas other than urbanized areas. Public transportation services in Maine are designated to maximize usage by transportation disadvantaged persons, provided that the general public is afforded an equal opportunity to utilize the transportation services. Maine uses a Regional Provider system determined through the Locally Coordinated Transit Plan (LCP) process to properly allocate resources.

Maine operates a coordinated transportation system based on State statute 23 M.R.S.A. § 4209 §§ 1 (<http://www.mainelegislature.org/legis/statutes/23/title23sec4209.html>).

Based on state statutory requirements and the requirements for coordination in the Federal Transit statute, even those programs which require a competitive process must meet coordination requirements and those requirements are part of the decision-making process. The only exceptions to contracting through the regional provider not otherwise accommodated in the LCP are those special circumstances involving private companies offering specialized services such as passenger ferry operations and taxi cabs.

## ***Eligible Assistance Categories***

### **State Administration**

The State of Maine applies for up to 10% of its apportioned 49 USC § 5311 funds to administer the Program, to provide necessary planning and to provide technical assistance to local recipients. These expenses are funded at 100% of Federal money.

The State of Maine applies for up to 10% of its apportioned 49 USC § 5310 funds to administer the program and provide technical assistance to local recipients. These expenses are funded at 100% federal money. There are no restrictions on the allocation of costs between administrative and operating categories other than those established by the FTA and CFR 2, Part 200, Uniform Guidance.

### **Capital**

Capital expenses for 49 USC § 5311, § 5310 are funded at 80% Federal money. The Federal share may exceed 80 percent for certain projects related to ADA and CAA compliance. MAP-21 and FAST Act allows a higher percentage for the acquisition of vehicles and/or for vehicle-related equipment or facilities depending on funding source. If available MaineDOT restricts its share of Capital expenses up to 10% of the non-federal share as funds are available and local funds must make up the difference. In the case where vehicles are purchased for seasonal use or another purpose so designated by the Bureau of Planning, up to 100% of the cost of a vehicle may be paid for by the State as limited by bond and other regulatory language.

Capital subsidy may be provided under the 49 USC § 5339 Capital Program. The matching ratio of Federal and non-federal shares for any project funded under 49 USC § 5339 is up to 80/20 but may exceed 80% for certain projects related to ADA and CAA. Applications for 49 USC § 5339 funding are coordinated through the Bureau of Planning.

## **Administration**

Administrative expenses for 49 USC § 5311 subrecipients and contractors, may be funded with 80% Federal funds. The administrative expenses may include administration, planning, and technical assistance. Administrative expenses cannot exceed 35% of the total sub-grantee budget in FY17, 30% in FY18 and 25% in FY19 and following years. The 49 USC § 5310 Program does not authorize reimbursement to transportation providers for administrative expenses.

## **Operating Expenses**

Operating expenses for 49 USC § 5310 and § 5311 are funded with 50% Federal money. Section 5307 and 5311 programs may also receive State funds as available for match. The State may provide up to 10% as matching funds and, upon request, may increase its share up to 50% of deficit for § 5311 programs. The § 5310 program in Maine is currently eligible for operating funds for expanded ADA services under MAP-21 and FAST act.

Intercity routes in the State of Maine are funded, based on bids received, at 50% Federal funds for operating and 80% Federal funds for capital (not preventive maintenance). As new intercity services are developed and funding increased, capital and operating expenses may be reimbursed to the appropriate provider in the same manner as the other 49 USC § 5311 services. The Bureau of Planning goes out to bid every five years for intercity services for one year with an option to renew for up to four years.

## ***Local Share and Local Funding Requirements***

### **General**

Matching funds in the State of Maine for 49 USC § 5311, 49 U.S.C. § 5310 and 49 U.S.C. § 5339 funds are made up of local, State and/or unrestricted non-DOT Federal funds. Local (non-federal) share is defined as a combination of state and local (non-federal) funds.

The State Legislature has appropriated approximately \$1.1M annually to assist with the required match for operating. Title 23 MRSA Section 4209 provides for State funds to be used for match up to the following percentages: Administrative - 10% and Operating - 50% of the operating deficit (see definition above). In the absence of State funds, non-federal share must be provided by the subrecipients.

All of the local share must be provided from sources other than Federal DOT funds. Some examples of sources of local match which may be used for any or all of the local share include:

State or local appropriations; other non-DOT Federal funds; dedicated tax revenues; private donations; revenue from human service contracts; toll revenue credits; and net income generated from advertising and concessions. Non-cash share such as donations, volunteer services, or in-kind contributions are eligible to be counted toward the local match as long as the value of each is documented and supported, represents a cost which would otherwise be eligible under the program, and is included in the net project costs in the project budget.

Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide local match for the Program operating assistance and capital projects. In either case, the cost of providing the contract service is included in the total project cost. No FTA program funds can be used as a source of local match for other FTA programs, even when used to contract for service.

Local match may be derived from other Federal funds derived from Federal programs that are eligible to be expended for transportation, other than from the DOT programs. To be eligible for local match for FTA funds, the other Federal funds must be used for activities included in the total gross project costs of the FTA grant. Expenditure of other Federal funds for transportation outside of the scope of the project cannot be applied as a credit for local match in the FTA grant.

Advertising revenue, as noted above, may be used as local share according to FTA regulations. However, Circular 5010.1E states that it may not be used in the grant from which it was earned, but may be used in future grants.

### **Capital Assistance**

The required local and/or state share for capital assistance is 20 percent of eligible expenses. The local and/or state share may be less for certain projects related to ADA and CAA compliance. MAP-21 allows a lower percentage for the acquisition of vehicles and/or for vehicle-related equipment or facilities depending on funding source. The 20 percent match requirement may be met using a combination of local funds and eligible state funds. MaineDOT permits a local share greater than 20 percent if the total eligible capital expenses exceed the amount budgeted. The project may be supplemented with additional local, state, and/or federal funds depending on availability.

### **Operating Assistance**

The local and/or state share for operating assistance is 50 percent of the net eligible expenses (gross expenses less fares and/or donations). The 50 percent match requirement may be met using a combination of local funds and eligible state funds. Based on availability, the project may be supplemented with additional local, state, or federal funds if the total net eligible expenses exceed the budget.

The source of the local share for operating assistance must comply with the Federal Transit Act and amendments, which permits the use of certain federal funds such as Medicaid and Title IIIB.

### **Purchase of Service Assistance**

The required local and/or state share for purchase of service assistance is 20 percent of eligible expenses. The 20 percent match requirement may be met using a combination of local funds and eligible state funds. Based on availability, the project may be supplemented with additional local, state, or federal funds if the total net eligible expenses exceed the budget.

## **Mobility Management Assistance**

The required local and/or state share for mobility management assistance is 20 percent of eligible expenses. The 20 percent match requirement may be met using a combination of local funds and eligible state funds. Based on availability, the project may be supplemented with additional local, state, or federal funds if the total net eligible expenses exceed the budget.

## **Planning Assistance**

The required local and/or state share for planning assistance is 20 percent of eligible expenses. The 20 percent match requirement may be met using a combination of local funds and eligible state funds. Based on availability, the project may be supplemented with additional local, state, or federal funds if the total net eligible expenses exceed the budget.

## **Summary of Local Match Requirements**

There are restrictions on the source of the local share of any project costs and the way the local share must be allocated. Restrictions include:

- The local share cannot be derived from USDOT federal funds.
- No use restrictions may be put on the equipment by the funding source and if used in a 5311 funded service they must be open to the general public.
- The funding source must not affect the legal ownership of the equipment.

Human service agency contract income may be used as local match provided the applicant certifies and provides documentation that all direct operating expenses for its human service contract service are recovered without the use of Section 5311 funds.

## ***Project Evaluation Criteria and Method for Distributing Funds***

### **Introduction**

FTA § 5310 funds are distributed on the basis of need and project evaluation criteria.

For § 5311 funds to distribute funds on a fair and equitable basis, the State was divided into eight regions defined generally along county lines. While the eight regions are autonomous, coordination among and between regions is encouraged. However; only one sub-grantee for any specifically defined service will be funded in any given region. That is, no two-like services are funded in any specific geographic area. But any region can have more than one sub-grantee providing the services provided do not overlap or duplicate each other.

Allocation of Section 5311 funds to each region is by the use of a formula which includes the three basic factors of population, road mileage and square miles. Thirty percent of rural funding remaining after the 10% administrative deduction and the 15% deduction for the intercity program is distributed by this formula. The remaining 70% is assigned to projects which meet needs identified by MaineDOT and the LCP. Since 2012, MaineDOT has been using the approved option for redistributing, via a Governor's letter, a portion of the 15% intercity distribution to other identified priorities, after verifying that all intercity needs have been met.

Contracts are for a single project year with the exception of capital improvement projects and/or procurements. Any funds remaining on a contract at the end of the project year may be credited to the next year's contract. Subsequent project year contracts may be reduced by any funds that remain

on the previous year's contract. Because the program is continuously managed, oldest funds available are drawn first regardless of the year of award for program activity until balances are expended.

Projects are solicited in a variety of ways. The Bureau of Planning conducts a series of public meetings as part of its LCP planning process and solicits ideas through that process. MaineDOT publishes a long range plan which receives public comment as well as capital 3-year calendar work plan and 4-year Statewide Transportation Improvement Program (STIP). These publications go through a public comment process and contain projects solicited and chosen from both external and internal sources. The publications strive to be geographically and demographically diverse and meet the needs of all Maine's citizens, businesses and visitors. In addition, Maine publishes legal notices announcing its grant programs and invites inquiries and applications from the public and interested transportation providers.

Since 1970, the population statistics from the most recent United States Department of Commerce Census have been used. Since the allocation of 49 USC § 5311 Federal funds is based on Maine's rural and small urban population, the urbanized populations of the Portland, Lewiston/Auburn, Bangor, and Kittery areas were not included in their respective regions. Mileage statistics were derived from the Maine Department of Transportation's State Highway Mileage Table. Road mileage located in the four urbanized sections mentioned above was not included in those regions' computations. It was also decided that a density factor pertaining to the road miles per 1,000 persons should be used. This was accomplished by dividing the region population into the region road miles. The density factor and the population factor were given an equal weight in determining each region's percentage of the total allocation. The population of the Portland area exceeds the 200,000 population threshold for designation as an Urbanized Area (UZA). Consequently, transportation providers in that area receive funds directly from FTA, but projects need to be included in MaineDOT's STIP, and UZA transit agencies need to coordinate distribution of § 5307 funds via split letter.

With the inception of MAP-21, MaineDOT receives additional Section 5310 funds and a new program, Section 5339 funds. The Section 5310 funds are for the small urban and UZA areas. These are distributed by MaineDOT based on need and these funds are competitively awarded. The new Section 5339 funds are apportioned to Maine in three categories: statewide, small urban, and UZA. These funds are competitive in nature, but may also be designated to transit agencies to fill funding gaps.

## **Application Process and Evaluation of Projects**

In general, transit projects funded by MaineDOT are funded in part by formula grants and documented need. In all cases, MaineDOT requires that providers submit an application for funding. Following submission of an application or applications to MaineDOT, the Bureau of Planning takes the following steps:

- Review projects to determine eligibility
- Identify projects funded by formula
- Prioritize non-formula projects aimed at meeting identified transit needs
- Prepare a Program of Projects based on available funding

Specific procedures for distributing FTA Section 5311 and 5339 funds are as follows:



Priority One: The first priority for funding is to continue operating assistance to existing general public Section 5311 subrecipients where there exists a continuing demand for public transportation service and a need for federal subsidy. Emphasis is placed on funding multiple county or regional transportation systems.

Priority Two: The second priority for funding is to support 5311 and 5339 capital projects for existing systems. If and when capital funding is made available, eligible requests will be prioritized on the following basis:

- Replacement of vehicles which are beyond their useful life, unsafe, out moded, or fully depreciated;
- Purchase of vehicles for the expansion of existing services or purchase of additional vehicles to meet demonstrated capacity problems on current routes;
- Purchase of miscellaneous capital equipment (e.g. radios, shop equipment, etc.); and,
- Construction and/or renovation of facilities.

Priority Three: The third priority is the funding of operating and capital expenses for new rural transportation systems. When establishing new service, the Department may give priority to those areas which are in economically distressed counties. Other areas may also be considered.

Before the MaineDOT will approve any new rural transit project, the following must be determined and a narrative covering the following items must be attached to the grant application for funding:

- **Goals and Objectives.** An agency should determine why and to whom it wants to provide transportation. As the mission of the transportation program is clarified, there are specific issues that will shape a transportation system. These include determining the geographic area to be served, the area's greatest transportation needs, and current transportation resources.
- **Needs Assessment.** Once the goals, objectives and service area are defined, a provider must determine what transportation needs are not being met by conducting a needs assessment within the proposed service area. This needs assessment will aid a system in determining:
  - Transportation needs for human services clients as well as the general public;
  - Revenue sources to provide an adequate level of service to meet these needs;
  - Existing transportation services, both public and private as well as existing vehicles in the service area, including their type, age, condition, seating capacity and whether for sale, lease or shared use;
  - New vehicle and other capital needs;
  - Municipal government support of rural transit;
  - A multi-year financial plan.
- The needs assessment must reference the appropriate Locally Coordinated Plan (LCP) and describe how the needs were addressed in the LCP. However, MaineDOT reserves the right to fund projects aimed at meeting transit needs that may not be identified through the LCP.

## **Locally Coordinated Transit Plans and Project Approval Process**

The State is divided into eight geographic regions for distribution of the Maine Department of Transportation administered transit funds. Every five years a Locally Coordinated Transit Plan (LCP) is prepared for each of the eight regions. By State law the Plan is approved with input from the Public Transit Advisory Council.

The LCP submitted for each regional public transportation agency provides for the following:

1. Maximum feasible coordination of funds among all State agencies that sponsor transportation in the region;
2. Development and maintenance of a permanent and effective transportation system, with particular regard to seniors, persons with disabilities and low income persons.
3. Participation of private transit operators in the service area to the greatest extent possible.
4. Conformity with general operational requirements as may be prescribed by the Commissioner of MaineDOT.
5. MaineDOT may transfer any amount of the State's apportionment for urbanized areas to any urbanized area in the State or with the Governor's permission, to supplement the State's 49 USC § 5311 Program. MaineDOT will make such transfers only after consultation with the responsible local elected officials and publicly-owned operators of transportation services in each area to which the funding was originally apportioned.
6. The LCP also contains an inventory of vehicles funded by FTA and MaineDOT as well as ridership statistics and financial information and performance measures for all publically funded services.

At least one public meeting is to be held in each region to assess needs, determine performance, communication levels, coordination of service, and distribution of funds. Prior to submission of the plan to MaineDOT for approval, the plans are subjected to public meetings at the local level as needed.

Approval of each plan is given by MaineDOT with input from the Public Transit Advisory Committee including the Department of Health and Human Services. Upon approval, all agencies, groups or organizations named to participate in the provision of service in the regional LCP, become eligible to receive funds administered by MaineDOT. Separate contracts are then written between MaineDOT and each provider agency.

## **Coordination**

Title 23 M.R.S.A. § 4209 §§ 1A

(<http://www.mainelegislature.org/legis/statutes/23/title23sec4209.html>), enacted in 1979 provides for liaison personnel to be appointed by the Department of Health and Human Services to act on the coordination of purchase of service contracts and to serve in an advisory capacity to the Maine Department of Transportation in matters concerning public transportation. This same statute also requires approval of the Locally Coordinated Transit Plan by MaineDOT and DHHS (Department of Health and Human Services).

All providers receiving funds from MaineDOT must coordinate with providers in their region to avoid duplication of effort and provide the most service to the residents.

## **Local Oversight and Public Comment on Fare and Service Changes**

Each project must have a locally based oversight and policy board specific to passenger transit.

Subrecipients **must** notify MaineDOT Multimodal Planning Division *in writing 60 business days prior to enacting any contemplated changes or discontinuation of service and/or fare increases or decreases and the agency's justification for taking this action.* **If the agency receives State funds, failure to notify the MaineDOT Multimodal Planning Division may result in the suspension or reduction of Section 5311 and/or State funding.** After written concurrence from the MaineDOT Multimodal Planning Division, the agency must provide at least a 30-day notice by posting the information on the buses, agency's web site and other appropriate venues such as flyers and newspaper ads or releases when fares are increased or service is discontinued or changed.

All fare increases or service discontinuations must be approved by your agency's Board. The subrecipient must request concurrence from the MaineDOT Multimodal Planning Division prior to submitting the request to the Board for final approval.

Subrecipients must have a public involvement procedure described in their grant application for receiving input from users and non-users when making service changes, changing fares, planning for service development or significant capital expenditures. The policy must provide an opportunity for a public hearing or public meeting for any fare increase or major service reduction and should describe how such meetings will be conducted and how the results of such meetings will be considered in the process of changing fares and service. A public meeting is not mandatory; however, an opportunity for a public meeting in order to solicit comment must be given.

MaineDOT's STIP development and the MPO TIP development satisfy the requirement for public participation from a statewide basis but each sub-grantee must have their own public involvement procedure.

### **Participation by Private Providers**

It is the policy of MaineDOT to encourage private enterprise participation in the Department's planning process in order to coordinate public and private transportation services throughout the State through the Locally Coordinated Plan (LCP).

#### **5310 - Private Sector Participation**

The Section 5310 program is to assist in areas where public transportation for the seniors and/or individuals with disabilities is unavailable, insufficient or inappropriate. Therefore, each applicant organization is required to write all other transportation providers (especially private for-profit operators) within its service area to insure the service proposed cannot be provided with equipment already in service. Copies of the letters to these providers and their response must be included in each application.

A public notice allowing 30 days for response must be printed in local newspapers of the proposed service area and Publisher's Affidavit submitted to MaineDOT with the application.

#### **5311 - Private Sector Participation**

##### **Private Operators**

A public entity or not-for-profit recipient may use a for-profit company as their provider if they do not wish to operate their own transit system. The recipient must adhere to a bidding process that includes:

1. Public notification of the bid solicitation,
2. Bid packets being made available to all potential bidders, and
3. The bid packets including all FTA assurances and certifications required of the recipient.

MaineDOT must review the bid packet prior to solicitation of bids or proposals and concur in the award of bid as well as reviewing the third party contract before execution. All contracting parties must sign a written contract that includes relevant FTA assurances and certifications, and any additional requirements contained in the agreement between MaineDOT and the grantee. A copy of the executed contract must be submitted to MaineDOT.

#### Participation by Private Providers

Private providers are made aware of proposed projects through the required notices of public hearings. The charter bus and school bus provisions of local project agreements protect charter bus and school bus operators.

Local organizations are encouraged to use private providers in their Section 5311 project to the greatest extent possible. The department has developed standard procedures for soliciting private bids and executing subcontracts. Local projects that make use of taxi services are also encouraged.

#### 5339 - Private Sector Participation

Federal law requires the public to be involved in the transportation planning process, and specifically requires that private providers be provided an opportunity to be consulted in developing transportation plans and programs in both urbanized and rural areas. Public involvement processes must be proactive and provide complete information, timely public notice, full public access to key decisions, and opportunities for early and continuing involvement throughout the transportation planning and programming process.

#### Coordination Efforts

MaineDOT has encouraged Metropolitan Planning Organizations (MPOs), regional planning agencies, and all rural and urbanized transportation providers to assist the State in integrating the private sector throughout all planning activities as well as using them where appropriate in operational service areas. The State policy on privatization has been implemented in the following ways:

1. All MPOs and designated agencies responsible for transportation planning in any of the eight MaineDOT regions must submit for approval as part of their grant application, a privatization policy;
  - a. Develop an inventory of all private operations and their capabilities in their area of operations and invite their participation in the planning process;
  - b. Develop, submit for approval, and adopt a local process to involve existing private operators in both planning and provision of transit services;
  - c. Develop a mechanism for resolving challenges or disputes that might arise, in a manner which assures fairness to all parties involved;
2. For the rural providers, MaineDOT has included specifics on inclusion of private operators in the Guidelines for Development of Locally Coordinated Transit Plans.

In the event that the local procedures were not followed resulting in a formal complaint or that the local process did not provide for fair resolution of disputes, the MaineDOT will hold a formal hearing to resolve any conflict or complaint from private transportation providers that was not resolved at the local level.

#### **State Administration and Technical Assistance**

To facilitate the preparation of the LCPs and with the development and implementation of criteria for the Public Transportation Program, the Department has developed guidelines which have incorporated the requirements of the State law pertaining to public transportation, 23 M.R.S.A. Section 4209. These guidelines have been published and disseminated to each of the planning agencies involved with rural and special needs transportation. Technical assistance both to the planning agencies and the operators directly involved with their projects will be provided.

MaineDOT monitors and evaluates each of the region's local projects by direct contact with the transportation providers on a scheduled basis and examination of performance reports. The evaluation will include a review of all projects to determine if surplus funds are available for transfer. FTA allows the transfer of 49 USC § 5307 funds to rural areas or 49 USC § 5311 funds to urban, and if the Department finds surplus funds in either area, they will be transferred in accordance with FTA Circulars. The FTA Regional Administrator will be notified of any request of transfer of funds as directed by FTA Circulars. MaineDOT's Bureau of Planning provides technical assistance to the provider agencies through coordinated development of vehicle and equipment specifications, planning assistance, training, and other technical assistance. Members of that unit also serve as advisory to the Metropolitan Planning Organizations (MPO) boards, attend public hearings, serve on special committees, and inform recipients of applicable federal requirements.

### **Intercity Bus Transportation**

Fifteen percent of Section 5311 funds are used to support intercity service plus increased feeder services determined viable. Additional funds, as available may be allocated to support increased services as necessary. Intercity routes are bid every five years for a one-year contract with an option to renew up to four years. All transportation operators, public and private, are given an opportunity to submit proposals for consideration through direct mailings to known providers and a notice published in appropriate newspapers and on MaineDOT's website. Additionally, MaineDOT sends copies of the notice to private and public carriers operating in Maine including Greyhound, Cyr Bus, West's Transportation, and Concord Coach.

During the development of the Locally Coordinated Transit Plans and other transportation plans, MaineDOT gathers input from public and private operators. During this process, meetings are conducted throughout the state, which are attended by numerous groups. Additional opportunities for public and private provider input are afforded annually through the Transportation Improvement Plan (TIP) and Statewide Transportation Improvement Plan (STIP) processes.

Periodically, the MaineDOT surveys the New England states of Vermont, New Hampshire and Massachusetts regarding possible multi-state intercity bus projects.

The state surveys Section 5311 subrecipients regarding possible connections to existing intercity services and addresses possible intercity bus connections during site visits.

MaineDOT has been using the approved option for redistributing, via a Governor's letter, a portion of the 15% intercity distribution to other identified priorities, after verifying that all intercity needs have been met.

### **Rural Transit Assistance Program (RTAP)**

The State's Rural Transportation Assistance Program (RTAP) is the responsibility of the Maine Department of Transportation. RTAP provides funding assistance for training, technical assistance, transit research and related support services. These funds are available to rural transit providers and planning organizations for training and technical assistance in matters of statewide significance. In some cases they may also benefit properties in small urbanized areas or urban areas but participants

from these areas cannot receive exclusive benefits and can participate in RTAP programs only as they have the excess capacity to do so and never at the expense of a rural area.

MaineDOT administers the RTAP program, 49 USC § 5311(b) (3), with input from regional providers, the Maine Transit Association (MTA) and others. Funds are generally distributed as scholarships for training, the annual rodeo for improved safety, the annual MTA conference and other specialized training. Funds are generally allocated for one year only or single use travel or training. Unused funds are retained by MaineDOT for reprogramming to other appropriate RTAP activities. There are no restrictions that exceed those required by the FTA.

**Eligible Recipients:**

- Section 5311 and 5310 subrecipients
- Rural/small-urban transit operators
- Maine Transit Association

**Eligible Projects:**

- Training – Either sponsored by MaineDOT or by another association or organization
- Technical Assistance – On-site to any eligible recipient or transit studies
- Transit Support Services
- Research

**Goals and Objectives.** The goal of the Division’s RTAP is to promote improvement of public transportation services and mobility for persons living in rural areas.

**Local Match Requirements.** All RTAP activities are funded at the 100% federal funding level. In some cases, training scholarships will provide reimbursement for all expenses associated with attendance at seminars or workshops. Should the scholarship not cover the full cost for training, the recipient will be required to make up the difference with local funds.

**Program Development and Implementation.** The Department’s RTAP uses the following means of involving rural operators in the development and implementation of the annual RTAP program of projects:

**Input by Forum.** During statewide meetings or workshops held throughout the year, such as the Maine Transit Association bimonthly meetings, discussions are conducted among operators to determine their training and technical assistance needs and solicit input on development of the Department’s RTAP program.

**On-Site Visits.** The Division periodically conducts reviews of the rural transit providers to evaluate and monitor performance. From these visits, subrecipients (Sections 5311 and 5310) needing or requesting assistance or training are identified and steps are generally taken by the Department to provide or obtain the services.

**Project Selection Criteria.** The Department’s Section 5311 Grant Manager determines, with input from the Manager and staff members, as to what projects will be funded with RTAP funds.

## **Annual Program of Projects (POP) Development and Approval Process**

To create annual Programs of Projects, MaineDOT uses an application process along with project evaluation criteria and distribution methods as outlined earlier in this document. POPs are required by FTA for each grant application.

- Applications are submitted to MaineDOT.
- Projects funded with formula funds are reviewed for eligibility and accepted.
- “Non-formula” projects are prioritized and selection is made based on available funds.
- POP is developed showing funded projects for each grant.
- The MPO TIPs and MaineDOT STIP are amended or adjusted if necessary to coincide with the available funding per FTA grant program as shown in the POP and satisfy public participation requirements.
- POP is updated annually or as projects change and uploaded to TrAMS.

The selection criteria require a connection to needs identified in the LCP process. Criteria are established for each round of selection. Selection continues as long as there are funds available. Packets with information about the program and the process are prepared and available upon request at public meetings, through a list serve of interested parties and as requested. Competitions may be annually or more frequently as funding comes available.

All records must be kept for the life of the grant and for three years beyond its closure, per the State’s record retention program and FTA requirements. The record identifies applicants that use grant program funds to provide assistance to predominantly minority and low-income populations. The record also indicates whether the applicants were accepted or rejected for funding.

## ***State Program Management***

### **Financial Management and Project Monitoring**

The Multimodal Planning Division of the Bureau of Planning, MaineDOT, conducts its financial management and project monitoring according to the following procedures:

### **State Administration – Accounting and Financial Reporting**

The Maine Department of Transportation follows the Federal guidelines contained in FTA Circulars 5010.1E, 9040.1G, 9070.1G, and Master Agreement in the management of its Public Transportation Program. All contract agreements are reviewed by the Maine Department of Transportation, Office of Audit. All procurement transactions are carried out in accordance with the provisions of FTA Circular 4220.1F. Property records are maintained in accordance with FTA Circular 5010.1E, as are all disposition transactions. The Department of Transportation has contracts with the transportation providers in each region pertaining to fiscal and property management (where applicable) of program funds. Program funds are distributed on a reimbursable basis and providers are required to file invoices on a monthly basis. Providers may request a waiver to bill quarterly or annually. All invoices are subject to a review by a Transportation Planning Analyst prior to payment.

Audits are conducted annually by the Department of Transportation Audit Staff in accordance with FTA Circular 5010.1E, and when the projects have been audited and all audit issues satisfactorily resolved, the projects are closed out. Audits include:

- A review of indirect cost rates to ensure that cost allocation plans or procedures have been submitted to a cognizant agency;

- A review to ensure that the correct administrative rate is charged by recipients for FTA-funded projects; and
- A review to ensure that subrecipients have the financial management systems to carry out the programs and receive and disburse federal funds.

The Bureau of Planning follows all State of Maine financial and property management regulations both for their internal programs and requires such compliance with all subrecipients and contractors.

MaineDOT's Finance Office handles all TrAMS financial activities such as drawdowns through ECHO, etc.

MaineDOT has assigned a staff person within the Finance Office with the responsibility of receiving and disbursing FTA funds. The process for receiving and disbursing funds includes the retention of records to support ECHO requests and the disbursement of funds. The process includes a requirement that draw requests are signed by an authorized official other than the individual who requests the payment. Funds are disbursed within three business days of receipt of a properly document request.

Financial Management regulations are covered under CFR Title 2, Part 200 Uniform Guidance, and the Common Rule and State regulations including Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP). Transportation Providers must follow MAAP rules as they apply to community agencies.

## **State Administration - Grant Management**

The Bureau of Planning's grant management practices include:

- Require that providers spend oldest funds first for on-going expenses such as program administration operating assistance, ADA complementary paratransit, RTAP and preventive maintenance.
- Accumulate state administrative expenses in a generic account and then draw from the oldest grant with available state administrative funds instead of charging the expense directly to grants.
- Tie third party contracts to projects, not directly to grants.
- Set project time limits (less than 2 years)
- Use available funding in open grants before including projects in a new grant.
- Move delayed projects to newer grants and active projects to older grants as allowed by FTA.
- Transfer small remaining balances to new line items as allowed by FTA.
- De-obligate project balances and reapply for funds (if within period of availability and allowed by the regional office).
- Regularly reconcile grant balances with those in TrAMS-Web to the project/scope level.
- When funding a project out of multiple grants, develop a grant drawdown plan.



- When funding a project out of multiple grants, charge retainage to the newest grant (and report it as an unliquidated obligation) to enable the closing of older grants.
- MaineDOT initiates project close-out of grants with FTA within 90 days after all work activities for the program of projects has been completed. This includes electronically submitting a final FFR, MPR, final budget and final program of projects.

### **Capital, Urban and Rural**

For those projects which are non-reoccurring, usually under 49 USC § 5307, 5309, 5311, and 5339, a project manager is assigned and the Manager of the Multimodal Planning Division handles the TrAMS processing and the compliance issues. All TrAMS reports must be filed by the 30<sup>th</sup> of the month following the end of the quarter. The program managers contract all funds, manage the projects, manage the TrAMS grants including close outs, provide technical assistance and leadership to their contracting agencies and the entities in the area services are provided. They are responsible for ensuring that all federal and state requirements are met both by their activities and their subrecipients. General management requirements are allocated among the program grant managers.

MaineDOT uses a variety of mechanisms to monitor facility construction and rehabilitation projects. Monitoring mechanisms include one or more of the following:

- Contracting with a consultant to provide project management oversight;
- Reviewing the request for proposals and construction contracts;
- Reviewing plans and drawings;
- Conducting periodic site inspections;
- Requiring progress reports;
- Conducting regular project review meetings;
- Withholding payment of a portion of the grant until final inspection and acceptance of the facility by the state.

MaineDOT ensures that subrecipients use FTA funded real property for project purposes through annual certifications of use, site visit inspections, or deed restrictions.

### **Lead Agency for Auditing Purposes**

The lead agency (a/k/a the cognizant agency in federal regulations) is determined by the amount of Federal funds received by an agency.

Relevant information:

The designated cognizant agency for audit shall be the Federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB makes a specific cognizant agency for audit assignment.

The intention of MAAP is to mirror Federal Regulations. Most of the MAAP agencies receive their federal funds as pass-through funds. Therefore, for MAAP purposes, the federal cognizant agency would be the agency providing the predominant amount of direct and/or pass-through federal funds.

### **Transferring Funds**

Funds in specific categories and for specific purposes can be transferred between FTA and FHWA. Maine follows the Consolidated Planning Grant process. Each year, MaineDOT issues a letter to the FTA with copies to the FHWA and MaineDOT Planning managers authorizing the transfer of 5303 planning funds from the FTA to the FHWA for administration as one grant in consolidation with the FHWA planning funds.

It may be necessary to transfer Section 5307 funds into the Section 5311 Program or Section 5311 funds into the Section 5307 Program. In case of transferring Program funds to another Program, the process described below will be followed. Section 5339 funds may be transferred to 5311 and 5307 but must still meet 5339 eligibility requirements.

1. MaineDOT will determine the availability of funds.
2. Consult with local officials and/or public transit agencies about transferring of available funds. However, MaineDOT will use its discretion in determining what funds are to be transferred among Programs. The transfer of Section 5307 funds may include transferring any determined amounts to existing Section 5307 recipients or into the Section 5311 Program.
3. Request that FTA transfer the funds as determined in number 2 above. MaineDOT may transfer Section 5307 funds without consultation of local officials within the last 120 days in which the funds are available for obligation.

### **Joint Section 5307 and 5311 Projects**

In some localities, a recipient may receive both Section 5307 and Section 5311 funding to provide public transportation for an urbanized area and surrounding rural areas. Section 5311 funds are used only to assist the rural portion. Because of the wide range of circumstances under which an operator could be providing services in both urbanized and rural areas, the local recipient develops a reasonable basis for allocating the costs between the two funding sources.

The Bureau of Planning requires that subrecipients document their process for allocating costs between urbanized and rural areas and to report total expenses and show the allocation of expenses between urbanized and rural areas when requesting reimbursement. The Bureau of Planning may review financial information and the allocation of costs between urbanized and rural areas during site visits. This procedure is also to be applied to “joint” capital projects. In the interest of flexibility and coordination, vehicles purchased under either program may be used in any part of a combined urbanized and rural service area, but capital replacement policies should ensure that program funds are used appropriately. Ridership, operating hours and mileage factors are evaluated and used to allocate costs.

### **Section 5310 Projects**

The Bureau of Planning monitors subrecipients to ensure that the funds are being used to support eligible transportation services for seniors and individuals with disabilities. The Bureau of Planning:

- Enters into an agreement with subrecipients prior to expending funds on a project that specifies the project to be funded under the grant; and
- Requires recipients to report information on the services provided and populations served on a periodic basis.

The Bureau of Planning reports performance information on gaps in service filled and ridership for the program.

## Procurement

All subrecipient vehicles, unless an exception is granted, are purchased through the MaineDOT Fleet Services. All vehicle purchasing is done through the State of Maine Bureau of Purchases. State procurement procedures are followed. The Department ensures that all relevant federal clauses are included in the bid proposals. Occasionally consulting experts are hired to support the procurement process and ensure that all Federal requirements, such as Buy America, are met.

Maine State procurement procedures, through the State of Maine Bureau of Purchases, are followed except where federal regulations prevail, see 2 CFR, Part 200 and FTA C4220.1F, 9040.1G and 9070.1G and 9300.1B and 5100.1. No current conflicts are identified. MaineDOT follows their procurement ordering procedure and schedule for all buses and vans. MaineDOT enters into a Stand Alone Project Contract entitled Cost Sharing Agreement with each applicable Subrecipient prior to ordering buses and vans.

MaineDOT's Fleet Services prepares detailed specifications that best reflect each system's procurement needs. The capital procurement manager is responsible for reviewing the specifications and submitting any comments or revisions to Fleet Services. Subrecipients are permitted to perform their own procurement, with oversight from the Department on non-vehicle capital items. On all purchases, the Department is responsible for ensuring the federal requirements as stated in FTA Circular 4220.1F and Uniform Guidance that the State Purchasing Regulations are followed.

The Department is responsible for ensuring compliance with Uniform Guidance, Pre-Award and Post-Delivery Review Regulations, Buy America and performs factory inspections when vehicles are being manufactured.

**Capital Grant Management.** The MaineDOT Bureau of Planning collaborates with MaineDOT Fleet Services to:

- Develop bid specifications;
- Establish solicitation/contract terms and conditions;
- Solicit and receive bids or proposals;
- Evaluate responses, determine responsiveness, and select a contractor;
- Conduct pre-award audits for compliance with Buy America, Federal Motor Vehicle Safety Standards (FMVSS) and purchaser's requirements;
- Execute a contract;
- Receive, inspect and accept revenue rolling stock;
- Conduct post-delivery audits for compliance with Buy America, FMVSS and purchaser's requirements;
- Pay the vendor.
- Monitor the grant to ensure that all of its conditions are met and that all reporting requirements are completed in a timely manner.

All RFPs, RFQs, bid awards, contracts and dispute resolution are processed and approved by the Maine Bureau of Purchases. The Bureau of Planning follows FTA requirements regarding monitoring, property management, vehicle use, maintenance, and disposition for both purchases by subrecipients and direct procurements by the State of Maine which are then titled to transit

providers. All requirements for procurement for subrecipients and contractors are followed for State purchases. All previously cited FTA circulars are adhered to for State purchases.

The MaineDOT Bureau of Planning includes language in its RFPs, RFQs, bid awards and contracts language that prohibits the inclusion of geographic preferences in its FTA-funded procurements, provided that geographic location may be a selection criterion if an appropriate number of qualified firms are eligible to compete for the contract in view of the nature and size of the project, provided that the Bureau of Planning determines that the use of geographic preferences does not restrict competition (i.e., the use of a geographic preference that left only one or two qualified firms to bid on the contract).

Pre-award/post-delivery reviews are conducted according to Federal and State regulations. Federal regulation, 49 CFR 663 (October 1, 1997) and 49 USC § 5323 require that prior to awarding the contract, MaineDOT must certify compliance with the described provisions of Buy America and the described provisions of the Bus Testing clearance (49 CFR 665). The manufacturer must submit documentation and certification both pre-award and post-delivery. This includes certifying by the Pre-Award Buy America Certification Form. Section 5323, Buy America, requires that prior to purchase, the State must not only obtain the certification from the manufacturer attesting to the appropriate percentage of manufacture and final assembly being done in the United States but must take further steps to certify that this is accurate. This may include any additional information about the manufacturer or the product. After delivery of the vehicle or other equipment as appropriate, the Planning Analyst, in consultation with Fleet Services, for capital investment must further determine and document to the file that the documentation accompanying the vehicle which shows the origin of parts and location of assembly meets the appropriate regulation. These certification processes are documented in the procurement file.

**Buy America.** The Bureau of Planning ensures that Buy America provisions apply to:

- All purchases of steel, iron, and manufactured products exceeding the \$150,000 threshold, regardless of whether they involve capital, operating or planning funds;
- Subcontractors, regardless of the size of the contract, if the prime contract is more than the \$100,000 threshold;
- Purchase made using an intergovernmental agreement and jointly purchased manufactured products; and
- Purchase of used items.

MaineDOT will not obtain signed Buy America certifications after contract award for its own contracts or contracts of other grantees to make the contracts eligible for federal funding. MaineDOT may, however, obtain signed Buy America certifications before buying off state GSA-type contracts to make them eligible for federal funding. MaineDOT will consider the full contract amount, not the amount of its purchase, when determining whether Buy America requirements apply to those purchases.

**Spare bus ratio.** FTA grant management guidelines uses 20% spare ratio on fleets of 50 buses or more but notes that “the basis for determining a spare bus ratio takes local circumstances into account.” (FTA Circular, 5010.1E). None of Maine’s subrecipients have 50 or more vehicles; therefore, they are not subject to this guideline. However, MaineDOT, its direct recipients and Subrecipients are committed to adhering as closely as possible to the FTA guidelines but acknowledge that the spare ratio may be higher based on the age of their fleet and the rurality of the sub-grantee (distance to vehicle repair facilities).

**Least cost.** Standard accounting procedures will be used for determining least cost. Least cost is not the only factor in awarding bids.

**Capital payments.** Financial procedures for capital payments are that capital equipment is not handled on a reimbursement basis. The Bureau of Planning uses the industry standard process of payment on delivery once the vehicles and/or equipment has satisfactorily passed MaineDOT's and the provider's inspection.

**Transfers.** If at any time the vehicle is transferred from another grantee, the current grant in that category will have a memo attached to it (electronically) stating who the originally cited recipient was, the grant will be cited and the current grantee noted.

**Excluded party.** In the event that MaineDOT becomes aware, after the award of a contract, that an excluded party is participating in a covered transaction, it will promptly notify FTA in writing of this information. MaineDOT may continue any covered transaction in existence at the time a party was debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded. MaineDOT is not required to continue the transaction and may consider termination. However, MaineDOT will not renew or extend the covered transaction (other than through a no-cost time extension) with the excluded party.

**Five year contracts.** MaineDOT does not enter into any contracts for revenue rolling stock and replacement parts that include ordering periods exceeding five years in total length including base and options.

**FTA procurement requirements.** MaineDOT complies with the following FTA procurement requirements:

- Comply with its own procurement regulations;
- Conduct all procurements in a manner providing full and open competition;
- Exclude the use of statutorily or administratively imposed in-state or local geographic preferences in the evaluation of bids or proposals except in those cases where applicable federal statutes expressly mandate or encourage geographic preference;
- Use competitive proposal procedures based on the Brooks Act when contracting for architectural and engineering services, if the state has not adopted a statute governing the procurement of such services before August 10, 2005;
- Award to only responsible contractors possessing the ability, willingness and integrity to perform successfully under the terms and conditions of the contract;
- Ensure that every purchase order and contract executed using federal funds includes all clauses required by federal statutes and executive orders and their implementing regulations;
- Do not enter into any contract for rolling stock with a period of performance for ordering exceeding five years, inclusive of options, without prior FTA approval;
- Comply with Buy America requirements, including pre-award and post-delivery requirements;
- Comply with debarment and suspension requirements;
- Comply with lobbying requirements; and
- Comply with piggybacking requirements.

MaineDOT includes the following FTA C 4220.1F requirements in its contracts with subrecipients including non-profit or for-profit entities. These requirements include, but are not limited to:

- Maintain a written code of standards of conduct governing the performance of employees engaged in the award and administration of contracts;
- Have written procurement policies and procedures;
- Have written procedures to handle and resolve disputes relating to the award of contracts;
- Have procedures for settlement of contract issues/disputes (procurements greater than \$100,000);
- Analyze each planned acquisition in order to identify and evaluate potential organizational conflicts of interest;
- Review procurement requests to avoid duplicative or unnecessary purchases;
- Incorporate a clear and accurate description of the material, product or services being procured; identify all requirements that bidders must fulfill, and identify evaluation factors in solicitations;
- Develop an independent cost estimate before receiving bids or proposals;
- Conduct a contract cost or price analysis for every procurement;
- Evaluate options at the time of bid award, exercise the options at the agreed upon terms, and determine that the option price is better than current market prices before exercising the options;
- Maintain a contract administration system that ensures that contractors perform in accordance with the terms, conditions and specifications of their contracts or purchase orders; and
- Maintain a written record of procurement history.

## **Managing and Maintaining FTA Funded Equipment**

MaineDOT uses the following procedures to maintain control over FTA funded equipment operated by sub-recipients:

**Equipment inventories.** The Bureau of Planning uses inventories to track how many vehicles and other equipment that were purchased with FTA or state assistance. The Bureau of Planning requires that subrecipients provide an equipment inventory annually or as needed or requested which can then be used to reconcile the sub-recipient's inventory to the state's inventory. MaineDOT conducts physical inventories at least once every two years.

**Periodic reporting of vehicle use.** The Bureau of Planning requires periodic reports of vehicle use (miles, hours, passenger trips, trip purpose) through the Locally Coordinated Transit Plan to ensure that vehicles are used in accordance with program requirements and are not underused.

**Vehicle titles.** Titles show the subrecipients as owners with a lien held by MaineDOT. MaineDOT retains title to vehicles operated by private taxi companies and similar entities.

**Lease restrictions.** The Bureau of Planning uses lease restrictions to control vehicles that are titled to MaineDOT and leased. These include:

- The lessee shall be required to operate the project property to serve the best interest and welfare of the grantee and the public. The terms and conditions for operation of service imposed by the grantee shall be evidenced in the lease.
- The lessee shall be required to maintain project property at a high level of cleanliness, safety and mechanical soundness under maintenance procedures outlined by the project sponsor. The project sponsor and/or FTA shall have the right to conduct periodic inspections for the purpose of confirming the existence, condition, and the proper maintenance of project equipment.
- The lease shall contain a requirement that the leased property may not be subleased without grantee written approval and may not be otherwise encumbered without FTA written approval.

**Productivity standards.** The Bureau of Planning uses productivity standards, where appropriate, to ensure that vehicles are used in accordance with grant requirements. The Bureau of Planning reserves the right to transfer vehicles that are underused.

**Site visits.** MaineDOT uses site visits and maintenance reviews to visually inspect vehicles to ensure their continued use in transit service.

**Insurance.** The Bureau of Planning requires that subrecipients purchase insurance for equipment purchased with Sections 5309, 5310, 5311, 5316, 5317, and 5339 funds. The Bureau requires that insurance be adequate to protect the federal and state interest in the vehicle until disposal.

**Useful life standards.** The Bureau of Planning's useful life standards for vehicles and ferries reflect FTA's standards and are shown in the table below:

<b>MaineDOT Bureau of Planning Useful Life Standards for Vehicles and Ferries</b>	
<b>Vehicle</b>	<b>FTA-Defined Useful Life</b>
<b>Heavy Duty* Large Bus (35' to 40' and articulated buses):</b> Approximate Typical Characteristics: 33,000 to 40,000 GVW	12 years or 500,000 miles
<b>Heavy-Duty* Small Bus (30' to 35'):</b> Approximate Typical Characteristics: 26,000 to 33,000 GVW	10 years or 350,000 miles
<b>Medium-Duty* and Purpose-Built Bus (25-35'):</b> Approximate Typical Characteristics: 16,000 to 26,000 GVW	7 years or 200,000 miles
<b>Light-Duty Mid-Sized Buses (25-35'):</b> Approximate Typical Characteristics: 10,000 to 16,000 GVW	5 years or 150,000
<b>Light-Duty Small Bus, Cut-a-ways, Regular &amp; Modified Van (16-28'):</b> Approximate Typical Characteristics: 6,000 to 14,000 GVW	4 years or 100,000 miles
Rail vehicles	25 years
Fixed guideway steel-wheeled trolley	25 years
Fixed guideway electric trolleybus	15 years
Passenger ferry	25 years
Other ferries without refurbishment	30 years
Other ferries with refurbishment	60 years
*Note: A heavy duty transit bus is built as a bus. A medium duty bus is built on a truck chassis.	

## **Vehicle Disposition**

The Bureau of Planning implements its own disposition procedures to ensure that vehicles are used until the end of their useful lives, to ensure that vehicles that are no longer needed by a subrecipient can be transferred to another subrecipient, and to ensure that proceeds are used for transit purposes.

In the event that a vehicle must be disposed of before the end of its useful life, MaineDOT will send a written request to FTA requesting disposal before the end of the vehicle's useful life, with an explanation of why the disposal is justified. In the event of a systemic problem such as corrosion, MaineDOT can give permission to dispose of vehicles prior to the end of their useful lives with FTA concurrence.

Disposition of all property titled to the State of Maine is done through the Surplus Property Office of the State and follows their procedures.



## **Construction Management/Program Management**

The MaineDOT requires all recipients to comply with the FTA regulations stated in FTA 5010.1E with regards to the standard assurances, historic preservation, all applicable environmental mitigation processes, NEPA, CE's, EA's, etc. and the project management plans and any more stringent State regulations which apply. Currently new sprawl regulations are in addition to the standards followed. In addition State of Maine regulations regarding inventory and disposal are to be followed by all contractors and subrecipients.

MaineDOT, when constructing projects, follows the standard Sixteen (16) Division rules as published. MaineDOT also has Standard Specifications for construction which incorporates the articles and items which are the standard Federal guidelines for construction. Davis Bacon is also adhered to.

In response to FTA Circular 5010.1E, MaineDOT requires that each facility with FTA investment have and follow a maintenance plan.

## **Property Management**

The Bureau of Planning follows all State of Maine Property Management requirements as well as the FTA C 5010.1E guidelines on Management of Real Property, Equipment and Supplies. These include notably equipment inventory, Bureau of Planning's Inventory System in ACCESS; acquisition costs under procurement and audit practices; excess property guidelines in disposition; and incidental use in Charter Regulations.

For facilities purchased or built with FTA funds, the Bureau of Planning does a site visit and inspection every five years. In addition, a facility maintenance plan is required for each site and be included in leases if applicable.

For facilities built for direct recipients, federal interest and property title will be transferred to the direct recipients upon completion. Direct recipients are responsible for maintenance, oversight and disposal according to FTA requirements.

## **Monitoring Compliance/Continuing Control Site Visits**

The State of Maine, Bureau of Planning monitors compliance by its subrecipients and contractors through its review of policies and procedures, site visits and reporting of passenger trips.

Site visits are conducted on a risk assessment basis but no less frequent than once every five years to review compliance with program requirements including vehicle, equipment and facility usage. Vehicle use is reviewed at that time but can be conducted at any time. Maintenance can be reviewed at any time. At a minimum it is reviewed at a site visit. Occasionally consulting experts are hired to support the review process and ensure that all Federal and State requirements are met.

The risk assessment review conducted at any time may be generated by the following or other notable actions or issues:

- Exceeding grant contract funding amounts or requests for additional funds
- Tardy or inadequate reports and reimbursement requests
- Significant changes in principal staff or changes in oversight boards or advisory groups
- Pattern of service delivery problems

- Pattern of incidents, complaints, crashes and collisions

The Bureau of Planning visits all its contractors and subrecipients for an FTA Compliance Review (commonly, Site Visit) every five years and uses the ‘MaineDOT Field Visit Checklist for FTA Compliance Review’. Providers follow a self-certification procedure in off-years. The Bureau of Planning reconciles a physical inventory at the time of a site visit and may at other times to meet the two year FTA requirement for inventory management. Unannounced visits to sites or routes may occasionally take place to verify appropriate use of equipment. In addition, qualified contractors may be hired to conduct additional and in depth service delivery reviews, maintenance monitoring visits, inspections and physical inventory requirements.

### **Monitoring of Project Productivity and Termination of Projects**

Overall trends are monitored ridership, cost per trip, local cash share (not contract), in-kind and contract match share, farebox recovery, percent of elderly and disabled riders, boardings per hour, cost per hour, cost per trip, ridership per capita (population of service area using Maine only statistics).

Operating statistics and performance measures consistent with the NTD (National Transportation Data Base) definitions are collected and assessed annually to determine the relative performance of each project funded by MaineDOT. For each service type (i.e. rural demand response, rural flex service, etc.) acceptable performance goals are set through a peer comparison process.

Service measure goals are compared against Maine peers and average performance measures are established. The peer states selected in the Maine Strategic Transit Plan 2025 are Idaho, Montana, New Hampshire, North Dakota, Vermont, West Virginia and Wyoming. Those services performing at or above the average are rated “Successful.”

Those services performing at or above one half the statewide average are rated as “Acceptable.” Those services below one half of the statewide average are rated as “Deficient” and are subject to further review.

Those services rated as deficient are placed in a three year improvement program to help improve their performance. The improvement program consists of technical assistance and more frequent monitoring until project is improved or terminated.

### **Maintenance**

Subrecipients and contractors are required, at a minimum, to follow the manufacturer’s suggested maintenance intervals and procedures. Maintenance can be reviewed at any time and is reviewed during site visits. Currently MaineDOT performs on-site inspections at transit facilities with both announced and unannounced (surprise) reviews. This maintenance review program ensures that all Federal and State requirements are met and helps extend the life of the transit vehicles. Maintenance of ADA accessibility features is included.

The following paragraph is included in the Cost Sharing Agreement for Providers:

“Provider shall maintain the vehicles at a high level of cleanliness, safety, and mechanical reliability. Provider hereby covenants and agrees that, at its sole cost and expense; it will repair and maintain the vehicles in accordance with the current specifications and requirements of the manufacturer. Vehicles will be subject to periodic inspection by MaineDOT.”

### **Productivity Goals and Performance Measures**

Public transit funding is currently allocated to the providers based on needs demonstrated during the annual grant application process and allocations are generally based on previous year allocations plus inflation. In essence, systems are eligible to receive the level of funding needed to maintain current services, as long as those services remain eligible and meet expected performance levels.

For established regional transit services, if the services fall below annual projected performance levels in either the productivity or cost measures, MaineDOT will work with the provider to determine the cause and provide assistance to adjust the service. For new transit services, if the service does not meet estimated performance levels in either the productivity or cost measure after 12 months, MaineDOT will work with the provider to determine the cause, and provide assistance to adjust the service.

However, MaineDOT could grant exceptions for non-performing services if these services address needs for basic mobility and are unable to be provided in another manner. We recognize that some services, while important, inherently have lower productivity and/or higher costs. This may be particularly true of services to critical populations in low density areas or at off-peak hours. Hence, under-performing transit services could have more time depending on what the adjustment are made. If there is no improvement, funds could revert back to the State for re-distribution to fund either new services or existing services.

In 2012, the Maine Legislature enacted PART B Sec. B-2. 23 MRSA § 73, sub-§ 7 to read: “by 2015, MaineDOT will develop and implement a similar asset priority and customer service level system of measurement for all major freight and passenger transportation assets owned or supported by the department, including capital goals. The department shall also establish customer service levels related to safety, condition and serviceability appropriate to the priority of the highway, resulting in a system that grades each highway as Excellent, Good, Fair, Poor, or Unacceptable. The department shall recommend any remedial actions, including additional funding or revisions to the goals that the department determines to be necessary or appropriate.”

Therefore, as a publically funded agency it is imperative that MaineDOT exercise good stewardship over allocated funds and transparent accountability through the use of performance measures.

## **Electronic Reporting**

MaineDOT submits annual status reports electronically into TrAMS for each active grant under 5304, 5310, and 5311 by October 30 of each year and quarterly for sections 5309, 5307, and 5339. This status report will reflect any changes for the preceding 12 months. This will include an updated POP containing revised project descriptions, changes in projects from one category to another, and adjustments within budget categories as necessary. These may also require budget revisions. It will also include significant civil rights compliance issues and any notable accomplishments or problems involving subrecipients in these programs. The status report will also include program measures containing number of riders and gaps in service filled and include all recipients and subrecipients. DBE reporting is done biennially and electronically in TrAMS.

Sections 5307 Urban JARC, 5309, 5310, 5311, and 5339 progress reports include:

- a) Updated programs of projects that contain active projects reflecting revised project descriptions, changes in projects from one category to another, and adjustments within budget categories.
- b) Revised milestones for activity line items (ALIs) that require milestones with grant submission (vehicle procurements, construction projects, and program reserve) and, for revised estimated completion dates, an explanation for the revision.
- c) Revised budgets that reflect changes in line item budgets.
- d) Significant civil rights compliance issues.
- e) Additional information requested by the regional office.
- f) Federal cash receipts and disbursements (FFR).
- g) Unliquidated obligations with an explanation of how calculated.
- h) Indirect expenses and how they compare with the cost allocation plan or indirect cost rate proposal.
- i) State certification that the information is true to the best of its knowledge under the remarks and certification tab.
- j) State response to any comments made by FTA regarding a report.

MaineDOT uses an electronic clearinghouse for receiving and disbursing FTA funds. MaineDOT's records support ECHO requests and the disbursement of funds.

MaineDOT also complies with the requirements of the Federal Funding Accountability and Transparency Act (FFATA) by reporting prime grant awards and sub-award activity and executive compensation. The FFATA Sub-award Reporting System (FSRS.gov) is the system that allows grant award recipients to electronically report sub-award activity. MaineDOT reports to FSRS by the end of the month following the month in which the sub-awards are completed.

### **NTD Reporting**

MaineDOT requires all rural providers to report according to the National Transit Database requirements described in 49 U.S.C 5335(b). The Rural Program Manager sends reminders to each subrecipient to submit their data and ensures that each one has the proper codes for the system and holds trainings as necessary. Each year in November, the rural program manager enters all data as required into Maine's NTD and verifies the information entered by the providers. Direct recipients of § 5307 funds submit NTD data independently to FTA.

# ***Implementing Federal Policies***

## **MaineDOT Role in Monitoring Compliance with Federal Requirements.**

MaineDOT is proactive in ensuring that subrecipients comply with federal requirements. Its systems include:

- Applications
- Quarterly/annual reports
- Meetings with providers
- Vehicle/facility/service inspections and reviews
- Site visits

## **State Safety Oversight**

A requirement under MAP-21 has provided FTA with the authority to regulate safety for all modes of public transit. The law requires all recipients of FTA funding to develop transit agency safety plans within one year of the final rule. All transit agencies, regardless of mode, size, or operating characteristics are required to have a Transit Agency Safety Plan. MaineDOT will provide technical assistance for developing these plans for rural subrecipients.

When developed, each Transit Agency Safety Plan will demonstrate compliance with the National Safety Plan and implementation of the SMS. At a minimum, the plan must include:

- Approval by the Board of Directors, or equivalent
- Methods for identifying/evaluating safety risk
- Strategies to minimize exposure to hazards
- Process/timeline for annual review and update
- Performance targets based on safety performance criteria
- Assignment of a safety officer
- Comprehensive operational staff training program

Until such time when the Transit Agency Safety Plan is developed each subgrantee must develop and implement its own safety training program which requires, on an annual basis, written documentation of eight (8) hours of participation in safety training by vehicle operators. It is the subgrantee's responsibility to verify that it has been done, which includes, but is not limited to, a written agenda, date of training, topics covered, and hours spent on each subject. Only half of the hours for the annual safety training requirement can be met through PASS, CPR or First Aid courses. It is recommended that each subgrantee annually review with employees its emergency preparedness and safety plan. Subsequent reauthorizations of the federal transit program when enacted may require changes in the safety program.

Transit providers receiving federal or state financial assistance are required to update their emergency contact information and vehicle inventories with the Maine Emergency Management Agency (MEMA) via MaineDOT's *Transit Emergency Directory*.

As part of the Transit Agency Safety Plan, projects funded by MaineDOT must adopt and provide training to all employees on reporting accidents and incidents.

## **Certifications and Assurances**

All subrecipients must comply with all Federal requirements through completion of all Certifications and Assurances. These Certifications and Assurances, which are required to be signed by an authorized public official, are part of the formal contract process. MaineDOT, when submitting State grant applications to FTA, also executes Certifications and Assurances both on behalf of the State and with respect to the local subrecipients.

Violation of a certification or assurance (agreement) by an applicant or grantee may require corrective measures and penalties, including debarment from receiving further federal assistance for transportation purposes. Grantee compliance is confirmed during site visits and/or desk reviews.

## **Civil Rights**

All agreements entered into by MaineDOT of behalf of FTA, and to meet State requirements require the contractor to certify that no person on the grounds of race, color, religion, national origin, sex, age or disability, sexual orientation, will be excluded from participating in, or be denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part by FTA in accordance with Title VI and the Equal Employment Opportunity requirements. In addition, the State of Maine and all transportation providers certify that a good faith effort is made to use Disadvantaged Business Enterprises (DBE) as required by FTA Circular 5010.1E. All transportation providers who receive Federal and/or State subsidies are required to meet regulations delineated in the Certifications and Assurances. Technical support is provided in the form of distribution of guidance from the FTA to the providers in helping to meet civil rights requirements.

There is also coordination between the Bureau of Planning and the Civil Rights Office of the Maine Department of Transportation. The Civil Rights Office has responsibility for drafting, maintaining and updating a certified Disadvantaged Business Enterprise (DBE) Directory as well as the Department's DBE Program. This Program outlines how the various administrative and operating units of the Department shall work together to carry out the policy established by the Department.

MaineDOT personnel assigned to the Bureau of Planning are assigned specific types of FTA Programs. In addition to providing technical assistance to local subrecipients, they also monitor the recipients as required to insure compliance with the requirements of Title VI, EEO, and DBE. This is accomplished through the Site Visits to the provider agencies and administrative contacts. Environmental Justice Assessments are done on a project by project basis and meet the requirements of NEPA.

The Multimodal Planning Division will review the minority and low-income population in the area served by the provider based on most recent Census data. The service provided and/or available to these identified groups will be determined by the provider and verified by the Office of Civil Rights in conjunction with the Multimodal Planning Division.

In addition, during the Locally Coordinated Transit Plan (LCP) planning process, all known representatives of identified minority and low income groups and other minority and low income individuals will be invited to participate. Through this process the need for service using 5310 or 5311 funds is identified and planned for within the limits of available funding and regulations. MaineDOT continues to be committed to coordinated service as it reaches out to these groups.

## **TITLE VI**

Under the Civil Rights circular 4702.1B, MaineDOT will require and approve all subrecipients Title VI Plans every three years. This compliance activity will be reported to FTA Region I Civil Rights Office, as required.

MaineDOT has implemented a five year cycle for the FTA Compliance Reviews for its subrecipients with the exception of the Title VI Plans that will be submitted and reviewed every three years. A MaineDOT on-site visit to the subrecipient will be completed during the first year of a five-year cycle. For each of the remaining four years, the subrecipient will receive a checklist to self-certify that their agency is in compliance with applicable FTA guidelines. The subrecipient will complete the self-certifying checklist and return it to MaineDOT along with copies of any updated policies and procedures. If at any time during the four year self-certifying period MaineDOT becomes aware of a status change and/or complaint, MaineDOT has the right to perform a random on-site visit. After the fourth year of self-certifying, MaineDOT will schedule another on-site visit beginning the five year cycle.

MaineDOT site visits include the review of Civil Rights policies and processes including Title VI/EJ, ADA and Disadvantaged Business Enterprise Programs and processes, and public outreach and complaint procedures.

Subrecipients are required to complete and submit Title VI Plans for their organizations to the MaineDOT. These Programs may be submitted electronically. The MaineDOT has developed a template for subrecipients that they may use to assist them in the development of a Title VI Plan

MaineDOT assists subrecipients in complying with US DOT's Title VI regulations, including the general reporting requirements. MaineDOT provides the following information to subrecipients:

- Sample Title VI Plan
- Sample notices to the public informing beneficiaries of their rights under DOT's Title VI regulations, procedures on how to file a Title VI complaint, and the recipients Title VI form.
- Sample procedures for tracking and investigating Title VI complaints filed with a subrecipient, and when MaineDOT expects the subrecipient to notify MaineDOT of complaints received by the subrecipient.
- Demographic information on the race and English proficiency of residents served by the subrecipient. The information will assist the subrecipient in assessing the level and quality of service it provides to communities within its service area and in assessing the need for language assistance.
- Any other recipient-generated or obtained data, such as travel patterns, surveys, etc. that will assist subrecipients in complying with Title VI.

### **Limited English Proficiency**

Under guidance from the U.S. Department of Transportation, and in accordance with Circular FTA C 4702.1B, MaineDOT is obligated to determine the extent of its obligation to provide LEP services to its transit population. This determination must be based on an analysis of four factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or recipient;

2. The frequency with which LEP persons come in contact with the program;
3. The nature and importance of the program, activity, or service provided by the program to people's lives; and
4. The resources available to the recipient for LEP outreach, as well as the costs associated with that outreach.

MaineDOT's LEP implementation plan addresses the identified needs of the population it serves. The plan:

- Identifies LEP individuals who need language assistance
- Develops language assistance measures
- Addresses staff training
- Details how to provide notice to LEP persons
- Addresses procedures for monitoring and updating the plan.

MaineDOT's written plan:

- Includes the results of the Four Factor Analysis, including a description of the LEP population(s) served
- Describes how MaineDOT provides language assistance services by language
- Describes how MaineDOT provides notice to LEP persons about the availability of language assistance
- Describes how MaineDOT monitors, evaluates and updates the language access plan
- Describes how MaineDOT trains employees to provide timely and reasonable language assistance to LEP populations

MaineDOT's methods for ensuring meaningful access include, but are not limited to:

- Translating vital written materials into the language of each frequently encountered LEP group
- Training bilingual staff to act as interpreters and translators
- Using telephonic and video conferencing interpretation devices
- Formalizing use of qualified community volunteers
- Using centralized interpreter and translator services
- Hiring staff interpreters
- Using symbolic signs (pictographs)
- Translating into languages other than English vital written materials, such as applications or instructions on how to participate in MaineDOT's program, signs in bus and train stations, notices of public hearings and other community outreach, and notices advising LEP persons of free language assistance

## **DBE**



MaineDOT is committed to engaging small disadvantaged, minority and women-owned business enterprises as defined in all contracts to the maximum feasible extent, and works to ensure the maximum feasible opportunity for these businesses to participate in contracts financed in whole or in part with federal funds.

As a recipient of federal USDOT funding, MaineDOT is required to develop and administer the DBE Program. MaineDOT administers the DBE Program and certifies all DBEs in Maine in compliance with federal regulations under 49 CFR Part 26. This Program is intended to remedy past and current discrimination against disadvantaged business enterprises, ensure a “level playing field”, and foster equal opportunity in USDOT-assisted contracts; improve the flexibility and efficiency of the DBE Program; and reduce burdens on small businesses.

It is the policy of MaineDOT to implement the provisions of 49 CFR Part 26 with the following objectives:

1. To ensure nondiscrimination in the award and administration of United States Department of Transportation assisted contracts in the MaineDOT’s financial assistance programs;
2. To create a level playing field on which DBEs can fairly compete for DOT assisted contracts;
3. To ensure that MaineDOT’s DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet the eligibility standards specified in 49 CFR Part 26 are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in MaineDOT-assisted contracts;
6. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program; MaineDOT will establish the state DBE goal on an annual basis.
7. To include a written certification that it has reviewed contracting records and monitored work sites for the purpose of ensuring that work committed to DBE’s at contract award is actually performed by DBEs.

MaineDOT’s DBE Program and the Maine DBE Directory can be found at <http://www.maine.gov/mdot/civilrights/dbe/>

## **Section 504 and Americans with Disabilities Act (ADA) Reporting**

Individual transportation providers are required to submit Section 504 and ADA certifications through the annual submission of Certifications and Assurances for FTA Assistance. Certifications are submitted to the Multimodal Operations and Planning Unit for review and coordination with the Civil Rights Office.

The State of Maine's Human Rights Commission has regulations more stringent than the Federal 504 Requirements, stipulating that all vehicles purchased with either a State or Federal subsidy must be accessible by the State's senior and disabled population. As a result of these requirements, all vehicles purchased under any of the FTA Programs are made accessible either by installing a ramp or lift or use of vehicles designed to accommodate wheelchairs and mobility impaired riders without the use of a ramp or lift such as low-floor and/or kneeling bus. The only exception to this rule are vehicles such as minivans or station wagons when they constitute no more than 10% of the fleet and

are used where there is no call for an accessible vehicle. The agency must provide an accessible vehicle whenever and wherever necessary in conjunction with their service plan.

## **Equal Employment Opportunity**

The Maine Department of Transportation's follows the guidelines of FTA circular C 4704.1A to ensure compliance with EEO. MaineDOT requires subrecipients of FTA funding to commit to EEO law in hiring, retaining and advancing employees. It also requires subrecipients to have a written policy in place to prevent harassment, intimidation, and coercion in any form. Any subrecipients meeting or exceeding FTA thresholds defined in the circular must submit EEO programs to the MaineDOT for review and approval.

## **Charter Rule**

FTA recipients are prohibited from providing any charter service using FTA-funded equipment or facilities if there is at least one private charter operator willing and able to provide the service that the recipient desires to provide as long as no exception applies.

In 49 CFR, Subpart C - § 604.13-14, the Rule sets forth a public participation process for determining if there are any willing and able private charter operators using the new FTA Registration Website for advertising to the registered private providers.  
[http://ftawebprod.fta.dot.gov/CharterRegistration/\(S\(jza3bqn33pwhi4iqilophuub\)\)/Splash-CharterRegistration.aspx](http://ftawebprod.fta.dot.gov/CharterRegistration/(S(jza3bqn33pwhi4iqilophuub))/Splash-CharterRegistration.aspx). The process may be carried out by the State in state-administered programs or may be delegated to subrecipients of FTA funds. As the state-administering agency, the Department has chosen to delegate the responsibility for the public notice to subrecipients. Providers must follow all rules under the new Charter regulations concerning what is defined as charter service, what the exceptions are to the charter service rule, how to proceed with the notification process and how to provide charter service. Providers must notify the MaineDOT when they have used the website to notify private charter providers.

Sections 5310 and 5311 subgrantees can provide services for program purposes only. "Program purposes" is defined as transportation that serves the needs of either human service agencies or targeted populations, such as elderly, individuals with disabilities, low income, etc.

"Program purposes" does not include exclusive service for other groups formed for purposes unrelated to the special needs of these targeted populations. Thus, Section 5310 and 5311, subgrantees who intend to provide charter service that is outside their program purposes must follow the guidelines outlined below. The FTA-published Charter Service Final Rule (49 CFR Part 604) was published January 14, 2008 and is effective April 30, 2008. The Charter Service Final Rule is located electronically at the following link: [http://www.fta.dot.gov/laws/leg\\_reg\\_179.html](http://www.fta.dot.gov/laws/leg_reg_179.html)

The 2008 definition of charter service is as follows:

"Charter service" means, but does not include demand response service to individuals: Transportation provided by a recipient at the request of a third party for the exclusive use of a bus or van for a negotiated price. The following features may be characteristic of charter service:

1. A third party pays the transit provider a negotiated price for the group;
2. Any fares charged to individual members of the group are collected by a third party;
3. The service is not part of the transit provider's regularly scheduled service, or is offered for a limited period of time; or
4. A third party determines the origin and destination of the trip as well as scheduling.

5. Transportation provided by a recipient to the public for events or functions that occur on an irregular basis or for a limited duration and:
6. A premium fare is charged that is greater than the usual or customary fixed route fare; or
7. The service is paid for in whole or in part by a third party.

All FTA sub-grantees are prohibited from providing charter service using FTA-funded equipment unless allowed under an exemption.

MaineDOT requires any subrecipient wishing to provide charter service to comply with the procedures in the Final Rule on Charter Service. MaineDOT must be notified via email or postal service that a request for charter service exception is being submitted to FTA accompanied with all supporting documentation.

Services that do not meet the definition of charter service and, therefore, are not considered charter service by FTA are:

1. Service requested by a third party that is irregular or on a limited basis for an exclusive group of individuals and the grantee does not charge a premium fare for the service and there is no third party paying for the service in whole or in part;
2. Shuttle service for a one-time event if the service is open to the public, the itinerary is determined by the grantee, the grantee charges its customary fixed route fare and there is no third party involvement.
3. When a university pays the grantee a fixed charge to allow all faculty, staff, and students to ride the transit system for free so long as the grantee provides the service on a regular basis along a fixed route and the service is open to the public.
4. When the grantee sees a need and wants to provide service for a limited duration at the customary fixed route fare.

## **Exemptions**

1. Transportation of employees, contractors, and government officials. Grantees are allowed to transport their employees, other transit systems' employees, transit management officials, transit contractors and bidders, government officials and their contractors, and official guests to or from transit facilities or projects within its geographic service area or proposed geographic service area for the purpose of conducting oversight functions such as inspection, evaluation, or review.
2. Private charter operators. The prohibitions do not apply to private charter operators that receive, directly or indirectly, Federal financial assistance under the over-the-road bus accessibility program or to non-FTA funded activities of private charter operators that receive, directly or indirectly, FTA financial assistance.
3. Emergency preparedness planning and operation. Grantees are allowed to transport their employees, other transit system employees, transit management officials, transit contractors and bidders, government officials and their contractors, and official guests for emergency preparedness planning and operations.
4. Sections 5310, 5311, 5316, and 5317 recipients. The prohibitions do not apply to grantees that use Federal financial assistance from FTA for program purposes, that is, transportation that serves the needs of either human service agencies or targeted populations (elderly, individuals with disabilities) under Sections 5310, 5311, 5316, or

5317. Program purposes do not include exclusive service for other groups formed for purposes unrelated to the special needs of the identified targeted populations.

5. Emergency response. Grantees are allowed to provide service for up to 45 days for actions directly responding to an emergency declared by the president, governor or mayor or in an emergency requiring immediate action prior to a formal declaration.
6. Recipients in rural areas. Grantees in rural areas may transport employees, other transit systems' employees, transit management officials, and transit contractors and bidders to or from transit training outside its geographic service area.

### **Exceptions**

MaineDOT does not allow charter exceptions that exceed those defined by FTA.

### **Reporting:**

1. Done on a quarterly basis starting
2. Submitted through TrAMS
3. Required for all charter service performed
4. Dockets established for Government Officials, Petitions to the Administrator, Advisory Opinions/Cease and Desist Orders, Complaints for Removal, Complaints, and Hearings. Check <http://www.regulations.gov/#!/home>.
5. New FTA Registration Website, web address, takes the place of "willing and able" paper process.
6. Private operators and some QHSOs must register. Can be removed from website for cause.
7. Formal advisory opinions now available as well as cease and desist orders.
8. Complaints have clear procedures and deadlines for industry and FTA.
9. Hearings can be held before a neutral arbiter (Presiding Official).
10. Assessment of remedy.
11. FTA created new position to assist with new rule requirements. The Ombudsman for Charter Service can be contacted at: <mailto:ombudsman.charterservice@dot.gov>

### **Drug and Alcohol and Drug-Free Workplace**

Current Drug and Alcohol regulations require recipients to comply with the FTA regulations, Section 5331. Current State regulations require compliance with the Maine Drug Free Workplace Act. FTA regulations require testing of all safety sensitive positions which includes drivers, dispatchers, mechanics and supervisors who control the movement of vehicles. Drug Free Workplace regulations require that all Maine workplaces shall be drug free, including alcohol.

Most transit providers in the State of Maine currently belong to a Drug Testing Consortium. Each contractor and subrecipient submits their policies as part of the site visit. They are reviewed for adherence to the FTA Drug and Alcohol regulations. In addition, the Multimodal Planning Division is responsible for seeing that the providers are testing the accuracy of their testing contractor per the FTA regulations.

MaineDOT provides technical assistance to grantees in the form of training, networking, policy development, and distribution of FTA publications. Site visits by either MaineDOT or their consultant

verifies all requirements for Drug and Alcohol testing including securement of records have been met.

The State of Maine Drug and Alcohol Testing Policy is located here:

[http://www.maine.gov/bhr/rules\\_policies/policy\\_manual/15\\_2.htm](http://www.maine.gov/bhr/rules_policies/policy_manual/15_2.htm)

The State of Maine Drug Free Workplace Policy is located here:

[http://www.maine.gov/bhr/rules\\_policies/policy\\_manual/15\\_1.htm](http://www.maine.gov/bhr/rules_policies/policy_manual/15_1.htm)

## **Lobbying and Code of Ethics**

All subrecipients and contractors are required to submit documentation as part of their annual Certification and Assurances. For all third party contractors whose contract exceeds the \$100,000 minimum threshold, all applicable Certifications and Assurances must also be filed even in the cases where the third party contractor has already certified as a sub-recipient for another service. For disclosure of actual lobbying activity, subrecipients and contractors are required to use form FTA C 9300.1B “Disclosure of Lobbying Activities”.

MaineDOT’s contract with grantees requires adoption of a written code of ethics. All staff, officers, employees, board members, or agents of the grantee are required to comply with the code of ethics. MaineDOT verifies compliance with this regulation during project site visits and/or desk reviews.

## **Section 5333(b) Special Warranty**

Section 5333(b) provisions protect the interest of employees of agencies receiving § 5311 funds. Each grantee is supplied with a copy of the U.S. Department of Labor’s Rural Transportation Employee Protection Guidebook which explains the regulations and posting requirements of Section 5333(b) notices in employee gathering areas. MaineDOT staff verifies that the agency has met the posting requirements during site visits and other project monitoring opportunities.

## **School Transportation Agreement**

Grantees may not engage in school bus operations using buses, facilities, or equipment purchased with federal funding in competition with private school bus operators, except as provided for in 49 CFR Part 605, School Bus Operations.

There are three statutory exemptions under which an FTA grantee may operate exclusive school bus service:

- The grantee operates a school system in the area and operates a separate and exclusive school bus service for that system.
- Existing private school bus operators are unable to provide adequate, safe transportation.
- The grantee, a public entity, has operated the service prior to August 12, 1973, or has received a grant for facilities before November 26, 1974.

**School tripper service.** Grantees are permitted to provide school tripper service to accommodate the needs of school students and personnel. The school bus regulation defines school tripper service as regularly scheduled mass transportation service that is open to the public and is designed or modified to accommodate the needs of school students and personnel. It may involve the use of various fare collections or subsidy systems.

Buses used in tripper service must:

- Be open to the public.
- Not carry designations such as “school bus” or “school special.”

All routes traveled by tripper buses must be within the regular route service as indicated in the published route schedules. School tripper service should look like all other regular service.

## **Environmental Regulations**

Under § 5310 and § 5311, MaineDOT anticipates funding only projects with Categorical Exclusion (CE) from both the National Environmental Protection Act and the State Environmental Protection Act. Therefore, no further documentation is necessary. However, with the potential of construction projects funded through transfers from the USDOT Surface Transportation Program, MaineDOT will ensure that the grantee meets all the environmental requirements and submits all necessary documentation.

## **Transit Asset Management (TAM)**

Under MAP-21, Section 5326 (MAP-21 Section 20019), new requirements were established for transit asset management by FTA’s grantees as well as new reporting requirements to promote accountability. The goal of improved transit asset management is to implement a strategic approach for assessing needs and prioritizing investments for bringing the nation’s public transit systems into a state of good repair.

FTA grantees are required to develop management plans for their public transportation assets, including vehicles, facilities, equipment (non-revenue service vehicles and other equipment > \$50,000).

This Transit Asset Management (TAM) plan is required to include all assets (federally funded and/or state/local funded) that a transit provider used to provide general public transportation. The TAM requirement is the responsibility of the Maine Department of Transportation (MaineDOT) to develop a small group plan for its 5311 subrecipients that are not Direct Recipients. Each transit agency shall assign an accountable executive. MaineDOT is working with the transit agencies to develop its TAM plan and develop realistic benchmarks for classifications. The elements of the TAM plan include an asset inventory, condition assessment, a list of the decision support tool or tools that were used to create the TAM plan, and investment prioritization.