Transit 101 – Module 5
Regulatory Compliance

Presented For:
ODOT Office of Transit
Presented by:
RLS & Associates, Inc.

Welcome and Introductions

• ODOT Staff
• Trainers
• Attendees
• Logistics

Goals of the Training

• ODOT’s Goals for the Training:
  o Understand Why Regulations and Regulatory Compliance Are Important
  o Understand the Regulations With Which Rural Transit Systems Must Comply (FTA, non-FTA, State and Local)
  o Understand How to Comply With the Regulations

Goals of the Training

• Review of Attendee’s Goals for the Training
Measuring the Impact of the Training

- Fill in the “Before” Part of the Knowledge Assessment Survey Before this Session Begins
- Fill in the “After” Part of the Knowledge Assessment Survey at the End of the Training

Training Approach

- Review the Agenda
- Format for Training
- Powerpoint
- Binder and Contents
- Questions and Answers

Responsibility

- Your Rural Public Transit System Has to Comply with Many, Many Regulations at the Federal, State and Local levels
- This Training Module is Not Meant to be a Comprehensive List of all Requirements, But it Does Discuss a Wide Range of Them, and Does Provide Resources for Further Research and Preparation
- You Are Ultimately Responsible for Compliance
- Seek ODOT’s Help for Any Questions

INTRODUCTION TO REGULATORY COMPLIANCE
Introduction to Regulatory Compliance

• What is Regulatory Compliance?
• Why Do We Have Regulatory Compliance?

What Can You Do to Make Sure You Comply?

○ Adopt formal policies and procedures for each Federal, State and Local Regulation
○ Develop and use Checklists of actions and records needed for each action
○ Keep records documenting your regulatory compliance each action and for each regulation

Section 5311 Rural Transit Systems Must Comply With a Range of Federal, State and Local Regulations

○ Federal (FTA and Non-FTA)
○ State (ODOT and Non-ODOT)
○ Local

Assign someone (or yourself) who is very detailed oriented and compulsive about keeping complete and accurate records
Conduct random internal checks
Find best practices from peers, ODOT and other places
Review the regulations periodically
Attend training
Introduction to Regulatory Compliance

- FTA Is the Source of Most Rural Transit Regulations
- Most ODOT Requirements Mirror the FTA Regulations
  - However, some ODOT requirements exceed FTA’s requirements, which will be addressed later

ODOT is Responsible for Monitoring and Ensuring that the Transit Systems Comply with the FTA and ODOT Regulations
  - Tools for ensuring compliance include TARs, annual application reviews, quarterly invoices and reports, and site visits

The FTA is Responsible for Monitoring and Ensuring that ODOT and the Transit Systems Comply with the FTA Regulations
  - FTA Uses the FTA State Management Review Process, and Occasional System Site Visits, to Monitor ODOT and Transit System Compliance with FTA Regulations
Introduction to Regulatory Compliance
• Non-FTA Federal, Non-ODOT State Agencies and Local Agencies (JFS, DD, Area Agency on Aging, etc.) Monitor the Use of Non-FTA and Non-ODOT Federal, State and Local Funds

COMPLIANCE WITH FTA REGULATIONS: OVERVIEW

Compliance is Required for the Award and Continued Receipt of FTA Rural Transit Funding
Compliance With FTA Regulations: Overview

- Rural Transit Grantees Must Comply with Conditions and Requirements of FTA Master Agreement and the Annual Certifications and Assurances
  - Master Agreement
  - Certifications and Assurances

- All Federal Regulations and Requirements Are Monitored Through ODOT’s Technical Assistance Review (TAR) Process for 5311, 5311(f), Other FTA funds, and State funds
  - MAP-21 (replaced SAFETEA-LU) Requirements Are Included in Reviews

- New FTA Section 5311 FTA Regulations
  - Current version of the FTA Circular issued on October 24, 2014
  - The changes do not appear to be significant from the point of view of the rural transit system
  - However, you are encouraged to review the new regulations for yourself
  - ODOT will provide further guidance

ODOT COMPLIANCE WITH FTA REGULATIONS
ODOT Compliance With FTA Regulations

- Technical Assistance Reviews – TARs
  - FTA’s requirements for ODOT are incorporated into ODOT’s requirements for transit systems
  - Section 5311 Compliance with State and Federal Requirements/Regulations are monitored through ODOT’s Technical Assistance Review (TAR) process for OPTGP, EDTFAP

FTA: TITLE VI and Environmental Justice
Civil Rights Related Requirements for Transit

- Legal Basis
  - Title VI of the Civil Rights Act of 1964
  - Providing Language Access to Persons with Limited English Proficiency (LEP) – Executive Order 13166
  - Environmental Justice – Executive Order 12898, U.S. DOT Order 5610.2(a)
- Regulatory Basis
  - FTA Circular 4702.1B

Title VI

- Applies to All FTA Recipients and Sub-Recipients
  - “No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”
  - 42 U.S.C., Section 2000d

Title VI Protects

- Anyone Intended to be the Beneficiary of, Applicant for, or Participant in a Federally Assisted Program
- Applies to All Persons
  - All races
  - All shades of color
  - National origin

Applicability

- Recipient
  - State DOT
  - Transit agency
  - Any public or private agency receiving FTA Funding
- Subrecipient
  - Pass through of FTA Financial Assistance
Institution-wide

• Later Statutes Extended the Scope of Title VI to Include Prohibitions Against Discrimination on the Basis of Income, Age, Sex, and Disability

DOT and DOJ Regulation

• Prohibits Disparate Impact Discrimination
  — Practice lacks a substantial legitimate justification
  — There are other comparable alternatives that would result in less disparate impact
  — The justification is a pretext for discrimination
• Intentional Discrimination
  — Disparate treatment

Circulars

• Title VI Circular – 4702.1B Issued August 28, 2012, Effective October 1, 2012
• Environmental Justice Circular – 4703.1

Title VI Circular (Continued)

• All FTA Recipients Must Submit to FTA:
  — Title VI Notice to the Public
  — Complaint Procedures
  — Complaint Form
  — Limited English Proficiency Plan & Public Involvement Plan
  — List of investigations, lawsuits, and complaints
  — Information regarding siting of fixed facilities (not construction projects)
  — Table depicting racial composition of membership of non-elected bodies
Eight Required Actions

1. Develop Title VI Complaint Procedures
   - Develop method for filing complaints
   - Timeframe for accepting complaint
   - Investigation and resolution timeframe
   - Who investigates the complaint
   - Who resolves the complaint
   - Develop method for investigating and tracking complaints

2. Record Title VI Investigations, Complaints, and Lawsuits
   - Maintain a list of active investigations conducted by entities other than FTA, lawsuits or complaints alleging discrimination
     - Date filed
     - Summary of allegation
     - Current status
     - Actions taken in response

3. Provide Meaningful Access to Persons with Limited English Proficiency
   - Benefits, Services, Information, and Other Important Portions of Their Programs
     - Develop an LEP Plan or equivalent

4. Notify Beneficiaries of Title VI Protections
   - Disseminate information to public
     - Statement that agency operates programs without regard to race, color, national origin, sex, age, income, or disability (should be included in all printed materials regarding service)
     - Procedures for requesting additional information on non-discrimination obligations
     - Compliant procedures
Eight Required Actions
(Continued)
• Notify Beneficiaries of Title VI Protections
  – Use variety of dissemination methods
    • General notification
    • Document translation
    • See example

Eight Required Actions
(Continued)
• Provide Additional Information Upon Request
  – In response to a complaint investigation
  – To resolve concerns about possible non-compliance
• Prepare and Submit a Title VI Program
  – Report certain general information as part of grant application

Eight Required Actions
(Continued)
• Analyze Impact of Construction Projects
  – National Environmental Policy Act (NEPA)
  – Categorical exclusion
  – DOT will work with system to determine if a Environmental Impact Statement (EIS) is required.

Eight Required Actions
(Continued)
• Promote Inclusive Public Participation
  – Conduct public outreach and involvement activities with minority and low-income individuals
  – Agency determines most appropriate approach
    • Should seek out and consider the viewpoints of minority, low-income, and LEP populations when conducting public outreach and involvement activities
    • Early and continuous opportunity for input
### Guidance for Transit Agencies

- Certify Your Compliance
- Document Title VI Complaints/Lawsuits
- Inform Public on Your Title VI Policy and Complaint Process

### Guidance for Transit Agencies (Continued)

- Set System-Wide Service Standards
  - Vehicle load, headway, assignment, access,
- Set Service Policies
  - Distribution of amenities, vehicle assignment
- Monitor and Compare
  - Protected populations of upcoming service changes

### Guidance for Fixed Route Systems

- All Transit Providers Regardless of Size Must Adopt Service Standards and Policies
### Guidance for Fixed Route Systems

**Large Transit Providers** – Annual Operating Budgets of $10 Million or More
- Must Submit:
  - Monitoring program
  - Service and fare equity analysis
  - Demographic analysis of customers
  - Customer demographics and travel patterns

**Clarifies Existing Requirements**
- Requires Demographic Maps That Overlay the Percent Minority and Non-Minority Populations
- Requires Charts That Analyze the Impacts of the Distribution of State and Federal Funds

### Limited English Proficiency – Title VI Requirements
- FTA Recipients Must Take Responsible Steps to Ensure Meaningful Access to the Benefits, Services, Information, and Other Important Portions of Their Programs and Activities for Individuals Who Are LEP
Provide Meaningful Access to Persons with LEP and Low Literacy

- Persons with Limited English Proficiency (LEP)
  - Persons who do not speak English as their primary language
  - Persons who have a limited ability to read, write, speak, or understand English
- Households with Limited English Proficiency (LEP)
  - No one over age 14 speaks English well, and is linguistically isolated

LEP Population in the U.S.

- More Than 10 million Do Not Speak English at All or Well
- Increased by 65% from 1990 to 2000
- Other Common Languages
  - Spanish
  - Chinese
  - Vietnamese
  - Korean
- Greater Than 11% of LEP Persons Take Transit to Work

Low Literacy

- National Literacy Council Defines “Low Literacy” as:
  - “An individual’s ability to read, write, and speak English and compute and solve problems at levels of proficiency necessary to function on the job and in society, to achieve one’s goals, and develop one’s knowledge and potential.”
- On a Scale of 1 – 5, 21% Had the Lowest Literacy Skills (Level 1) and 27% Had the Second Lowest (Level 2)

Significant LEP Population – Develop a Language Implementation Plan

- FTA Publication
Four Factors Included in Plan

- Identify Number or Proportion of LEP Persons Eligible or Likely to be Served
  - Compare service area with geographic distribution of LEP persons
    - Identified in Census data
    - Safe Harbor threshold
      - 5 percent or 1,000 persons: whichever is less

Four Factors Included in Plan (Continued)

- Determine Frequency with Which LEP Persons Come into Contact with the Service
  - Track number of calls or service requests made by LEP persons
  - Track number of requests for a translator, travel trainer
  - Track number of LEP persons that attended public meetings or outreach activities

Four Factors Included in Plan (Continued)

- Define the Nature and Importance of the Program, Activity, or Service Provided to LEP Persons
  - System’s mission statement
  - Provide a trip purpose summary
  - List major trip generators
  - Type of Information
    - Fares/Tickets
    - Route and Schedules
    - Safety/Security/Evacuation

Four Factors Included in Plan (Continued)

- Identify Resources and Costs Associated with Providing Meaningful Access to LEP Persons
  - Identify others in community that address the needs of LEP persons
  - Identify resources available in local community
    - Resources that can provide oral and written translation
Safe Harbor and LEP Thresholds

- Vital Documents
  - Documents critical for accessing recipients services or benefits
  - Letters requiring response from customer
  - Informing customers of free language assistance
  - Complaint forms
  - Notification of rights

Reasonable Steps

- Smaller Agencies Are Encouraged to Explore the Most Cost-Effective Means of Delivering Competent and Accurate Language Services Before Limiting Services Due to Resource Concerns
- Reduce Cost by Technological Advances, Reasonable Business Practices and Sharing Language Assistance Materials and Resources

Reasonable steps – Providing Language Assistance

- Oral Interpretation in Person
  - Train bilingual staff to serve as interpreters or translators
  - Use qualified community volunteers to provide interpretive services
  - Hire qualified interpreters for critical presentations/meetings provided to a high volume of LEP persons
- Oral Interpretation via Commercially Available Telephonic Interpretation Services

Reasonable steps – Providing Language Assistance (Continued)

- Guidance on Oral Interpretation Services
  - Ensure competency of interpreters
  - Ensure interpretation is made in a timely manner
  - Utilize skills of existing staff
  - Contract with interpreters when there is no regular need for a particular language skill
Reasonable steps – Providing Language Assistance (Continued)

• Written Translation
  — Translate entire reports that provide essential information
  — Translate a short description of the report
  — Translate reports upon request
  — Use qualified translators to make sure documents are accurate
  — Translate into languages where there is identified need (four factor analysis)
  — Use pictures/pictograms for low-literacy persons

Other Suggestions

• Use of Pictograms Where Possible
• Use Language Identification Cards (U.S. Census)
• Advertise in Ethnic Media

Elements of an Effective Implementation Plan on Language Assistance

• Conduct Needs Assessment – 4 Factor Analysis
• Develop Language Assistance Measures
• Train Staff
• Translate Vital Documents, as Appropriate
• Provide Notice to LEP Persons
• Expand Outreach Efforts
• Monitor and Update Plan

Engaging Low-Literacy and LEP Populations in Transportation Decision Making

• Hold Public Meeting in Accessible Locations and at Accessible Times
• Provide Notice Through Radio Announcements
• Be Observant and Sensitive to People Who Cannot Read English
• Give Opportunity to Provide Verbal Comments
• Use Maps, Diagrams, Pictures
Environmental Justice Circular

- Provides Framework for Integrating EJ Principles in Transportation Decision-Making Processes
- Discusses Public Outreach Strategies When Engaging EJ Populations
  - Planning
  - Decision making
  - Environmental reviews
- Discusses Meaningful Demographic Information

EJ Circular (Continued)

- Three Principles of EJ
  - Avoid, minimize or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects
    - Minority populations
    - Low-income populations

EJ Circular (Continued)

- Ensure full and fair participation by all potentially affected communities in the transportation decision-making process

EJ Circular (Continued)

- Prevent the denial of, reduction in, or significant delay in receipt of benefits by minority or low-income populations
Circular (Continued)

- Three Fundamental Steps for an EJ Analysis
  - Determine if there are any EJ populations potentially impacted
  - Consider potential effects
  - Determine whether any disproportionally high and adverse effects can be voided, minimized, or mitigated and if there are off-setting benefits

EJ Population Compared to General Population

- Meaningfully Greater Determined on a Case-by-Case basis
- Always When the Percentage of Minority Population Exceeds 50%

EJ Analysis Required

- Service Cuts, Changes or Restructuring
- Building or Extending a Rail Line
- Establishing a Multi-Modal Station
- Increasing Fares
- Building New Facilities

Common Title VI Compliance Findings

- Failure to Submit Program to ODOT
- No Documentation of Census Data to Support LEP Analysis
- Lack of Language Assistance Plan (LAP)
FTA: Charter

- Revised Charter Rule Effective Date
- Final Rule Issued on January 14, 2008
- There are Significant Changes
- Rule Went Into Effect on April 30, 2008

- Definition of Charter Service
  - 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

- Significant Changes
  - New Definition of “Charter”
  - Categorical Exemption for Section 5311 if Service is for “Program Purposes”
  - Other New Exemptions
  - New Exceptions
  - Registration Process Replaces Transit System Solicitation of “Willing and Able” Operators

CHARTER
ODOT Transit 101

**FTA: Charter**

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

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**FTA: Charter**

- **Definition of Charter Service**
  - Key characteristics of charter service
    - A third party pays the transit provider a negotiated price for the group
    - Any fares charged to individual members of the group are collected by a third party
    - The service is not part of the transit provider’s regularly scheduled service, or is offered for a limited period of time
    - A third party determines the origin and destination and trip schedule

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**FTA: Charter**

- **Applicability**
  - Rule applies to recipients of FTA financial assistance
    - Also applies to subrecipients and third party contractors that utilize FTA funded equipment
    - Charter certification still required
FTA: Charter

**Exemptions - Transportation of Employees**
- Transportation of Employees of the Transit System To/From Transit Facilities Within the Service Area
  - Other Transit System Employees, Bidders or Contractors, or Other Governmental Officials Fall Under this Exemption

**Exemptions - Emergency Preparedness**
- Transportation of Employees of the Transit System To/From Emergency Preparedness Planning and Operation

**Exemptions - Rural Training**
- Nonurbanized Areas Transit Systems May Transport Their Own Employees, Other Transit System Employees, Transit Management Officials, and Transit Contractors and Bidders To/From Transit Training Outside Its Geographic Service Area

**Exemptions - Private Sector Receiving FTA Funds**
- If a Private Charter Operator Receives FTA Funding, Directly or Indirectly, Is Not Subject to the Rules on Its Non-FTA Funded Activities
FTA: Charter

- Exemptions - National, State and Local Emergencies
  - Service Provided in Direct Response to an Emergency Declared By the President, a Governor, or a Mayor
  - Service Provided in Direct Response to an Emergency Requiring Immediate Action Prior to a Formal Declaration
  - Exemption Applies for 45 Days
    • Beyond 45 Days, Permission Must be Granted by the FTA Administrator

- Program Exemptions
  - The Following FTA Programs are Exempt From the Regulations
    • Section 5310 (Elderly and Persons with Disabilities Program)
    • Section 5311 (Nonurbanized Area Program)
    • Section 5316 (JARC Program)
    • Section 5317 (New Freedom Program)

- Program Exemptions
  - This Exemption Only Applies if the System is Transporting Groups for “Program Purposes”
  - Program Purposes Means Transportation That Serves the Needs of Either Human Service Agencies or Targeted Populations (Elderly, Individuals With Disabilities, and/or Low Income Individuals)
FTA: Charter

- **Exemptions - Program Exemptions**
  - Program Purposes Do Not Include Exclusive Service For Other Groups Formed for Purposes Unrelated to the Special Needs of the Targeted Populations

FTA: Charter

- **Exceptions - General**
  - If the Exemptions Listed in the Previous Module Do Not Apply, Your Organization is Subject to the Charter Regulations
  - There are Also “Exceptions” to the Regulations
  - Many Exceptions are Continuations of Exceptions in the Former Rule

FTA: Charter

- **Exceptions - Government Officials**
  - New Exception
  - A Transit System May Provide Charter Service to Government Officials for Official Governmental Business
  - Conditions
    - Within Service Area
    - Trip Does Not Generate Revenue
    - Limited to 80 Hours Per Year

FTA: Charter

- **Exceptions - Government Officials**
  - Recordkeeping Required (See Appendix B of Guidebook or FTA Website)
  - Transit System May Petition FTA Administrator Seeking Permission to Exceed 80 Hours
    - Petitions Get Posted to a New Docket for Comment
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FTA: Charter

• Exceptions - Qualified Human Service Organization (QHSO)
  – New Concept
    • An Organization That Serves Persons Who Qualify For Human Service Program Funding (See Appendix A to the Regulation)
    • An Organization That Provides Human Services to
      – Individuals with Disabilities
      – Individuals with Low Income
      – Individual with Advanced Age (Elderly)

Module 5

FTA: Charter

• Exceptions - Qualified Human Service Organization (QHSO)
  – A Human Service Agency is Categorically Assumed to be a QHSO if it Receives Funding Under the Standard List of Federal Programs Found in Appendix A of the Regulation
  – If the Organization Does Not Receive Such Funding, Then it Must Register on a New FTA Website as a QHSO

Module 5

FTA: Charter

• Exceptions - Qualified Human Service Organization (QHSO)
  – A Transit System May Provide Charter Service to a QHSO
  – Recordkeeping Requirements

Module 5

FTA: Charter

• Exceptions - Leasing of Equipment/ Drivers
  – A Transit System May Lease Its FTA Funded Equipment and Provide Drivers to a Registered Charter Provider
  – Conditions
    • Provider is Registered
    • Provider Owns and Operates Buses and Vans in a Charter Business
    • Provider Received a Request that Exceeds Its Capacity
    • Provider Has Exhausted All Available Vehicles From Other Registered Private Charter Operators
FTA: Charter

- Exceptions - Leasing of Equipment/Drivers
  - Recordkeeping Requirements
  - Similar Information But Also Includes System Retention of the Private Charter Operator’s Documentation That the Four Conditions are Met

FTA: Charter

- Exceptions - Agreements with Registered Private Charter Operators
  - A Transit System May Negotiate with Registered Providers To Seek Permission to Provide Certain Charter Trips
  - Agreements Must be Reached With All Providers
  - If a New Provider Registers, the Transit System May Continue to Operator Under the Current Agreements With Operators
    - An Agreement Must be Reached with the New Operator in 90 Days

FTA: Charter

- Exceptions - Petitions to the FTA Administrator
  - A Transit System May Submit Requests (Petitions) to the FTA Administrator to Provide Charter Service Under Three Scenarios
    - Events of Regional or National Significance
    - Hardships (Nonurbanized Areas Only)
    - Unique and Time Sensitive Events (e.g., Funerals of Local, Regional, or General Public Interest)

FTA: Charter

- Exceptions - Petitions to the FTA Administrator
  - Petitions Are One-Time Events
  - Petitions Must Indicate
    - Date and Description of the Event
    - Type of Service Requested and the Type of Equipment
    - Anticipated Number of Charter Service Hours Needed For the Event
    - Anticipated Number of Vehicles and Duration of The Event
FTA: Charter

- Exceptions - Petitions to the FTA Administrator
  - National Events
    - Super Bowl
    - Democratic National Convention
    - Presidential Addresses
  - System Must Also Provide A Description of How Registered Charter Providers
    - Were Consulted
    - Will Be Utilized
  - System Must Certify That It Has Exhausted All of the Registered Charter Providers In Its Geographic Service Area

- Exceptions - Petitions to the FTA Administrator
  - Hardships
    - Designed for Nonurbanized Areas
    - Situations Where a Charter Operator Would Impose Minimum Duration or Similar Charges That Would Make the Cost Prohibitive to the Chartering Party
    - This Exception Has Been Extended to Small Urbanized Areas (Under 200,000)

- Exceptions - No Response To Notice
  - A Transit System Is Permitted to Provide A Requested Charter Service If, After Providing Notice to All Registered Private Operators, There is No Response or Interest in Providing the Service
    - Requests for Service Within 30 Days
      - Response From Operators Due in 72 Hours
    - Requests for Service Beyond 30 Days
      - Response From Operators Due in 14 Calendar Days

- Exceptions - No Response To Notice
  - Notices Must Follow Prescribed Process
  - Recordkeeping Requirements
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FTA: Charter

• Recordkeeping

  – New Electronic Reporting Requirement
    • Quarterly Submission
    • Effective July 30, 2008
    • Reports Filed at FTA Website
  – All Charter Activity Records
  – Retention Requirement: Three Years
  – Electronic, But No Specific Format Specified
  – A Single Log May Suffice

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FTA: Charter

• Recordkeeping

  – If Any Charter Service Was Provided in the Quarter, a Clear Statement Identifying Which Exception The System Relied Upon When It Provided the Charter Service Must be Submitted to FTA

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FTA: Charter Decision Tree

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FTA: Charter

• Registration Process

  – A New, Web-Based Registration Process Replaces the Old Requirement for a Transit System to Annually Solicit the Interest of Willing and Able Operators
  – Two Entities Register
    • Private Charter Operators
    • Qualified Human Service Organizations
ODOT Transit 101

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FTA: Charter

- Private Charter Operator Registration
  - Website Address
  - [http://ftawebprod.fta.dot.gov/CharterRegistration/(S(f0dhyqujix5ode45csxd2rzu))/Default.aspx](http://ftawebprod.fta.dot.gov/CharterRegistration/(S(f0dhyqujix5ode45csxd2rzu))/Default.aspx)

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FTA: Charter

- Qualified Human Service Organization (QHSO) Registration
  - A Human Service Agency That Receives Funding Under Any One of the Federal Programs Listed in Appendix A of the Regulation Does Not Have to Register
  - If the Agency Does Not Receive Such Funding, But Serves the Elderly, Persons with Disabilities or Persons with Low Income, They Should Register If They Need Charter Services from a Public Transit System

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FTA: Charter

- Qualified Human Service Organization (QHSO) Registration
  - Information
    - Agency Contact Information
    - The Geographic Service Areas (Organized by Public Transit Agencies) In Which the Agency Serves
    - A Copy of the Most Recent Financial Statement
    - Statement Indicating If the Agency is Organized as a Section 501(c) (1), (3), (4), or (19) Corporation of the Internal Revenue Code
    - Statement Regarding Funding, Directly or Indirectly From a Federal or State Agency
    - A Statement Describing the Charter Service Required and How That Service is Consistent With the Mission of the Agency
FTA: Charter
Qualified Human Service Organization (QHSO) Registration

• Challenges
  - A Transit Agency
  - Another Private Charter Operator
  - Representatives of these Organizations
  - Challenges Filed Through a Complaint Process

• Website Must Be Updated Whenever There is a Change, But No Less Frequently Than Once Every Two Years
FTA: Charter

• How Public Transit Systems Use the Registration Database
  – If an Organization Qualifies as a QHSO, then the Transit Agency, upon request to provide a Charter Service, should verify the Agency’s QHSO status on the Website.
  – If registered, then the Transit Agency may provide the service pursuant to the exception allowed under 49 CFR part 604.7.
  – Must maintain records.

• Key Compliance Elements
  – Read and understand the definition of “Program Purpose.”
    • Engage human service agency directors to ensure trip meets a program purpose.
  – Read and understand the definition of Charter.
  – Read and understand exemptions and exemptions.

FTA: Charter

• How Public Transit Systems Use the Registration Database
  – Why do we need the database?
  – Transit systems will be able to serve qualified human service organizations under the exemption in 49 CFR part 604.2(e).

• Key Compliance Elements
  – Understand your reporting responsibilities.
  – Types of trips that must be reported.
  – Date elements that must be recorded/reported to ODOT.
  – Records maintenance.
FTA: Charter

- Enforcement Mechanisms
  - Mandated Enforcement
  - Mechanisms
    - Registration Challenges
    - Advisory Opinions
    - Cease and Desist Orders
    - Violation Complaints

Additional Resources
- 49 CFR part 604
- Appendix B to 49 CFR part 604
  - Basis for Removal From Charter Registration Website
  - Appendix B to 49 CFR part 604
  - Charter Service Questions and Answers

Additional Resources
- ODOT Charter Manual
- Transit Agency Fact Sheet
- Private Charter Operators Fact Sheet

Process Agent
- You are Required to Obtain the Services of a Process Agent to Represent You or Serve as the Recipient of Orders, etc. in any Regulatory Matters
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FTA: Charter

- Vehicles
  - Contracts for Service with Private Entities Cannot Diminish Fixed Route or Demand Response Fleet Accessibility
  - Private Entities Obtaining Vehicles for Use in Contracts with Public Entities Must Follow Rules for Public Entities

FMCSA: Interstate Passenger Transportation Requirements

Background

- FTA Circular 9040.1F, “Nonurbanized Area Formula Grant Program”
  - Chapter III, paragraph 3.
    - The Circular recognized that some Section 5311 projects may provide service over a wide geographic area, may periodically travel to/from large cities (urbanized areas), and may occasionally cross state lines. The Circular notes:
      - The service area may include destinations across a state line. Operators of interstate service are required to register with the FHWA Office of Motor Carriers.

Requirements

- Requirements are Different for
  - Governmental Agencies
  - Private Agencies
- This Module Will Focus on Public and (Mostly) Private Agency Requirements
The Need to Obtain Authority

- Any Provider of Passenger Transportation by Motor Carrier that Crosses State Lines is Subject to Regulatory Oversight by the Federal Motor Carrier Administration
- A Carrier May Need to Seek Authority AND Register with FMCSA

What Is Interstate Transportation?

- Interstate commerce means trade, traffic, or transportation in the United States:
  - Between a place in a State and a place outside of such State (including a place outside of the United States);
  - Between two places in a State through another State or a place outside of the United States; or
  - Between two places in a State as part of trade, traffic, or transportation originating or terminating outside the State or the United States.

Examples of Interstate Transportation?
Basic Requirements

- Commerce Requirements
  - Seek/Obtain Authority
  - Obtain Services of a Process Agent
  - Minimum Levels of Responsibility

- Safety Requirements
  - Federal Motor Carrier Safety Regulation (FMCSRs)

Are These Requirements New?

- No, Some Form of Regulatory Oversight of “For-Hire” Carriers Has Taken Place Since the 1930s
- Safety Oversight Over Private Carriers of Passengers Introduced in 1995

Why Haven’t We Heard of These Actions?

- Administration by a Federal Agency Other than Federal Transit Administration (FTA)
- Regulations Aimed at Freight, Rather than Passenger, Transportation
- Changing Administrative Responsibility

Federal Responsibility
Passenger Carrier Classifications

- For-Hire Carrier
- Exempt Government Carrier
- Business Private Motor Carrier of Passengers (Business PMCPs)
- Non-Business Private Motor Carrier of Passengers (Non-Business PMCPs)

For Hire

- Intercity Carriers (e.g., Greyhound)
- Charter Companies

Municipal or Government Carrier

- A Government Entity is Exempt from all Requirements if it Does Not Engage in Interstate Transportation
- Government Entity:
  - County
  - Municipal Corporations
  - RTA
  - County Transit Board (ORC Ch. 306)

Municipal or Government Carrier

- If a Municipal Corporation Provides Passenger Transportation Across State Lines, But Remains Within a Contiguous Jurisdiction or Within the Municipality’s Commercial Zone, There is No Requirement for the Municipality to Seek Authority With FMCSA.
### Municipal or Government Carrier

- If a Municipal Corporation Provides Passenger Transportation Across State Lines and Travels Beyond a Contiguous Jurisdiction or Beyond its Commercial Zone, the Municipality Must:
  - Seek Authority with FMCSA
  - Obtain the Services of a Process Agent
  - Demonstrate Financial Responsibility (e.g., Liability Insurance)

### Private Carriers

- Business Private Motor Carrier of Passengers
- Non-Business Private Motor Carriers of Passengers

### Business PMCPs

- Defined as a Private Motor Carrier Engaged in the Interstate Transportation of Passengers that is Provided in the Furtherance of a Commercial Enterprise and is Not Available to the Public at Large
- Referred to as “Business PMCPs”

### Non-Business PMCPs

- Defined as a Private Motor Carrier Involved in the Interstate Transportation of Passengers that Does Not Otherwise Meet the Definition of a Private Motor Carrier of Passengers (Business)
- These Carriers Are Referred To As “Non-Business PMCPs”
Classification of Private Carriers

Private Transportation Carrier Engaged in Interstate Transportation Charge a Fee?

If a Fee is Charged, Whether Assessed Directly or Indirectly (Third Party), FMSCA Considers the Service as Available to the Public at Large.

Yes

No

Intent to Make a Profit?

Yes

No

For-Hire Transportation Carrier

If There is Intent to Make a Profit, the Transportation is in Furtherance of a Commercial Purpose

Non-Business Motor Carrier of Passengers (PMCPs)

Business Motor Carrier of Passengers (PMCPs)

Requirements for Private Entities

• Authority
• Registration
• Process Agent
• Some or All of the FMCSRs

Federal Motor Carrier Safety Regulations (FMCSRs)

• A Series of Regulations Governing Companies, Equipment, Drivers, and Operation of Interstate Transportation Providers
  – Controlled Substances and Alcohol Use and Testing
  – Commercial Drivers License
  – Financial Responsibility

Federal Motor Carrier Safety Regulations (FMCSRs)

– General Applicability and Definitions
– Qualifications of Drivers
– Driving of Commercial Motor Vehicles
– Parts and Accessories
– Driver’s Hours of Service
– Inspection, Repair, and Maintenance
FMCSRs Exemptions

- All School Bus Operations
  - School Bus Operation Means the Use of a School Bus to Transport Only School Children and/or School Personnel from Home to School and from School to Home
- Transportation Performed by the Federal Government, a State, or any Political Subdivision of a State, or an Agency Established Under a Compact Between States that has Been Approved by The Congress of the United States

Commercial Zones

- A Commercial Zone is Zone of Commercial Influence Surrounding a Municipal Corporation

- Otherwise:
  - A Commercial Zone Consists of:
    - The Municipality Itself (Base Municipality)
    - All Municipalities that are Contiguous to the Base Municipality
### Commercial Zones

- All Other Municipalities and All Unincorporated Areas within the United States that are Adjacent to the Base Municipality as Follows:
  - When the Base Municipality has a Population Less than 2,500 all Unincorporated Areas within Two Miles of its Corporate Limits and all of any Other Municipality any Part of Which is Within Two Miles of the Corporate Limits of the Base Municipality
  - When the Base Municipality has a Population of 2,500 by Less than 25,000, all Unincorporated Areas within 3 Miles of its Corporate Limits and all of any Other Municipality any Part of Which is Within 3 Miles of the Corporate Limits of the Base Municipality
  - When the Base Municipality has a Population of 25,000 but Less than 100,000, all Unincorporated Areas within 4 Miles of its Corporate Limits and all of any Other Municipality any Part of Which is Within 4 Miles of the Corporate Limits of the Base Municipality
  - When the Base Municipality has a Population of 100,000 or More, all Unincorporated Areas Within 5 Miles of its Corporate Limits and all of any other Municipality any Part of Which is Within 5 Miles of the Corporate Limit

### Compliance Responsibilities for Government Entities

- Complying with Financial Liability Requirements Of 49 CFR Part 387
- Obtaining the Services of a Process Agent
- Filing an Operating Authority Form (Form OP-1(P))
- Developing a Cover Letter to Send With The Registration Form Indicating:
  - That the Organization, as a Public Entity, is an “Exempt” Applicant
  - A Recipient of Federal Financial Assistance Under Section 5307, 5310, 5311, as Appropriate
ODOT Transit 101

Module 5

Compliance Responsibilities for Nonprofit Human Service Agencies

- Complying with Financial Liability Requirements Of 49 CFR Part 387
- Obtaining the Services of a Process Agent
- Filing an Operating Authority Form (Form OP-1(P))
- Must Comply with Various FMCSRs, Depending on Type of Vehicle
Financial Responsibility

- Entity Must Obtain Liability Insurance
- Vehicles 15 and Under Capacity
  - $1.5 Million
- Vehicles Over 15 Capacity
  - $5.0 Million

Process Agent

- You are Required to Obtain the Services of a Process Agent to Represent You or Serve as the Recipient of Orders, etc. in any Regulatory Matters
**Registration**

- You Must File Form OP-1(P)
- Application Fee of $300 May be Waived if Requested by an FTA Recipient

**Applicability of FMSCRs**

- **Business PMCPs**
  - 49 CFR part 382 (Drug & Alcohol) – YES
  - 49 CFR part 383 (CDL) – YES
  - 49 CFR part 387 (Financial Responsibility) – NO
  - 49 CFR part 390 (General) – YES
  - 49 CFR part 391 (Qualification of Drivers) – Partial
  - 49 CFR part 392 (Driving of CMV) – YES
  - 49 CFR part 393 (Part & Accessories) – YES
  - 49 CFR part 395 (Hours of Service) – YES
  - 49 CFR part 396 (Inspection, Repair & Maint.) - YES

- **Non-Business PMCPs**
  - 49 CFR part 382 (Drug & Alcohol) – YES
  - 49 CFR part 383 (CDL) – YES
  - 49 CFR part 387 (Financial Responsibility) – NO
  - 49 CFR part 390 (General) – PARTIAL
  - 49 CFR part 391 (Qual. of Drivers) – PARTIAL
  - 49 CFR part 392 (Driving of CMV) – YES
  - 49 CFR part 393 (Part & Accessories) – YES
  - 49 CFR part 395 (Hours of Service) – PARTIAL
  - 49 CFR part 396 (Inspection & Maint.) - PARTIAL

**FMCSA:**

COMMERCIAL DRIVER’S LICENSES
FMCSA: Commercial Driver’s Licenses

- Commercial Driver’s Licenses (CDLs)
  - Federal requirements
  - Size of Vehicles
  - Other

Driving a Commercial Motor Vehicle (CMV) requires a higher level of knowledge, experience, skills, and physical abilities than that required to drive a non-commercial vehicle.

In order to obtain a Commercial Driver’s License (CDL), an applicant must pass both skills and knowledge testing geared to these higher standards.

FTA: Safety and Security

- New FTA Safety Regulations
  - At this time, there are new proposed FTA regulations regarding transit system safety (and security)
  - Map-21 requires all rural systems to develop an agency safety plan
  - FTA has not yet issued regulatory guidance on how to implement this requirement
  - ODOT will provide information on this new requirement once it has become official
• It appears, however, that the new requirements might be as follows:
  – Focus on Implementing a Safety Management System (SMS), with a Safety Plan Consisting of:
    • Safety policy
    • Safety risk management
    • Safety assurance
    • Safety promotion

• As of now, rural transit systems need to focus on Risk Management for Safety and Security incidents and threats.
• Planning for and Responding to Safety Incidents (Weather, Other Drivers, Mechanical Issues) and Security Threats (Attacks Against Riders, Drivers, Vehicles)
FTA: Safety and Security

• Risk Management Plans to contain:
  – Identify safety and security risks
  – Prevent risks
  – Respond to safety and security incidents
  – Recover from incidents

FTA: Safety and Security

• Risk Management Plans, Cont’d
  – Training
  – Coordination with community response
  – Coordination with first responders and community emergency management agencies
  – Dealing with special needs and LEP populations
  – Insurance
  – FTA, ODOT, and other requirements
  – Policies and procedures

FTA: Safety and Security

• Seatbelts, child seats, wheelchair tie-downs
  – Transit systems should have in place policies and procedures for safe effective deployment of these securement devices

• Vehicles should have first aid kits, annually-inspected fire extinguishers, bloodborne pathogens kits, and flare/triangle kits, and the drivers should be trained on how to use them
FTA: Safety and Security

- OSHA Bloodborne Pathogens (49 CFR 51.361)
- Employers, including transit systems must conduct an assessment of the workplace to identify potential bio hazards and to mitigate those hazards, as appropriate

FTA: ADA

- Goal of ADA
  - To assure that persons with disabilities have equal opportunity, a chance to fully participate in society, are able to live independently, and can be economically self-sufficient.

Americans with Disabilities Act

- What Is the ADA?
  - The Americans With Disabilities Act (ADA) of 1990
    - Civil Rights Protection for Over 43 Million Americans
    - "Amendments" to the Civil Rights Act of 1964
    - Access and Equivalent Service is a Civil Right
• Impacts of ADA
  – Wide Coverage
    • Government Agencies
    • Public Entities
    • Private, For-Profit Corporations
    • Private, Nonprofit Organizations
  – ADA Went Well Beyond Previous Coverage Under Section 504 of the Rehabilitation Act of 1973

• Impacts of ADA
  – Elevates the Importance of Access and Nondiscrimination
  – Interrelated With Section 504
    • Entities Cannot Discriminate Against Persons With Disabilities As a Condition of Federal Funding

• Impacts of ADA
  – Established A Clear National Goal
  – Defines A Specific And Detailed Course Of Action
  – Requires Much Greater Degree Of Affirmative Action
  – Provides Accessibility Standards For Vehicles And Facilities

• Primary Sections of ADA
  – Title I: Employment
  – Title II: Public Services (Transportation)
  – Title III: Public Accommodations and Services Operated by Private Entities
  – Title IV: Telecommunications
  – Title V: Miscellaneous Provisions
• Title II of ADA
  — Services and Benefits Provided by Public Entities Must Be Offered In a Way That Does Not Discriminate Against Persons With Disabilities
  — Implementing Federal Agencies Define:
    • What Constitutes Discrimination
    • What Actions Are Required to Ensure Services Are Non-Discriminatory

• Title II of ADA
  — Subtitle A - Applies to All Service Provided By Public Entities Except Transportation
    • Implementing Agency is the USDOJ
    • 49 CFR Part 35
  — Subtitle B - Applies to Transportation Services Provided by Public Entities
    • Implementing Agency is the USDOT
    • 49 CFR Parts 27, 37, and 38

• Major Highlights of ADA
  — Nondiscrimination
  — Facility Access
  — Accessibility of Vehicles
  — Complementary Paratransit Services for Fixed-Route Providers

• Major Highlights of ADA
  — Operating Policies and Procedures
  — Physical access to vehicles and buildings
  — Proper training of personnel
  — Proper maintenance of equipment
  — Operating policies and procedures
  — Public information and communication accessible
FTA: ADA

• What are ADA Disabilities?
  – “Disability” Is:
    • A Physical or Mental Impairment That Substantially Limits One or More Major Life Activities of Such Individual
    • A Record of Such an Impairment
    • Being Regarded as Having Such an Impairment

• “Physical or Mental Impairment” Is:
  – Any Physiological Disorder or Condition, Cosmetic Disfigurement, or Anatomical Loss Affecting One or More of the Following Body Systems:
    • Neurological, Musculoskeletal, Special Sense Organs, Respiratory Including Speech Organs, Cardiovascular, Reproductive, Digestive, Genito-Urinary, Hemic and Lymphatic, Skin, and Endocrine

• “Physical or Mental Impairment” Also Includes:
  – Any Mental Or Psychological Disorder, Such As Mental Retardation, Organic Brain Syndrome, Emotional or Mental Illness, and Specific Learning Disabilities

• “Physical or Mental Impairment” Also Includes But is Not Limited To:
  – Such Contagious or Non-Contagious Diseases and Conditions as:
    • Orthopedic, Visual, Speech, and Hearing Impairments; Cerebral Palsy, Epilepsy, Muscular Dystrophy, Multiple Sclerosis, Cancer, Heart Disease, Diabetes, Mental Retardation, Emotional Illness, Specific Learning Disabilities, HIV Disease, Tuberculosis, Drug Addiction and Alcoholism
FTA: ADA

- “Major Life Activity” Includes:
  - Functions Such As Caring For One’s Self, Performing Manual Tasks, Walking, Seeing, Hearing, Speaking, Breathing, Learning, and Working

FTA: ADA

- “Record of Such An Impairment” Is:
  - Has A History of, or Has Been Misclassified as Having, a Mental or Physical Impairment That Substantially Limits One or More Major Life Activities

FTA: ADA

- “Regarded as Having Such Impairment” Means:
  - Has a Physical or Mental Impairment That Does Not Substantially Limit Major Life Activities, But Which Is Treated By a Public or Private Entity as Constituting Such a Limitation
  - Has A Physical or Mental Impairment That Substantially Limits a Major Life Activity Only as a Result of the Attitudes of Others Toward Such an Impairment
  - Is Treated By a Public or Private Entity as Having Such an Impairment

FTA: ADA

- To What Systems Does ADA Apply?
  - Public and Private Entities that Provide Public Transportation
  - Private Entities that Operate Demand Response or Fixed Route System
  - Services Provided Under Contract or Other Arrangement
  - University Transportation Systems
  - Taxi Services
  - Vanpools Operated by Public Entities
FTA: ADA

To What Systems Does ADA Apply?

First, Determine the Type of Entity

- Public Entity
- Private Entity, Primarily Engaged
- Private Entity, Not Primarily Engaged

Second, Determine Service Mode(s)

- Fixed Route
- Demand Response

To What Systems Does ADA Apply?

Public Entity

- Any State or Local Government;
- Any Department, Agency, Special Purpose District
- Instrumentality of One or More State or Local Governments
- Tribal Organization
- Amtrak
- Any Commuter Authority

To What Systems Does ADA NOT Apply?

Excluded Services

- Elementary and Secondary School Transportation
- Transportation for Recreation, Not Primarily for Transport
- Transportation Exclusively for Own Employees
- Transportation Systems Operated by Private Clubs
FTA: ADA

To What Types of Services Does ADA Apply?

- Fixed Route Service
  - "...System of Transporting Individuals...On Which a Vehicles Operating Along a Prescribed Route According to a Fixed Schedule"

- Demand Response Service
  - "...System of Transporting Individuals...Which is Not a Fixed Route System"

FTA: ADA

To What Type of Service Does ADA Apply?

- Fixed Routes
  - Non-Commuter Bus
  - Commuter Bus
  - Intercity Bus
  - Route/Point Deviation With Deviations Limited To Certain Riders

FTA: ADA

To What Types of Service Does ADA Apply?

- Demand Response
  - ADA Complementary Paratransit
  - Route/Point Deviation Service Open to All
  - Traditional Subscription and Casual On-Demand Services

FTA: ADA

To What Types of Service Does ADA Apply?

- Fixed Route vs. Demand Response
  - Traditional Distinction
    - Demand Response Service Requires Some Interaction Between the User and the Transit System
  - Route/Point Deviation
    - Deviate for Some – Fixed Route
    - Deviate for All – Demand Response
FTA: ADA

- To What Types of Service Does ADA Apply?
  - Why Such Distinctions
    - Fixed Route Services Require
      - Provision of Complementary Paratransit
      - Establishment of an Eligibility Process

- Commuter Bus
  - Fixed Route Service Characterized by:
    - Service Predominantly in One Direction
    - Operation in Peak Periods
    - Limited Stops
    - Use of Multi-Ride Tickets as the Fare Media
    - Routes of "Extended Length"

Demand Responsive Service Equivalency

- A System That Provides Only Demand Responsive Service Does Not Have To Provide A Complementary ADA Paratransit Service, But Only If It Meets the Test of Equivalency (To An ADA Service)

- Demand Response Service Equivalency
  - Same Area
  - Same Response Time
  - Same Fares
  - Same Days and Hours
  - Same Trip Purposes
  - Same Capacity Constraints
  - Access to Information & Communications
FTA: ADA

- Demand Response Service Equivalency
  - Services Must Be Provided in the Most Integrated Setting Possible
  - Trip Request Procedures and Timeliness Must Be the Same
  - Response Time Must be the Same

FTA: ADA

- Section 5311 Nonprofit Subrecipients Operating Fixed Route Service (Recent Clarifications)
  - FTA Views States As Primary Grantee
  - If a State Provides §5311 Funding to a Private Entity Via a Contract or Grant, Which Then Provides Fixed Route Service, Eligible Passengers Must Have ADA Complementary Paratransit Service Available

What Is An Accessible Fleet?

<table>
<thead>
<tr>
<th>Service Type</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Public Entities</td>
<td>All New Vehicles Accessible</td>
</tr>
<tr>
<td></td>
<td>Used Vehicles (Good Faith Effort)</td>
</tr>
<tr>
<td></td>
<td>Remanufactured Vehicles Accessible</td>
</tr>
<tr>
<td>Fixed Route Service</td>
<td>All New Vehicles Accessible...Unless Equivalent Service is Provided</td>
</tr>
<tr>
<td>Demand Response Service</td>
<td>All New Vehicles Accessible...Unless Equivalent Service is Provided</td>
</tr>
</tbody>
</table>

- Subcontractors
  - Contractors "Stand in the Shoes" of the Contracting Agency
  - Includes Contracts or "Other Arrangements or Relationships"
What Is An Accessible Fleet?

<table>
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<tr>
<th>Service Type</th>
<th>Vehicle Type</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private Entities, Not Primarily Engaged</td>
<td></td>
<td></td>
</tr>
<tr>
<td>• Fixed Route Service</td>
<td>All New Vehicles, Seating Capacity &gt;16</td>
<td>Acquire Accessible Vehicles</td>
</tr>
<tr>
<td></td>
<td>All New Vehicles, Seating Capacity &lt;16</td>
<td>Acquire Accessible Vehicles unless Equivalent Service is Provided</td>
</tr>
<tr>
<td>• Demand Response Service</td>
<td>All New Vehicles, Seating Capacity &gt;16</td>
<td>Acquire Accessible Vehicles, unless Equivalent Service is Provided</td>
</tr>
<tr>
<td>• Fixed Route or Demand Response Service</td>
<td>All New Vehicles, Seating Capacity &lt;16</td>
<td>No Requirement, but Must Assure Equivalent Service is Provided</td>
</tr>
</tbody>
</table>

What Is An Accessible Fleet?

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</tr>
<tr>
<td>• Fixed Route Service</td>
<td>All New Vehicles, Except Vans Capacity &lt;8 or Autos</td>
<td>Acquire Accessible Vehicles</td>
</tr>
<tr>
<td></td>
<td>Automobiles</td>
<td>No Requirements</td>
</tr>
<tr>
<td>• Demand Response Service</td>
<td>All New Vehicles Except Vans Capacity &lt;8 or Autos</td>
<td>Accessible Vehicles unless Equivalent Service</td>
</tr>
<tr>
<td>• Fixed Route or Demand Response Service</td>
<td>Vans, Seating Capacity &lt;8</td>
<td>Accessible Vehicles unless Equivalent Service</td>
</tr>
</tbody>
</table>

FTA: ADA

- What Is An Accessible Fleet?
  - Guidance for Coverage Issued by USDOT
  - Enforcement Split Between USDOT (Public) and USDOJ (Private)
  - Concept of “Equivalency” Used in Many Procurements
FTA: ADA

• What Is An Accessible Fleet?
  – Public Entities – Demand Response
    Purchase or Lease of New Vehicles
    • Public Entities Must Acquire New or Leased
      Accessible Vehicles for Solicitations Made after
      August 25, 1990
    • Unless, the System, When Viewed in its Entirety,
      Provides a Level of Service To Individuals With
      Disabilities, Including Individuals Who Use
      Wheelchairs, Equivalent To The Level Of Service It
      Provides To Individuals Without Disabilities

• What Is An Accessible Fleet?
  – Public Entities - Fixed Route Bus
    Purchase or Lease of Used Vehicles
    • Public Entities Must Acquire Accessible Vehicles for
      Solicitations Made after August 25, 1990
      After October 7, 1991, Vehicles Must Meet 49 CFR
      Part 38 Standards

• What Is An Accessible Fleet?
  – Public Entities - Fixed Route Bus:
    Purchase or Lease of Remanufactured Non-
    Rail Vehicles
    • Must Acquire Accessible Used Vehicles for
      Solicitations Made after August 25, 1990
    • Good Faith Efforts Must be Made on a National
      Scale to Find Accessible Used Vehicles
    • If Useful Life is Extended Five Years or More,
      Vehicle Must be Accessible
FTA: ADA

• What Is An Accessible Fleet?
  – Contracts for Service with Private Entities Cannot Diminish Fixed Route or Demand Responsive Fleet Accessibility
  – Private Entities Obtaining Vehicles for Use in Contracts with Public Entities Must Follow Rules for Public Entities

• Maintaining the Fleet’s Accessibility
  – The Entity Must Ensure That Vehicle Operators And Other Personnel Make Use Of Accessibility-Related Equipment or Features Required by 49 CFR part 38

• Maintenance of Accessible Features – All Entities
  – Maintain Access-Related Equipment In Operating Condition
  – Repair Promptly
  – Take Reasonable Steps to Accommodate Riders If Equipment Out-of-Order

• Maintenance of Accessible Features – Public Entities Only
  – Regular and Frequent Maintenance Checks
  – Report Lift/Ramp Failures ASAP
  – Make Every Effort To Repair Before Next Day
  – Can't Go Back In Service Unless No Spares
  – If No Spares, Only Back In Service For:
    • Three Days In Urban Systems
    • Five Days In Nonurbanized Systems
## FTA: ADA

### Maintaining the Fleet’s Accessibility

- The Entity Shall Establish a System of Regular and Frequent Maintenance Checks of Lifts Sufficient to Determine If They are Operative
- When a Lift Is Discovered to be Inoperative, The Entity Must Take the Vehicle Out of Service Before the Beginning of the Vehicle’s Next Service Day

### What Are Accessible Transit Facilities?

- New Facilities Must Be Accessible
- Bus Stops Pads and Shelters Must Be Accessible (To Extent Transit Systems Has Control Over ROW)
- Bus Stops Should Be Sited to Provide Accessibility to the Maximum Extent Practicable
- Altered Areas Accessible (and Paths of Travel to Primary Function Areas)
### Module 5

**FTA: ADA**

- What Is Complementary and Comparable ADA Paratransit Service?
  - All Public Entities Operating Fixed Route Public Transportation Service Must Provide Comparable and Complementary ADA Paratransit Service

### Module 5

**FTA: ADA**

- What Is Complementary and Comparable ADA Paratransit Service?
  - Paratransit Meant as a "Safety Net" for Only Those Individuals Who Cannot Use Accessible Fixed Route Public Transportation
  - Paratransit Not Meant as a Comprehensive System

### Module 5

**FTA: ADA**

- What Is Complementary and Comparable ADA Paratransit Service?
  - Complementary Paratransit Meant to be Comparable, But Not Equivalent, to Fixed Route Service Levels
  - Complementary Paratransit MUST Be Comparable to Fixed Route Service, as Measured by Six Service Criteria
• What Are The 6 Service Criteria for the ADA Service?
  – Service Area
  – Response Time
  – Fares
  – Trip Purposes and Priorities
  – Hours and Days of Service
  – Capacity Constraints

• Who Is Eligible For ADA Paratransit Service?
  – Law Provides for a Functional Approach to Paratransit Eligibility Determination
    • ADA Eligibility is Based Strictly on an Individuals Ability to Independently Navigate and Use the Fixed Route System
    • Trip-by-Trip Eligibility
      – Individuals May be Eligible for Some Trips, But Not Others

• Who Is Eligible For ADA Paratransit Service?
  – A Person That Meets At Least One of The 3 ADA Criteria Qualifies for ADA Paratransit Service
  – Three (3) Categories of Eligibility
    • Category I
    • Category II
    • Category III

• What Is Complementary and Comparable ADA Paratransit Service?
  – Covered Entities Must:
    • Provide Service to Eligible Individuals
    • Establish a Process to Determine Eligibility
    • Provide Service to Visitors to Your Service Area
FTA: ADA

- Category I Eligibility
  - Any Individual with a Disability, Who is Unable, as a Result of Physical or Mental Impairment, AND Without the Assistance of Another Individual (Except Lift Operator Assistance), to Board, Ride, or Disembark from Any Vehicle on the System Which is Readily Accessible to and Usable by Individuals with Disabilities

FTA: ADA

- Category II Eligibility
  - Any Individual with a Disability Who Needs the Assistance of a Wheelchair Lift or Other Boarding Device and is Able, With Such Assistance, to Board, Ride, and Disembark from Any Vehicle Which is Readily Accessible to and Usable by Individuals with Disabilities if the Individual Wants to Travel on a Route of the System During Hours of Operation of the System at a Time, or Within a Reasonable Period of Such Time, When a Vehicle is Not Being Used to Provide Designated Public Transportation on the Route

FTA: ADA

- Category III Eligibility
  - Any Individual with a Disability Who Has a Specific Impairment Related Condition Which Prevents Such Individual From Traveling to a Boarding Location or From a Disembarking Location

FTA: ADA

- Service Animals
  - System Must Permit Service Animals to Accompany Individuals With Disabilities In Vehicles and Facilities
  - Service Animals Defined as “Any Guide Dog, Signal Dog, or Other Animal Individually Trained to Perform Tasks For An Individual With a Disability, Including But Not Limited to Guiding Individuals With Impaired Vision, Alerting Individuals With Impaired Hearing to Intruders or Sounds, Providing Minimal Protection or Rescue Work, Pulling a Wheelchair, or Fetching Dropped Items”
### FTA: ADA

**Service Animals**
- Service Animals Are Not Pets
- May ask if an Animal Is a Service Animal
- May ask what tasks the Animal Has Been Trained to Perform
- Cannot require special ID cards or harnesses for the Animal
- Cannot ask about the person's disability
- Allergies and Fear of Animals Are Not Valid Reasons for Refusing Service
- Animal Must Be Under Control of Passenger

**Service Animals**
- Riders must be permitted to travel with service animals that are trained to assist them
  - May ask if a pet
  - May ask what services the animal has been trained to perform
  - May NOT ask about disability
  - May NOT ask for proof of certification or other documentation

### Important Note: DOJ Revisions, March 2011 (Not Adopted by USDOT)
- More specific definition of "Service Animals"
  - Exclude "Wild Animals (including non-human primates born in captivity), reptiles, rabbits, farm animals (including miniature horses and pigs), ferrets, amphibians, and rodents"
  - Distinguish between psychiatric service animals and comfort animals - exclude animals whose "sole function is to provide emotional support, comfort, therapy, companionship, therapeutic benefits, or promote emotional well-being"

**Service Animals DOJ Not DOT**
- Defines service animal as a dog that has been individually trained to do work or perform tasks for the benefit of an individual with a disability.
- No other animals can serve as a service animal.
- Individuals with mental disabilities that use service animals are protected by the ADA.
ODOT Transit 101
Module 5

FTA: ADA

• Service Animals: DOJ Not DOT
  – When transit systems are involved in assisting in responses to community emergencies, they may find that shelters may only accept a much narrower range of service animals (dogs and miniature horses) than transit may be carrying.
  – Due to differences between DOT ADA transit regulations and DOJ ADA facility regulations.

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ODOT Transit 101
Module 5

FTA: ADA

• Wheelchairs
  – Older Common Wheelchair Definition Removed
  – New Definition
    • “Three-or Four-wheeled Devices” Changed To “Three or More Wheeled Devices”
    • “Wheelchair” Defined as Any Three or More Wheeled Device, Designed For Use By Person With Mobility Impairment, Operated Manually Or Powered

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ODOT Transit 101
Module 5

FTA: ADA

• Wheelchair Lift and Securement Use
  – Must Carry A Wheelchair and Occupant if the Lift and Vehicle Can Physically (combined weight and dimensions) Accommodate Them, Unless Doing So Is Inconsistent With Legitimate Safety Requirements
  – Can Refuse Service If Wheelchair/Occupant Weight Exceeds Lift Specifications or If Service Is “Inconsistent With Legitimate Safety Requirements”
  – Vehicles may be out fitted with lifts that can carry more than 600#s combined. Care needed for structural support of lift attachment and movement in and out by rider and wheelchair.

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ODOT Transit 101
Module 5

FTA: ADA

• Lift and Securement Use
  – Personnel Must Assist With Use Of Lifts, Ramps, and Securement
  – Must Allow Persons With Disabilities Who Do Not Use Wheelchairs To Use The Lift As “Standees” Or To Use Ramps
  – May Request, But Not Require, That the Passenger Restraint System Be Used, Unless the System Has a Policy Requiring All Riders To Be Similarly Secured

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### Module 5: FTA: ADA

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| 257  | • Can Not Refuse Service for a wheelchair user Due to Insurance Coverage or Limitations  
• Lift and Securement Use  
  – The System May Require That an Individual In a Wheelchair Travel Only In Designated Securement Areas  
  – Can Require That Wheelchairs Be Secured  
  – Cannot Refuse on The Grounds That Wheelchair “Cannot Be Secured”  
  – Can require use of a seatbelt, but only if require all riders to use a seat belt.  
  – Cannot require an over-the-shoulder seat belt if wheelchair cannot be secured. Can request use of a Posey belt.  
  – Can Recommend Transfer To Seat, But Can’t Require Transfers |
| 258  | • Legitimate Wheelchair Safety Concerns  
  – Must Be Based on Actual Risks  
  – Must Not Be Based on:  
    • Mere Speculation  
    • Stereotypes  
    • Generalizations About Individuals With Disabilities  
    • Generalizations About Devices Used for Mobility Purposes  
    • Inability to Secure Device to the Satisfaction of the Transportation Provider |
| 259  | • Legitimate Wheelchair Safety Concerns  
  – Wheelchairs and other power-driven mobility devices.  
  – Creates a distinction between wheelchairs and “other power driven mobility devices” (segways).  
  – Wheelchairs must be permitted in all areas open to pedestrian use.  
  – “other power driven mobility devices” must be permitted to be used unless it would fundamentally alter programs, services, activities, create a direct threat or a safety hazard. |
FTA: ADA

• Deploying Lifts
  – The Entity Must Not Refuse to Permit a Passenger Who Uses a Lift to Disembark From a Vehicle At Any Designated Stop, Unless
    • The Lift Cannot Be Deployed
    • The Lift Will Be Damaged If It Is Deployed
    • Temporary Conditions at the Stop, Not Under the Control of the Entity, Preclude the Safe Use of the Stop By All Passengers

• Riding on the Lift
  – A wheelchair user may use the lift facing front or back, as he/she chooses.
  – A rider does not have to be in a wheelchair to use the lift.
  – A person using another mobility device may use the lift.
  – An elderly rider that cannot negotiate the steps may use the lift.

• Segways
  – The Department’s ADA RULE (49 CFR part 37.3) Defines a “Wheelchair” As “a Mobility Aid Belonging to Any Class of Three or more Vehicles, Designed for and Used By Individuals With Mobility Impairments”
  – By Definition, a Segway, a Two-Wheeled Device, is Excluded
  – 49 CFR Part 37.165(g) Requires Transit Providers to “Permit Individuals With Disabilities Who Do Not Use Wheelchairs” to Use a Vehicle’s Lift or Ramp to Enter the Vehicle
  – Individuals Who Do Not Use Wheelchairs Commonly Use the Lift Together With Their Non-Wheelchair Mobility Devices, Such as Canes, Crutches or Walkers
  – An Individual With a Disability Who Uses a Segway As a Mobility Device Must Be Permitted to Use The Lift
• Segways
  – Transportation Provider Is Not Required To Permit Anyone, Including a Person With a Disability, to Bring A Device Onto a Vehicle That Is Too Big or That is Determined to Pose a Direct Threat to the Safety of Others
  – In Summary, if the System Determines That a Segway Could Pose a Threat, Transport is Not Required

• Priority Seating
  – Can Ask, But Cannot Require, Individuals to Move from Priority or Designated Seating Locations to Make Way for Disabled Riders Needing the Seat.
  – Drivers need to be trained on how to do this sensitively.
  – Signage Requirements
    • Designate Locations
    • Suggest Movement if Seat is Needed

• Priority Order of Boarding
  – If there is a space for a wheelchair, and securement, the driver should attempt to keep that space open for a wheelchair user, if the user is seen to be in line to board.

• Adequate Time to Board and Alight
  – The Entity Must Ensure That Adequate Time Is Provided to Allow Individuals With Disabilities to Complete Boarding or Alighting From the Vehicle
FTA: ADA

• Origin-to-Destination Service
  – Many in Industry Believe that Only Curb-to-Curb Service Required
  – Regulation, However, Refers to Origin-to-Destination Service
  – Where the Local Planning Process Establishes Curb-to-Curb Service as the Basic Paratransit Service Mode, Provision Should Still Be Made to Ensure That the Service Available to Each Passenger Actually Gets the Passenger From His or Her Point of Origin to His or Her Destination Point

- To Meet This Origin To Destination Requirement, Service May Need to Be Provided to Some Individuals, or at Some Locations, in a Way That Goes Beyond Curb-to-Curb Service
  – There is no extra fee for door-to-door

FTA: ADA

• Origin-to-Destination Service
  – This does not require that the operator go into a building (say a doctors office complex) to take the rider to the specific office.
  – This also does not require that the driver lose sight of the vehicle and the passengers on it, for an unreasonable amount of time.
  – This does not require that the driver go “through door” into a person’s home to assist the rider, carry in groceries, etc.

• Personal Care Attendants
  – A Personal Care Attendant (PCA) Must Always be Allowed to Ride With an Eligible Individual
  – A PCA is Someone Specifically Designated or Employed by the Disabled Person and is Required by the Person in Order to Complete the Trip OR the Trip Purpose
  – The Entity May Not Charge a Fare for a PCA
  – The Entity Can Not Require a PCA
• Packages
  – A distinction is made between assisting passengers to/from the door and carrying the passenger’s packages, or assisting with packages
  – A paratransit provider is not required to assist with passenger’s grocery bags or other packages
  – This really borders on the duties of a personal care attendant

• Packages
  – Transit systems may offer this assistance for an extra fee.
  – The transit operator does have to consider the public relations/public image of a driver helping a person with packages as opposed to sitting and watching a passenger struggle.

• Packages
  – Transit systems need to have in place policies and procedures dealing with carrying and assisting with storing groceries and bags, as well as the numbers of bags that a rider may bring on board and safely store, such as not to create a safety hazard.

• Accessible Information
  – Obligation Includes Making Adequate Communications Capacity Available, Through Accessible Formats And Technology, to Enable Users to Obtain Information, Register for and Obtain Service
    • Provide Upon Request
    • Usable to Individual
    • Appropriate for the Intended Use
      – Providing Information Over the Phone is Not Considered a Substitute for Written Information
ODOT Transit 101

Module 5

FTA: ADA

• Access to Information – All Print Material Must Be Available Upon Request and In Accessible Formats and In a Form That The Person Can Use

• Public Hearings Must Be Held in Accessible Locations

Module 5

FTA: ADA

• Accessible Information
  – TTYs (TDDs)
  – Relay Services
  – Access Should Be Provided on Same Days and Hours and at No Added Cost

Module 5

FTA: ADA

• Portable Oxygen
  – Must Allow Travel With a Respirator or Personal Oxygen Supply, Consistent With Applicable USDOT Rules Regarding Transport of Hazardous Materials

Module 5

FTA: ADA

• Can A Transit System Refuse Service?
  – All Covered Entities
    • Covered Entities Shall Not Deny Service to Those Who Can Use System
    • Can Refuse Service to Persons But Only in Circumstances Where the Individual Exhibits Illegal, Violent or Disruptive Behavior
      – To Be Illegal, There Must Be an Established Law Prohibiting the Behavior, Not Just a Common Standard of Appropriate Behavior
      – Seriously Disruptive Behaviors Must Be Significant, Not Just Annoying or Unpleasant
FTA: ADA

• Direct Threat
  – To justify the limitations on individuals with disabilities, there must be a significant threat to others, as distinct from a threat to the individual with a disability, that cannot be eliminated by a modification of policies, practices or procedures, or the provision of auxiliary aids or services.

FTA: ADA

• Travel Training
  – Travel training is becoming widely accepted in both fixed route, ADA paratransit and demand responsive services.
  – This consists of a person working with one or more persons (in a group) to become more familiar with and comfortable with using the system(s) available.
  – As persons become more independent and self-confident, they are more likely to use services (such as fixed route) rather than ADA paratransit.

FTA: Drug and Alcohol Testing

• Drug and Alcohol Program Compliance
  – Policy
  – Training
  – Testing
  – Test Categories
  – Recordkeeping
  – Reporting
FTA: Drug and Alcohol Testing

- Policy Requirements
  - Designated contact person (person, office, branch, and/or position)
  - Applicability (categories of employees covered)
  - Prohibited behavior
  - Testing circumstances
  - Testing procedures

- Training Requirements
  - Safety-Sensitive Employee
  - Supervisors
    - Drugs
    - Alcohol
    - Reasonable Suspicion
  - Training Timeline

- Testing Requirements
  - Specified Types of Drugs
  - Minimum Thresholds
  - Period of Coverage
  - Part 40 Procedures
  - Breath Testing for Alcohol
  - Specimen Validity Testing
  - Split Specimens
  - Observed Collections
  - Negative Dilute
  - Test Refusals
FTA: Drug and Alcohol Testing

• Testing Requirements
  – Consumption of illegal drugs is prohibited at all times
  – Marijuana (Includes all hemp products)
  – Cocaine
  – Opiates (heroin, morphine, and codeine)
  – Phencyclidine
  – Amphetamine (including Methamphetamine and Ecstasy)
  – Note: DOT rule preempts state medicinal use of marijuana initiatives

• Testing Categories
  – Pre-Employment
  – Reasonable Suspicion
  – Post Accident
  – Random
  – Return to Duty
  – Follow-Up

• Vendor Compliance Tips
  – Conduct periodic mock collections to identify procedural flaws
  – Investigate any reports by employees of flawed procedures
  – Provide vendors copies of USDOT and FTA handbooks and procedural manuals
  – Require documentation of vendor credentials

• Vendor Compliance Tips
  – Even though not a regulatory requirement, consider requiring vendors to hold memberships in their respective industry’s trade association
  – Monitor cancelled test rates, and require detailed explanations for each cancelled test
  – Include specific and detailed minimum performance standards in contracts that provide disincentives for cancelled tests or non-performance
ODOT Transit 101

**Module 5**

**FTA: Drug and Alcohol Testing**

- **Vendor Compliance Tips**
  - If vendors are unwilling or unable to perform their duties consistent with the regulations, cancel their contract and obtain service elsewhere

**Module 5**

**FTA: Drug and Alcohol Testing**

- **Recordkeeping**
  - **Employer Requirements**
    - Required files
    - Agreements between employers and service agents
    - Service agent credentials
    - Service agent oversight
    - Don’t assume that vendors are conducting tests in compliance with regulations—that includes TPAs and Consortia
    - Continued Oversight is Critical

**Module 5**

**FTA: Drug and Alcohol Testing**

- **Recordkeeping**
  - **Secure Location**
  - **Confidentiality**
  - **Five Year Requirements**
  - **Three Year Requirements**
  - **Two Year Requirements**
  - **One Year Requirements**

**Module 5**

**FTA: Drug and Alcohol Testing**

- **Recordkeeping**
  - **Paper Trails**
  - **Pre-Employment Documentation**
  - **Accident Identification Information**
  - **Mandatory Reporting**
  - **Random Testing**
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Module 5

FTA: Drug and Alcohol Testing

- Recordkeeping
  - Reasonable Suspicion Testing
  - Return to Duty Testing
  - Follow-up Testing
  - Information Release
  - Certification of Compliance

ODOT Transit 101

Module 5

FTA: Drug and Alcohol Testing

- Reporting Requirements
  - Annual MIS Reports

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Module 5

FTA: Drug and Alcohol Testing

- DAPM Common Audit Findings
  - Do you have a copy of the DOT and Federal Transit Administration testing regulations 49 CFR Parts 40 and 655?
    - Have you demonstrated that you have a working knowledge of the regulation?
    - Do you know how to obtain assistance?

ODOT Transit 101

Module 5

FTA: Drug and Alcohol Testing

- DAPM Common Audit Findings
  - Does this employer make available and provide written notice of the availability of the adopted FTA anti-drug and alcohol misuse policy to all covered employees and representatives of any employee organizations? How?
    - Is your policy up to date?
    - Do you have proof that your current policy has been approved by your governing board?
FTA: Drug and Alcohol Testing

• DAPM Common Audit Findings
  – Does this employer conduct non-DOT drug and/or alcohol testing and if so is it completely separate (separate random pools, separate CCFs and ATFs, etc.) from DOT testing?
    • Are you sure about the answer to this question? Often, non-DOT tests are identified even though employer says no to this question.

• DAPM Common Audit Findings
  – What information do you provide to the collection site for each DOT test you are requesting?
    • (a) Full name of the employee being tested.
    • (b) Employee SSN or ID number.
    • (c) Laboratory name and address.
    • (d) Employer name, address, phone number, and fax.
    • (e) DER information
    • (f) MRO name, address, phone number, and fax.
    • (g) The DOT Agency which regulates the employee/employer.
    • (h) Test Category.
    • (i) Whether the test is to be observed or not.
    • (j) (Optional) C/TPA name, address, phone, and fax number.

• DAPM Common Audit Findings
  – How do you ensure that DOT tests can be conducted at all times when safety-sensitive functions may be performed? (I.e., late night, weekends, holidays, maintenance hours, etc., if applicable.)
    • Must ensure that all days and hours are covered even if special arrangements must be made.

• DAPM Common Audit Findings
  – Do you ever use a hospital for testing on a contingency basis? Do you know that they use documented trained collectors for DOT testing?
    • New question due to concerns of quality with hospital collections.
FTA: Drug and Alcohol Testing

DAPM Common Audit Findings

1. Have all safety-sensitive employees received at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and on the signs and symptoms that may indicate prohibited drug use?
   - Must provide documentation that each employee has had training.
   - Must provide documentation that the time requirement was met.
   - Must provide documentation that the 60 minutes was on the effects and consequences of prohibited drug use; training on other issues (policy, alcohol misuse, etc.) must be additional training.

FTA: Drug and Alcohol Testing

DAPM Common Audit Findings

1. Does this transit system document Reasonable Suspicion referrals?
2. How do you record the first date that new hires or transferees begin safety-sensitive functions?
3. At what point in the hiring process do you ask the applicant or transferee whether or not they have failed or refused a DOT pre-employment test in the previous two years?
   - Use of standard forms can ensure that these items are documented.

FTA: Drug and Alcohol Testing

DAPM Common Audit Findings

1. How and when do you update your DOT random testing pool used for random selections?
   - Procedures often flawed or significantly delayed.
2. What random selection method is used by this employer to select covered employees for FTA drug and alcohol testing?
   - DAPM usually do not know.
3. How is the random selection list transmitted to the DER and who has access to the list?
   - Notifications are often delayed and error-prone.
FTA: Drug and Alcohol Testing

- DAPM Common Audit Findings
  - Does this transit system conduct random testing on all work days, when safety-sensitive functions are being performed, including weekends and holidays?
  - Does this transit system conduct random testing at all times that safety-sensitive functions are being performed (including maintenance of revenue vehicle, movement of revenue vehicles, etc.)?
    - Charts will be created to verify your answer.
- DAPM Common Audit Findings
  - When, if ever, would you excuse an employee, selected for a random test, from random testing?
  - Must have documentation of actual practice.
  - Do you use alternates in your random selection process? Under what circumstances would you notify an alternate that they must proceed to the collection site for a random test?
    - This practice will be scrutinized closely.
- DAPM Common Audit Testing
  - Did you and your contractors meet the FTA’s minimum random testing rates last year?
    - Do not under test or over test.

- DAPM Common Audit Findings
  - If the DAPM or another non-active employee is safety-sensitive and is notified to proceed for random alcohol testing, how does this system ensure that the DAPM is only subject to random alcohol testing just before, during, or just after the performance of safety-sensitive functions?
    - Often procedure is ill-defined.
  - After the testing is complete, does this transit system maintain a copy of each random selection draw list (e.g., paper copy, electronic file)?
    - Must maintain all draw lists.
FTA: Drug and Alcohol Testing

- DAPM Common Audit Findings
  - Who is responsible for deciding to perform a FTA post-accident test? (If DAPM, ask for knowledge of thresholds.)
    - DAPM must demonstrate knowledge of thresholds including definition of “disabling damage.”
  - Does this transit system have some method to document the post-accident decision-making process, especially decisions not to conduct a drug and alcohol test following an accident that reaches an FTA threshold?
    - Use WVDOT forms.

- DAPM Common Audit Findings
  - When would you commence drug and alcohol testing after an accident?
    - Always say “as soon as possible.”
  - What are the time limits for drug and alcohol post-accident testing?
    - Know requirements for documentation.

- DAPM Common Audit Findings
  - Does this company provide the contact information of a qualified Substance Abuse Professional (SAP) readily available to assist any employee who has refused a test or had a positive test? Even if the employee is to be terminated?
    - Are you sure your SAP has the correct credentials? Make sure you notify your SAP of the audit and their need to participate in the audit process.

- DAPM Common Audit Findings
  - Does this transit system maintain all records related to the drug and alcohol program in a secure location with controlled access?
    - Demonstrate security in auditors presence.
  - Does the transit system have a method to identify if the MRO or C/TPA has not provided a test result in a reasonable period after the test?
    - Use WVDOT provided forms.
FTA: Drug and Alcohol Testing

- DAPM Common Audit Findings
  - When an employee has a positive FTA drug test result, by what method and how soon after the test is verified does the MRO or C/TPA notify the transit system?
    - Be sure of your description of the process.
  - Have the transit system and the MRO or C/TPA established a password or other verification method to ensure that verbal transmission of positive test results from the MRO is secure?
    - Passwords should be established. Don’t tell the auditors what your password is.

- FTA: Drug and Alcohol Testing
  - DAPM Common Audit Findings
    - Are you aware of all safety-sensitive contracts, and do you monitor contractor compliance with Parts 40 and 655?
      - If you have contractors, you must demonstrate and document oversight and monitoring of their drug and alcohol testing program.

- FTA: Drug and Alcohol Testing
  - Ohio Drug and Alcohol Program Manager/Records Management Reviews
  - Findings from 19 D/A Reviews conducted December 2011 through January 2014
### FTA: Drug and Alcohol Testing

#### Module 5

**ODOT Transit 101**

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<td><strong>Common Review Findings in Ohio</strong></td>
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<tr>
<td>- Policies</td>
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<td>- SAP Credentials</td>
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<tr>
<td>- Post-Accident Testing</td>
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<td>- Pre-Employment Drug and Alcohol Check</td>
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<td>- Use of Non-DOT CCF/ATF</td>
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<td><strong>Policies</strong></td>
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<tr>
<td>- Eighty-Nine (89) Percent of the Policies Reviewed Were Not in Compliance with One or More Requirements of 49 CFR Part 655 and 49 CFR Part 40</td>
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<td><strong>SAP Credentials</strong></td>
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<td>- Sixty-Three (63) Percent of the Transit Systems Could Not Produce Evidence That it Had the Required Contact Information and Current Credentials of a USDOT Qualified SAP</td>
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<td><strong>Post-Accident Testing</strong></td>
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<tr>
<td>- Fifty-Eight (58) Percent of the Transit Systems Reviewed Were Non-Compliant in One or More Area, Such as the DAPM was:</td>
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<td>- Unaware of the thresholds that would require FTA post-accident testing</td>
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<td>- Lacked knowledge of the time limits for post-accident testing</td>
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FTA: Drug and Alcohol Testing

- Pre-Employment DA Check
  - Fifty-Eight (58) Percent of the Transit Systems Reviewed Failed to Ask All Applicants for, or Transferees into, USDOT_FTA Covered Safety-Sensitive Positions Regarding Prior Failed or Refused USDOT Pre-Employment Tests in the Previous Two Years

- Use of Non-DOT CCF/ATF
  - Fifty-eight (58) Percent of the Transit Systems Reviewed Did Not Know the Required Procedures to Correct a Scenario Where the Collection Site Used a Non-DOT Form for What Should Have Been a DOT test.

- Random Testing
  - In Fifty-Three (53) Percent of the Reviews, Random Testing Was Not Spread Out in an Unpredictable Manner Throughout All Days of Service, Hours of Service, and Throughout the Year

- 0.02-0.039 Alcohol Test Result
  - Thirty-Seven (37) Percent of the Transit Systems Were Not Aware of the Employer’s Responsibility to Remove a Covered Employee from the Performance of All Safety-Sensitive Functions Immediately Following an Alcohol Test Result of 0.02-0.039
FTA: Debarment/Suspension

- Debarment/Suspension for procurements >$25000
- Ensure that Section 5311 funds are not given to anyone who has been debarred, suspended, ineligible, or voluntarily excluded from participation in Federally-assisted transactions
- New guiding documents

FTA: Lobbying

- Guidance
  - 2 CFR part 180.300
- Three methods to comply
  - Check SAM.gov for excluded parties
  - Include a certification in procurements (over $25,000)
  - Include requisite language in solicitation and contract documents
ODOT Transit 101

Module 5

FTA: Lobbying

• For Procurements >$100000
• Lobbying Certification
• Standard Form LLL and Quarterly Updates

Module 5

FTA: Legal

• Each transit system must have the “legal capacity” for conducting business
  – The transit system must be eligible and authorized under state and local law to
    • Request, receive, and dispense Federal and State funds
    • To execute and administer Federal and State funded projects
    • Legal counsels typically sign a certification of assurance

Module 5

FTA: SATISFACTORY CONTINUING CONTROL
FTA: Satisfactory Continuing Control

• When capital equipment or facilities are acquired, built, or improved for use by a rural transit system, provisions must be made to assure satisfactory continuing control of that capital equipment and facilities

• While the State agency serving as FTA grantee may delegate these responsibilities to another entity, the State is ultimately responsible for compliance with this requirement

• When vehicles or other equipment acquired with Section 5311 funds are operated by an entity other than the subrecipient, control and responsibility for the operation of the vehicles or other equipment must remain with the subrecipient unless transfer of the control and responsibility is made to another subrecipient authorized by the designated State agency to accept control and responsibility for those vehicles or equipment

• The FTA-funded property will remain available to be used for its originally authorized purpose throughout its useful life until deposition

• The property may be used for an incidental use, provided it has been authorized and costs are being recovered

• The transit system must have in place a method to inventory and be in control of the assets
FTA: Planning and Program of Projects

- By requiring the rural transit systems to submit their capital and operating plans and budgets, ODOT satisfies the FTA requirements for planning and program of projects (list of Federally funded projects).

FTA: Public Comment on Fare/Service Changes

- The transit system should have in place a public participation process regarding service and fare changes, especially service reductions or fare increases.
- The system will also have a process for obtaining input on grant applications to ODOT, and those grant applications are to delineate any proposed service and fare changes.
FTA: Half Fares

- FTA requires Urbanized systems to offer half fare for its elderly and disabled riders during off-peak times
- FTA does not require this for rural transit systems
  - Note: ODOT’s Elderly and Disabled Assistance Program (E&D) is a separate State Program that offers funding to eligible transit systems to offset the cost of offering reduced fares (up to a maximum of 50% of the regular adult fare) to elderly and disabled passengers

FTA: NTD Reporting

- FTA Requires ODOT to Submit an Annual NTD Report
- ODOT Requires the Rural Transit Systems to Submit its Quarterly NTD Data to ODOT
### FTA: Records Retention and Access
- Records are to be retained for at least three years, and through the next FTA and State reviews
- Records for assets must be retained through the life of the asset.
- Personnel records should be retained indefinitely
- All records should be able to be accessed by FTA and Ohio

### FTA: Unions and Labor Protection
- Unions and Labor Protection; FTA and State
- Transit unions are a part of many transit systems, rural and urban, in Ohio and across the country
- Their role is to help the community, while ensuring that transit workers
  - Earn a competitive wage
  - Receive good benefits
  - Work in a safe working environment
FTA: Unions and Labor Protection

- The combined bargaining power and resulting union-board labor contract have a strong presence in the day to day and strategic life of a transit system
- Relationships with unions do not have to be adversarial; you must strive to develop a partnership with your union, with common goals (to serve your community)

FTA: Unions and Labor Protection

- FTA’s enabling legislation contains labor protection provision, regardless of union affiliation
- Known as Section 5333(b) (commonly referred to by outdated name of Section 13(c)
- Special Warranty spells out the applicable protections

FTA: Private Sector Participation

- Private Sector Participation Requirements
  - Private sector transportation providers are to be consulted in developing transportation plans and programs, from the early planning stages through the implementation of service.
  - Transit systems can contract out the provision of all or some of its services to private providers
FTA: Intercity Bus Service

- Rural Intercity Service (Federal Section 5311(f) Program) is Defined as Regularly Scheduled Bus Service Which Is Open to the General Public That Has Limited Stops and Provides Meaningful Connections to Intercity Bus Service
- Feeder Service to Connect with Intercity Bus Service Is Allowable

FTA: Intercity Bus Service

- Commuter Service Is Not Considered Intercity Service
- Intercity service Is Eligible for Capital and Operating Assistance
- For More Information Regarding the FTA Section 5311(f) Program, Go to http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/RuralIntercityBus.aspx

FTA: School Bus Service
FTA: School Bus Service

- Rural Transit Systems Are Prohibited From Providing Exclusive School Bus Transportation for School Students and School Personnel
- Systems Can, However, Modify Existing Service to Accommodate School Students Along with the General Public

FTA: School Bus Service

- FTA-Funded Equipment Cannot Be Modified to Accommodate School Safety Equipment (Lights, Arms, Etc.) Nor Can Bus Stops be Located on School Property

FTA: Environmental

- FTA is concerned about the environmental impacts of projects (service, vehicles, facilities, etc.) on:
  - Air
  - Water
  - Land
  - Noise
  - Energy usage
FTA: Environmental

- FTA has several levels of environmental impacts that require different types and amounts of environmental research on the part of the transit system.
- Most of your projects will be of minimal environmental impact.
- Any project that is not of minimal impact will require guidance from ODOT.

FTA: Environmental

- FTA is also concerned about the impacts of services and facilities on minority and low income areas. These are discussed in the Title VI and Environmental Impact sections of this module.

FTA: Equal Employment Opportunities

- EEO and Diversity
  - Transit systems must prevent the exclusion of or discrimination against, any person on the grounds of race, color, creed, national origin, sex, or age as it pertains to the recruitment, selection, promotion, termination, compensation, training, or other terms and conditions of employment.
FTA: Equal Employment Opportunities

- EEO and Diversity
  - Rural transit systems which received more than $1 million of federal funds in the previous year and have 50 or more transit employees must develop and submit an EEO Program to ODOT. (Contact your Rural Transit Representative for further information)
  - The Program shall include an EEO Policy Statement, how the EEO information is disseminated to existing and potential employees, and the transit system personnel responsible for EEO compliance

- ADA and Diversity
  - Transit systems must provide reasonable accommodations in the workplace, for individuals with disabilities
  - Transit systems must avoid any situations that might unreasonably exclude the hiring and advancement of these individuals

FTA: Equal Employment Opportunities

- Equal pay for equal work/glass ceiling
  - In some industries, women still receive less pay than men for comparable work.
  - Women and minorities often still face a “glass ceiling” above which they tend not to be promoted.
  - While improving, transit systems need to be aware and work to alleviate these situations

FTA: Common Rule
FTA: Common Rule

- Common Rule - 49 CFR – Part 18 – Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
  - Certain provisions also apply to rural transit procurements (18.26(b))
  - Available at http://www.nhtsa.gov/nhtsa/whatsup/tea21/GrantMan/HTML/03_DOTComRul_49CFR18.html

FTA: Master Agreement

- FTA's Master Agreement Contains A Current, But Not All-Inclusive, Description Of Statutory And Regulatory Requirements That May Affect A Recipient’s Procurement
### FTA: Certifications and Assurances

- Transit systems will sign a certifications and assurances document stating that the system is in compliance with all FTA requirements.

### Compliance With Non-FTA Federal/State Regulations

- Compliance with Non-FTA Federal/State regulations is the responsibility of the Federal, State or Local agency (not ODOT) receiving those funds.

- There are approximately 60 non-FTA Federal funding sources that can be used to transport passengers.

- Review of the non-FTA sources.
Compliance With Non-FTA Federal/State Regulations

- Three ways non-FTA transportation funds come to rural transit systems
  - Federal – to – State – to – Local
  - Federal – to - Local
  - Federal – to – Individual

Recipients are usually State departments like ODJFS, ODDD and ODA

- The State departments often supplement the non-FTA funds with State funds
- The State departments will then pass the non-FTA and State funding to county agencies, along with the regulations for their use

These county agencies often supplement the non-FTA and State funding with Local funding

- They may then contract with transit systems to provide transportation for eligible clients

- The non-FTA funds and their uses are described in the recent Ohio Mobility Improvement Study
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<th>Module</th>
<th>Compliance With Non-FTA Federal/State Regulations</th>
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<th>Compliance With Non-FTA Federal/State Regulations</th>
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<tr>
<td></td>
<td>• Compliance with ODJFS regulations and expectations, if contracting with county JFS</td>
<td>• Compliance with ODDD regulations and expectations, if contracting with county DD</td>
<td>• Compliance with ODA regulations and expectations, if contracting with local areas on aging, and senior centers</td>
<td>• Compliance with ODOE school transportation regulations and expectations</td>
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<td>• NEMT</td>
<td>• Transit systems meet ODDD transport regulations</td>
<td>• Transit systems can transport students</td>
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<td>• Brokerages</td>
<td>• Impacts on transit demand as result of DD consumer choice of providers</td>
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<td>• Brokerages</td>
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Compliance With Non-FTA Federal/State Regulations
- Compliance with Veterans transportation regulations
- County Veterans Services Commissions

Compliance With Non-FTA Federal/State Regulations
- Resources

Compliance With General Ohio Regulations
- Regulatory compliance with general State regulations is the responsibility of the State agency (not ODOT)
Compliance With General Ohio Regulations

• Ohio Ethics Commission - Ethics
  – The transit governing board and the Transit Manager together must create a culture of accountability with a focus on ethics
  – The Ohio Ethics Law recognizes that many of Ohio’s public officials and employees are in a position to make or influence decisions that directly affect their own financial interests or those of his family or business associates

• Ethics
  – The law contains provisions restricting conflicts of interest that involve nepotism, post-employment, representation, influence-peddling, confidentiality, and supplemental compensation
  – As the transit manager, you can directly promote an ethical culture in your transit system by

• Promoting ethical culture
  – Having the board adopt a policy on ethics and conflict of interest
  – Promoting a culture of disclosure
  – Avoiding problems when potential conflicts arise
  – Establishing procedures, such as competitive bids, that ensure that the organization is receiving fair value in the transaction

• Transit managers must establish a “culture of accountability.” What is it?
  – Affects all aspects of a transit manager’s responsibilities
  – The governing board and Transit Manager working together under the watchful eyes of the public and media to ensure business is conducted
    • according to law and with the highest standard of public expectations of honesty, good stewardship and for the public good
    • Openly and honestly
ODOT Transit 101

Module 5

Compliance With General Ohio Regulations

• Accountability
  — Cannot be delegated or ignored
  — Is the responsibility of every member of the governing board and staff
  — Is a top-down mandate and must be rigorously enforced by policy and action, setting clear expectations and consequences
  — Must be established by written policies for open meetings, open records, ethics, and fiduciary responsibilities

Failure to comply with these accountability requirements can result in legal actions against the governing board (both as a board and individually) and against the Transit Manager and staff.

The board's and Transit manager’s credibility can also be seriously damaged.

Compliance With General Ohio Regulations

• Ohio Sunshine Laws, open meetings
  — Ohio Sunshine Law (ORC 121.22)
    • All acts and most deliberations of the transit board, and its committees, sub-committees, and advisory groups, are to be conducted in meetings that are open to the public
    • Board members must be notified of the meetings to ensure attendance
    • The public must be notified in advance of the open meeting for their attendance, if desired
    • Meeting minutes must be prepared and made available to the public

Executive Sessions

— A board or other group may hold an “executive session” that is closed to the general public and media (and to any or all transit staff, if desired), but only to discuss the following topics, and to take no official action
  • Appointment, employment, dismissal, discipline, promotion, demotion or compensation of an employee or official or the investigation of charges or complaints against an employee or official, unless the employee or official requests a public hearing
Compliance With General Ohio Regulations

Executive Sessions
- Purchase of property for public purposes or the sale of property at competitive bidding
- Conferences with the board’s attorney to discuss matters which are the subject of pending or imminent court action
- Preparing for, conducting, or reviewing negotiations or bargaining sessions with employees

Executive Sessions
- Matters required to be kept confidential by federal law or rules or state statutes
- Specialized details of security arrangements
- Audit conference conducted by an independent certified public accountant with officials of the public body

Ohio Sunshine Laws, open records
- The request does not have to be in writing and the reason for the request does not have to be given
- Certain records are considered private and are exempt from being open to the public
- A public office must keep all public records indefinitely unless the retention period is set forth in the board’s adopted records retention schedule, and the retention period has lapsed
- Retention periods must be consistent with FTA and ODOT regulations

Ohio Medical Transportation Board
- Social service agencies that provide non-transit service under Medicaid contracts must have an OMTB certificate
- This does not apply to transit systems (public and non-profit) that provide contract public transit service for Medicaid contracts
Compliance With General Ohio Regulations
- Other State regulations are mentioned in the discussion of FTA regulations

COMPLIANCE WITH LOCAL REGULATIONS

Compliance With Local Regulations
- Regulatory Compliance with Local Regulations is the Responsibility of the Local Agency
- ODOT is Responsible for the Oversight of this Compliance, But Not the Compliance Itself

- Local Ordinances, Regulations and Practices
- Required Reporting to Local Governments/Funders
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<td>• Local Procurement Requirements</td>
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<td>• Local Financial Management Requirements</td>
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<td>• Local Funding Restrictions</td>
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<th>Module 5</th>
<th>TECHNICAL ASSISTANCE REVIEWS (TARs)</th>
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<td>• ODOT Must Assure FTA that all Rural Transit Grantees/Contract Service Providers Are in Compliance with All Applicable Federal Regulations</td>
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<tr>
<td>• The conduct of a TAR is ODOT’s Opportunity to Ensure this Compliance as Well as to Learn More About the Rural Transit System’s Operation</td>
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<th>Module 6</th>
<th>Technical Assistance Reviews (TARs)</th>
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<td>• ODOT Strives To Conduct a TAR for Each Transit System Every Four Years</td>
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<td>• Three Functional Areas Are Covered</td>
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<tr>
<td>– Administration</td>
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<td>– Operations</td>
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<tr>
<td>– Regulatory Compliance</td>
<td></td>
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<tr>
<td>• TARs Consist of:</td>
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<tr>
<td>– Interviews with applicable transit staff</td>
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<td>– Riding the system and interviewing passengers</td>
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### Technical Assistance Reviews (TARs)

- A Report Is Issued Noting Whether Each Functional Area Is Satisfactory or Needs Improvement
  - Recommendations and requirements are noted for each area needing improvement
  - The grantee/transit system must develop and submit to ODOT an implementation schedule for bringing the system into compliance

### ODOT Program and Service Requirements

#### Service
- All service must be open to the general public within the published operating hours and the published service area, including contract service
- Systems must continually monitor their service to ensure that contract service is not precluding the provision of general public trips
- Vehicles and all service materials (brochures, schedules, etc.) must be clearly marked as general public

#### Service Area
- A service area must be established and defined in the annual Rural Transit Application
- One trip end of the service must originate or end in the nonurbanized area
- Coordination with transit providers in adjacent areas is strongly encouraged
### ODOT Program and Service Requirements

#### Module 5

**Fare Structures and Policies**
- A fare structure and policy must be established and reviewed regularly.
- All fares (full fare, E&D, student, etc.) should be listed.
- E&D fare can be no more than one-half of the regular adult fare.

**Contract Service**
- Service for a Group of People for a Specified Cost, Scheduled and Paid for by a Third Party and Considered to be Premium Service because the Service is Guaranteed.
- Contract Service Must Be Open-Door, Available to the General Public, Offered During Regular Service Hours, and Cannot Interfere with the Overall General Public Service.

**Because of the Added Value and Convenience of Contract Service**
- A rate higher than the regular fare is negotiated.
- Takes into account the fully allocated cost of providing the service.
- Establishing a rate equal to at least the fully allocated cost is strongly encouraged by ODOT.
- Transit systems must not violate any of the Charter Regulations in the provision of contract service.

**Trip Priorities**
- ODOT does not permit prioritization of trips; for example, a medical trip cannot be giving priority over a trip to the bank or grocery store.
ODOT Program and Service Requirements

- Coordination and Mobility Management
  - Have to be in a local coordination plan to receive certain types of FTA funds

- Operating Invoices
  - The first three quarterly reconciliation invoices must be emailed to ODOT by the 15th of the month following the end of the quarter
  - The 4th quarter invoice is due by February 28 of the following year

- Capital invoices
  - Capital invoices for items contained in the Rural Transit System's annual application may be submitted anytime after the purchase is made
  - Must be accompanied by the required documentation (purchase receipt)
  - Exception: Vehicle invoices may be submitted with a copy of the purchase order 30 days prior to anticipated vehicle delivery

- Quarterly Operating Data
  - The quarterly operating data and performance measures report is due with the quarterly reconciliation invoice
ODOT Miscellaneous Contract Requirements

- Transit Systems Must Purchase and Maintain Insurance Throughout the Project Life
  - Comprehensive policy of insurance upon the project must include collision, theft, and liability insurance.
  - Collision and theft insurance shall be maintained for the project equipment in an amount no less than the federal and state participation rate of the fair market value.
  - Specific threshold amounts required and can only be waived by ODOT.

- Insurance, Cont’d
  - Minimum unless waived by ODOT, insurance requirements are
    - $500,000 per occurrence and $500,000 in aggregate
    - $100,000 for bodily injury to or death of any one person arising out of any one accident, and the sum of not less than $300,000 for bodily injury to or death of one or more person in any one accident
    - $50,000 for damage to property arising from any one accident

- Transit Driver Requirements
  - Must be 18 years of age or older
  - Have a valid Ohio driver’s license or equivalent
  - Driver’s abstract may have no more than six points
  - Receive required ODOT training (PAT, bloodborne pathogens, drug and alcohol, etc.)
ODOT Miscellaneous Contract Requirements

- Inventory
  - Inventories of Vehicle, Office, and Garage Equipment Must be Developed, Maintained, and Submitted to ODOT Annually
    - Purchase price of $1,000 or greater (excluding computer and radio equipment
    - Useful life of at least one year
    - Must be inventoriable (i.e., not a consumable such as fuel or lubricants)

ODOT Miscellaneous Contract Requirements

- Budget Revisions/Contract Amendments
  - Budget revisions are necessary when any line item is 10% greater than what was included in the original application budget (revisions must be within the total budget originally approved)
  - Operating Amendment requests for additional funding can be submitted any time but will not be considered until a final December invoice is received
  - Capital amendment requests can be submitted at any time and must adequately justify the reason for the amendment

Who Can Be a Rural Transit System in Ohio

- Per ORC 306, Rural Transit System Governing Boards May Be RTAs, County Transit Boards, Counties, Municipalities, Villages, and 501(c)(3) organizations [that are “Designated Grantees”]
Who Can Be a Rural Transit System in Ohio

• Unlike its counterparts, 501(c)(3) boards cannot be a direct grantee of Section 5311 funding unless it has been selected as part of ODOT’s Designated Grantee Selection Process.
• This process was established for eligible applicants desiring Rural Transit service for their communities, but not wishing to be the grantee.
• In these situations, a private nonprofit organization can be designated as grantee of the Rural Transit funding.

Who Can Be a Rural Transit System in Ohio

• Requires action of the local eligible applicant (typically the County or City) in which service will be operated.
  – Designation is for three years.
  – Requires a public hearing and financial review of interested, prospective designees.
  – Once conducted, can be re-affirmed.
  – Can be revoked at any time by the eligible applicant.

Common Findings From TAR Compliance Reviews

• Sixteen (16) TARs were performed during SFY2013 – SFY2015.
• Most common areas of non-compliance were Human Resource Management, Service Delivery, Fleet Management, and Regulatory Compliance.
ODOT Transit 101

Patterns of TAR Findings

- Financial Management
  - Lack of farebox collection and reconciliation procedures
- Human Resource Management
  - Lack of training documentation
  - Incomplete or missing policies for conducting background checks
- Procurement
  - Lack of a fully compliant procurement policy

Patterns of TAR Findings

- Service Delivery
  - Lack of documentation of trip denials, turndowns, refusals
  - Lack of analysis of unmet needs
  - Brochures incomplete and/or out of date
- Fleet Management
  - No formal preventive maintenance plan
  - Failure to follow the plan
  - Lack of documentation of lift maintenance performed by a lift-certified mechanic

- System Safety, Security, and Vehicle Reliability
  - Lack of documentation of annual review of the exposure control plan
  - Fire extinguisher inspections out-of-date
Patterns of TAR Findings

- Regulatory Compliance
  - Lack of ADA-compliant language in system brochures
  - Failure to announce transit stops
  - Lack of ADA complementary paratransit plan
  - Incorrectly requiring passengers to travel with a PCA

COMMON FINDINGS FROM RURAL TRANSIT COMPLIANCE REVIEWS IN OTHER STATES

Common Compliance Findings - Other States

- Most Common Findings From Other States, 20 Compliance Reviews
  - ADA (68 findings)
    - Complementary paratransit
    - Nondiscrimination practices
    - Incorrect or no record of trip denials
  - Financial Management (54 findings)
    - Failure to monitor/compare budgeted amounts to actual expenses
    - Insufficient documentation of costs
    - Insufficient general accounting practices
    - No approved indirect cost allocation plan
### Common Compliance Findings - Other States

- **Most Common Findings, Cont’d**
  - Use and maintenance of project equipment and facilities (49 findings)
    - Excessive early or late performance of vehicle preventive maintenance
    - No facility maintenance plan
    - Out of date or insufficient vehicle inventory listing
  - Procurement (46 findings)
    - Third party contracting capacity
    - Failure to address all of the FTA required provisions
    - Missing or out of date policies
  - Civil Rights (34 findings)
    - Title VI – Failure to submit updated Title VI Program
    - LEP – Failure to perform four factor analysis
    - DBE – Failure to conduct review of contracting opportunities
  - Operations Management (27 findings)
    - Separation of functions, e.g., fare counting
    - Missing or incomplete policies and procedures

### RESOURCES AND REFERENCES
Resources and References

- Federal Transit Administration website
- Code of Federal Regulations
  - 2 CFR Part 225 (consolidated A-87, A-102, and A-133 Circulars)

Resources and References

- FTA Circulars
  - 9040.1F, Nonurbanized Area Formula Program Guidance and Grant Application Instructions (Section 5311)
  - 5010.1D, Grants Management Requirements
  - 4220.1F, Third Party Contracting and Procurement
  - 4702.1B, Title VI Requirements and Guidelines for Federal Transit Administration Recipients
  - 4703.1 Environmental Review/Civil Rights – Environmental Justice Policy Guidance For Federal Transit Administration Recipients

Resources and References

- ADA Service Requirements: US Department of Transportation Federal Transit Administration - ADA Regulations
- Facility Maintenance Requirement: US Department of Transportation Federal Transit Administration

Resources and References

- NTD Transit Database Glossary: Transit Terminology Definitions:
- Title VI Circular: Listing of Links to Title VI Documents and Training Materials:
## Resources and References

- Ohio Revised Code
- ODOT Office of Transit website
  - [http://www.dot.state.oh.us/divisions/Planning/transit/Pages/default.aspx](http://www.dot.state.oh.us/divisions/Planning/transit/Pages/default.aspx)
- ODOT Rural Transit Program
  - [http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/Rural.aspx](http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/Rural.aspx)
- ODOT Rural Transit Manual

- ODOT Rural Transit Requirements

- ODOT Technical Assistance Reviews (TARs)
  - [http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/TAR.aspx](http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/TAR.aspx)

- TAR Questions 2012
  - On ODOT website

- Charter Service Guidance: Charter Manual:
  - [http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/Publications.aspx](http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/Publications.aspx)

- ODOT Guide to Compliance with Interstate Passenger Transportation Regulations
  - [http://www.dot.state.oh.us/Divisions/Planning/Transit/Documents/Programs/Federal%20Compliance/FMCSA%20Final%20Manual-7-03.pdf](http://www.dot.state.oh.us/Divisions/Planning/Transit/Documents/Programs/Federal%20Compliance/FMCSA%20Final%20Manual-7-03.pdf)

- Facility Maintenance Requirements: ODOT Guidance, Tools, and Templates:
Resources and References

- Calculating Fully Allocated Cost – RLS Cost Allocation Spreadsheet:
  - [http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/Rural.aspx](http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/Rural.aspx)
- Operating Data Instructions:
  - [http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/Rural.aspx](http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/Rural.aspx) in the Rural Invoice Training Material section.
- ODOT Transit Policies and Procedures – 5310 and 5311 Policy and Procedure Manual:
  - [http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/Rural.aspx](http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/Rural.aspx)

Resources and References

- Preventative Maintenance: Vehicle Guide to Preventative Maintenance:
  - [http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/Publications.aspx](http://www.dot.state.oh.us/Divisions/Planning/Transit/Pages/Publications.aspx)
- Procurement: Process to Secure Scheduling and Dispatch Software and Hardware:
- Ohio Ethics Commission
  - [http://ethics.ohio.gov/education/overview.shtml](http://ethics.ohio.gov/education/overview.shtml)

Resources and References

- Training Tools:
  - ODOT CBT
  - Transit 101 Modules
  - Topic Specific Training
    - Drug & Alcohol
    - Title VI
    - DBE
    - ADA
    - Other

SUMMARY
Summary

• You Are Responsible for Compliance with All Applicable Federal, State, and Local Requirements
• Use the Resources Available
  – Federal circulars
  – ODOT Rural Manual, Rural Transit Requirements
  – ODOT-sponsored training (Transit 101, CBT, Topic specific training, etc.)
  – Conferences and other events
• Stay in Close Contact With ODOT and your Rural Transit Representative

A FEW THINGS LEFT TO DO

“After” Part of the Knowledge Assessment Survey

• Turn in “After” Survey (Same Sheet as “Before” Survey)
• This Will Measure What you Have Learned
  – How did you do?
  – What areas do you still need to focus on for further training?

Action Plan

• Cohort 3 (and any other cohorts here who have not completed this portion):
  – Submit Your Action Plan, due to ODOT One Week Following This Training
Questions?

• Questions?
• Contact Your ODOT Rural Transit Representative

Announcements and Reminders

THANK YOU!

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