



# **FEDERAL CERTIFICATIONS AND ASSURANCES**

**FOR SECTION 5311 Operating, STRAP, and  
WETAP APPLICANTS**

**Prepared by Wisconsin Department of Transportation  
Bureau of Transit and Local Roads**

Updated 08/2008



This booklet contains certifications and assurances which **MUST** be submitted with the application for federal funding.

*Please Note . . .*

Should the Federal certifications or assurances be modified by the Federal Transit Administration at some time during the application process, WisDOT will issue an addendum to all grantees who are applying for FTA funding.

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## **EXHIBIT P - LABOR PROTECTION**

The applicant must comply with the labor protection provisions of 49 U.S.C. Section 5333(b), formerly Section 13(c). The requirements of 49 U.S.C. Section 5333(b) can be met by assuring compliance with a special Warranty arrangement developed exclusively for application to the Section 5311 program. The terms and conditions of this Warranty shall apply for the protection of the transportation related employees of the recipient of Section 5311 funds, and the transportation related employees of any other public transportation providers in the transportation service area of the project. The Warranty binds the recipient to certain specified terms and conditions of the National (model) Section 5333(b) Agreement executed July 23, 1975, which are incorporated into the Warranty by reference. The special Section 5333(b) Warranty is contained in Appendix A of this document, and applicable provisions of the National (model) Section 5333(b) Agreement are contained in Appendix B.

This exhibit must contain the following:

1. A signed assurance stipulating compliance with the terms and conditions of the special Section 5333(b) Warranty (assurance is shown in Attachment P-1).
2. A list of all existing providers of surface public transportation operating in the transportation service area of the recipient and all labor organizations representing the employees of such providers. This list should include all providers of "public transportation" service. The term "public transportation" means any transportation by bus, rail, or other conveyance, which provides either general or special service to the general public on a regular and continuing basis. "Public transportation" does not include the following: (1) school bus, sightseeing, or charter service; (2) exclusive ride taxi service; and (3) service to individuals or groups which excludes use by the general public.

ATTACHMENT P-1

ASSURANCE OF COMPLIANCE  
WITH  
SPECIAL SECTION 5333(b), FORMERLY SECTION 13(c), WARRANTY

The \_\_\_\_\_, HEREBY AGREES THAT as a condition to receiving federal financial assistance from the Department of Transportation, as authorized under Section 5311 of the Federal Transit Act, it will comply with the terms and conditions of the Special Section 5333(b) Warranty for Application to the Small Urban and Rural Program.

The \_\_\_\_\_, FURTHER AGREES THAT it will assume all legal and financial responsibility relative to compliance with the terms and conditions of the Warranty.

Name of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Chief Elected or Administrative Official)

Existing providers of surface public transportation operating in the service area for which financial assistance is being requested.

Provider

Labor Union (if applicable)

## EXHIBIT Q - FEDERAL CERTIFICATIONS AND ASSURANCES

This exhibit must contain the following certifications and assurances signed by the legally authorized representative of the applicant:

1. Charter and School Bus Certification
2. Nondiscrimination Assurance (includes separate Subrecipient General Civil Rights Report Title VI)
3. Compliance with FTA EEO Policy and Requirements
4. Nondiscrimination on the Basis of Disability
5. Standard Assurances
6. Disadvantaged Business Enterprise (DBE) Assurance
7. Alcohol Misuse and Prohibited Drug Use Certification – **for 5311 and STRAP applicants only; WETAP applicants should not submit.**
8. Lobbying Certification Required for Each Applicant Exceeding \$100,000
9. Certification of Lower-Tier Participants Regarding Debarment, Suspension, and Other Responsibility Matters for Primary Covered Transactions
10. Effects on Private Mass Transportation Companies
11. Certification of Equivalent Service
12. Intelligent Transportation System Program Assurance
13. Certification of Procurement Compliance

Prevention of Alcohol Misuse and Prohibited Drug Use Certification

These certifications, assurances, and exhibits are contained in Attachments Q-1 through Q-13.

ATTACHMENT Q-1

CHARTER AND SCHOOL BUS CERTIFICATION

*An Applicant that is seeking Federal assistance authorized under 49 U.S.C. chapter 53 or under 23 U.S.C.133 or 142 to acquire or operate public transportation facilities and equipment is required to enter into the following Charter Service and School Transportation Agreement. FTA may not provide Federal assistance authorized under 49 U.S.C. chapter 53 or under 23 U.S.C.133 or 142 for such projects until the Applicant enters into this School Transportation Agreement.*

**A. CHARTER SERVICE AGREEMENT**

As required by 49 U.S.C. 5323(d) and FTA regulations, "Charter Service," at 49 CFR 604.7, \_\_\_\_\_ and its third party contractors at each tier will:

- (1) Provide charter service that uses equipment or facilities acquired with Federal assistance authorized by 49 U.S.C. chapter 53 (except 49 U.S.C. 5310 or 5317), or Title 23, U.S.C. 133 or 142 for transportation projects, only to the extent that there are no private charter service operators willing and able to provide the charter service that it or its recipients desire to provide, unless one or more of the exceptions in 49 CFR 604.9 applies; and
- (2) Comply with the requirements of 49 CFR part 604 before providing any charter service using equipment or facilities acquired with Federal assistance authorized by 49 U.S.C. chapter 53 (except 49 U.S.C. 5310 or 5317), or Title 23, U.S.C. 133 or 142 for transportation projects.

The Applicant understands that:

- (1) The requirements of 49 CFR part 604 will apply to any charter service it or third party contractors provides;
- (2) The definitions of 49 CFR part 604 apply to this charter service agreement; and
- (3) A violation of this charter service agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

**B. SCHOOL TRANSPORTATION AGREEMENT**

Further, \_\_\_\_\_, will not engage in school bus operations, exclusively for the transportation of students and school personnel in competition with private school bus operators. All vehicles operated by \_\_\_\_\_ will remain open to the public at all times and will be clearly marked for public use.

Name of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

(Chief Elected or Administrative Official)

ATTACHMENT Q-2

NONDISCRIMINATION ASSURANCE

As required by 49 U.S.C. 5332 (which prohibits discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity), Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7,

\_\_\_\_\_ assures that it will comply with all requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Applicant receives Federal assistance awarded by the U.S. DOT or FTA.

Specifically, during the period in which Federal assistance is extended to the project, or project property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits, or as long as the Applicant retains ownership or possession of the project property, whichever is longer, the Applicant assures that:

- (1) Each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements imposed by or issued pursuant to of 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.
- (2) It will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Applicant assures that it will submit the required information pertaining to its compliance with these requirements
- (3) It will include in each subagreement, property transfer agreement, third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements of 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 to other parties involved therein including any subrecipient, transferee, third party contractor at any level, successor in interest, or any other participant in the project.
- (4) Should it transfer real property, structures, or improvements financed with Federal assistance provided by FTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits.
- (5) The United States has a right to seek judicial enforcement with regard to any matter arising under the Act, regulations and this assurance.
- (6) It will make any changes in its Title VI implementing procedures as U.S. DOT or FTA may request to achieve compliance with the requirements imposed by or issued pursuant to 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21.

The applicant will compile, maintain, and submit in a timely manner Title VI information required by FTA and in compliance with the Department of Transportation's Title VI regulation, 49 CFR Part 21.

The person or persons whose signature appears below are authorized to sign this assurance on behalf of the grant applicant or recipient.

Name of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

(Chief Elected or Administrative Official)

**Wisconsin Department of Transportation**  
Bureau of Transit and Local Roads,  
P. O. Box 7913, Madison, Wisconsin 53707-7913

## Subrecipient General Civil Rights Report Title VI

This form pertains to compliance with Title VI (Civil Rights) regulations governing the provision of public transportation services. This form is filled out by subrecipients for that organization only. Basic Requirement: No person shall, on the grounds of race, color, creed, national origin, sex, age, or disability, be excluded from participating in, denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part through financial assistance under the Federal Transit Act, as amended.

**Subrecipient:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone:** \_\_\_\_\_ **Fax:** \_\_\_\_\_ **Other** \_\_\_\_\_

**Email:** \_\_\_\_\_ **Period covered: FFY** \_\_\_\_\_

### Civil Rights Lawsuits & Complaints (Check all applicable)

(Notes: Complaints are formal, legal, written documents alleging discrimination filed with you or an appropriate agency which has notified you of the complaint. Also, only civil rights lawsuits or complaints are reported with this form.)

- There have been no lawsuits filed against us for transit service during the period covered.
- There have been no complaints filed against us for transit service during the period covered.
- There have been the following lawsuits or complaints filed against us during this period for transit service. The following information is attached (group lawsuits and complaint separately, by date of initiation):
  - date of the lawsuit or complaint
  - complainant's name and address
  - allegation summary
  - current status or disposition including the terms of any consent decree or agreement

### Pending Federal Financing Applications (Check one)

- There are no pending applications for federal financial assistance for transit service, and attached is a description of all financial assistance currently provided by other federal agencies.
- There are pending applications for federal financial assistance for transit service, and attached is a description of all pending applications and all current financial assistance currently provided by other federal agencies.

**Civil Rights Compliance Review Activities (Check one)**

- There have been no civil rights compliance review activities during the period covered.
  - date of the review
  - name of the agency or organization conducting the review
  - summary of findings and recommendations
  - report on the status or disposition of the recommendations

**Civil Rights Assurance Completed (Check one)**

- There is a signed, Standard USDOT Title VI Civil Rights Assurance on file with WisDOT and in our house files. (The current assurance is Attachment Q-2 of the Operating Assistance Application, part of the annual forms you file with us. This is an acknowledgment, required by FTA, that you have sign such a form.)
- There is no current Standard USDOT Title VI Civil Rights Assurance signed by us, however one is attached.

I, the undersigned, certify that the above and attached statements are truthful and complete to the best of my knowledge and that we comply with all rules and regulations related to the civil rights laws of the United States.

**Principal Officer: Name** \_\_\_\_\_  
**Office** \_\_\_\_\_

**Signature of Principal Officer:** \_\_\_\_\_

**Required attachments:**

Current Federal Financing Used for Public Transit Services

**Attachments as needed:**

- Lawsuit descriptions (group by date initiated)
- Complaint descriptions (group by date initiated)
- Pending Applications for Federal Financing for Public Transit
- Civil Right Compliance Review Activities Report

ATTACHMENT Q-3

ASSURANCE OF COMPLIANCE WITH  
FTA EEO POLICY AND REQUIREMENTS

The \_\_\_\_\_ HEREBY AGREES THAT as a condition to receiving federal financial assistance from the Department of Transportation it shall not discriminate against any employee or applicant for employment because of race, color, creed, age, sex, or national origin, and that they shall take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, creed, age, sex, or national origin.

Name of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

(Chief Elected or Administrative Official)

ATTACHMENT Q-4

ASSURANCE OF NONDISCRIMINATION ON THE BASIS OF DISABILITY

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR 27.9, \_\_\_\_\_ assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in employment or any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Applicant assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*, and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any applicable Federal laws that may be enacted or Federal regulations that may be promulgated.

Name of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

(Chief Elected or Administrative Official)

ATTACHMENT Q-5

STANDARD ASSURANCES

The \_\_\_\_\_ hereby assures that it will comply with all applicable Federal statutes and regulations carrying out any project supported by an FTA grant or cooperative agreement. The Applicant agrees that it is under a continuing obligation to comply with the terms and conditions of the grant agreement or cooperative agreement issued for its project with FTA. The Applicant recognizes that Federal laws, regulations, policies, and administrative practices may be modified from time to time and those modifications may affect project implementation. The Applicant understands that Presidential executive orders and Federal directives, including Federal policies and program guidance may be issued concerning matters affecting the Applicant or its project. The Applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise.

Acknowledgment is given of the attached list of such statutes, regulations, executive orders and administrative requirements as may apply.

Name of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

(Chief Elected or Administrative Official)

ATTACHMENT Q-6

DISADVANTAGED BUSINESS ENTERPRISE (DBE) ASSURANCE

*(NOTE: The DBE goal is calculated in the spreadsheet, which accompanies the application.)*

- (1) Policy. It is the policy of the U.S. Department of Transportation that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this Agreement.
  
- (2) DBE Obligation. The \_\_\_\_\_ hereby agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure nondiscrimination in the award and administration of all contracts and sub agreements supported with Federal assistance from the U.S. D.O.T.

Name of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

(Chief Elected or Administrative Official)

ATTACHMENT Q-7

ALCOHOL MISUSE AND PROHIBITED DRUG USE CERTIFICATION

*In accordance with 49 CFR part 655, each Applicant that is seeking Federal assistance under the New Freedom Program who also receives FTA funding under one of the covered FTA Programs (5307, 5309, 5311, or STRAP) is required to provide the following certification.*

*NOTE: WisDOT requires applicants to join the statewide Drug and Alcohol Testing Consortium.*

As required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations" at 49 CFR part 655, subpart I, \_\_\_\_\_ certifies that it has established and implemented an alcohol misuse and anti-drug program, and has complied with or will comply with all applicable requirements of FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655.

Name of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(Chief Elected or Administrative Official)

ATTACHMENT Q-8

LOBBYING CERTIFICATION REQUIRED FOR  
EACH APPLICATION EXCEEDING \$100,000

*An Applicant that submits, or intends to submit this fiscal year, an application or request for **Federal assistance exceeding \$100,000** is required to provide the following certification. FTA may not award Federal assistance for an application or request exceeding \$100,000 until the Applicant provides this certification.*

As required by U.S DOT regulations, “New Restrictions on Lobbying” at 49 CFR 20.110, the \_\_\_\_\_, hereby assures and certifies to the best of his or her knowledge and belief that for any application for Federal assistance exceeding \$100,000: (1) No Federal appropriated funds have been paid or will be paid by or on behalf of the Applicant, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress regarding the award of Federal assistance, or the extension, continuation, renewal, amendment, or modification of any Federal assistance agreement; (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person to influence or attempt to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any application for Federal assistance, the Applicant assures that it will complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” including the information required by the instructions accompanying the form, which form may be amended to omit such information as authorized by 31 U.S.C. 1352; (3) The language of this certification shall be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

The Applicant understands that this certification is a material representation of fact upon which reliance was placed and that submission of this certification is a prerequisite for providing Federal assistance for a transaction covered by 31 U.S.C. 1352. The Applicant also understands that any person who fails to file a required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.

Name of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

(Chief Elected or Administrative Official)

ATTACHMENT Q-9

CERTIFICATION OF LOWER-TIER PARTICIPANTS REGARDING DEBARMENT,  
SUSPENSION, AND OTHER RESPONSIBILITY MATTERS FOR PRIMARY COVERED  
TRANSACTIONS

*An Applicant that submits, or intends to submit this fiscal year, an application or request for **Federal assistance exceeding \$25,000** must provide the following certification. FTA may not provide Federal assistance for an application or request exceeding \$25,000 until the Applicant provides this certification.*

The Lower Tier Participant (potential sub-grantee or sub-recipient under an FTA project, potential third party contractor, or potential subcontractor under a major third party contract), \_\_\_\_\_, certifies to the best of its knowledge and belief, that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not, within a three (3) year period preceding this certification, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) transaction or contract under a public transaction, violation of Federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of any of the offenses listed in subparagraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this certification had one or more public transactions (Federal, state, or local) terminated for cause or default.

The Applicant also certifies that, if it later becomes aware of any information contradicting the above statements, it will promptly provide that information to WisDOT.

If the Applicant is unable to certify to all statements in paragraphs above, it shall indicate so in its applications, or in the transmittal letter or message accompanying its annual certifications and assurances, and provide a written explanation to WisDOT.

(If the Lower Tier Participant (potential sub-grantee or sub-recipient under an FTA project, potential third party contractor, or potential subcontractor under a major third party contract) is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this proposal.)

THE LOWER-TIER PARTICIPANT (POTENTIAL SUB-GRANTEE OR SUB-RECIPIENT UNDER AN FTA PROJECT, POTENTIAL THIRD PARTY CONTRACTOR, OR POTENTIAL SUBCONTRACTOR UNDER A MAJOR THIRD PARTY CONTRACT), APPLICANT, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

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Signature and Title of Authorized Official

The undersigned chief legal counsel for the Applicant hereby certifies that the Applicant has authority under state and local law to comply with the subject assurances and that the certification above has been legally made.

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Signature of Applicant's Attorney

---

Date

ATTACHMENT Q-10

EFFECTS ON PRIVATE MASS TRANSPORTATION COMPANIES

As required by 49 U.S.C. 5323(a)(1), the \_\_\_\_\_ certifies that before it acquires property or an interest in property of a private public transportation company or operates public transportation equipment or a facility in competition with or in addition to transportation service provided by an existing public transportation company it has or will have:

- A. Determined that the assistance is essential to carrying out a program of projects as required by 49 U.S.C. 5303, 5304, and 5306;
- B. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible; and
- C. Paid just compensation under state or local law to the company for its franchise or property acquired.

Name of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

(Chief Elected or Administrative Official)

ATTACHMENT Q-11

CERTIFICATION OF EQUIVALENT SERVICE

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA) at 49 CFR 37.77(d), \_\_\_\_\_ certifies that its demand-responsive service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. Such service, when viewed in its entirety, is provided in the most integrated setting feasible and is equivalent with respect to:

- (1) Response time;
- (2) Fares;
- (3) Geographic service areas;
- (4) Hours and days of service;
- (5) Restrictions or priorities based on trip purpose;
- (6) Availability of information and reservation capability; and
- (7) Any constraints on capacity or service availability.

This certification is provided in accordance with 49 CFR 37.77.

Name of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

(Chief Elected or Administrative Official)

ATTACHMENT Q-12

INTELLIGENT TRANSPORTATION SYSTEM PROGRAM ASSURANCE

*An Applicant for FTA assistance for an Intelligent Transportation Systems (ITS) project, defined as any project that in whole or in part finances the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the “National ITS Architecture” is requested to provide the following assurance. FTA strongly encourages any Applicant for FTA financial assistance to support an ITS project to provide this assurance. An Applicant for FTA assistance for an ITS project that fails to provide this assurance, without providing other documentation assuring the Applicant’s commitment to comply with applicable ITS standards and protocols, may be determined ineligible for award of Federal assistance for the ITS project.*

As used in this assurance, the term Intelligent Transportation Systems (ITS) project is defined to include any project that in whole or in part finances the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the “National ITS Architecture.”

- A. As provided in SAFETEA-LU section 5307(c), 23 U.S.C. 512 note, “the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).” To facilitate compliance with SAFETEA-LU section 5307(c), 23 U.S.C. 512 note, the \_\_\_\_\_ ensures it will comply with all applicable provisions of Section V (Regional ITS Architecture) and Section VI (Project Implementation) of FTA Notice, “FTA National ITS Architecture Policy on Transit Projects,” at 66 FR 1455 *et seq.*, January 8, 2001, and other FTA policies that may be issued in connection with any ITS project it undertakes financed with funds authorized under Title 49 or Title 23, United States Code, except to the extent that FTA expressly determines otherwise in writing.
- B. With respect to any ITS project financed with Federal assistance derived from a source other than Title 49 or Title 23, United States Code, the Applicant ensures that it will use its best efforts to ensure that any ITS project it undertakes will not preclude interface with other intelligent transportation systems in the Region.

Name of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

(Chief Elected or Administrative Official)

ATTACHMENT Q-13

CERTIFICATION OF PROCUREMENT COMPLIANCE

*In accordance with 49 CFR 18.36(g)(3)(ii), each Applicant that is seeking Federal assistance to acquire property or services in support of its project is required to provide the following certification. An Applicant for FTA assistance to acquire property or services in support of its project that fails to provide this certification may be determined ineligible for award of Federal assistance for the project, if FTA determines that its procurement practices and procurement system fail to comply with Federal laws, regulations and directives governing procurements financed with FTA assistance.*

\_\_\_\_\_ certifies that its procurements and procurement system will comply with all applicable third party procurement provisions of Federal laws, regulations, and directives, except to the extent FTA has expressly approved otherwise in writing.

Name of Applicant: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_

(Chief Elected or Administrative Official)

## APPENDIX A

### **Special Section 5333(b) Warranty for Application to the Small Urban and Rural Program**

The following language shall be made part of the contract of assistance with the State or other public body charged with allocation and administration of funds provided under 49 U.S.C. Section 5311.

#### A. General Application

The Public Body (" ") agrees that, in the absence of waiver by the Department of Labor, the terms and conditions of this warranty, as set forth below, shall apply for the protection of the transportation related employees of any employer providing transportation services assisted by the Project ("Recipient") and the transportation related employees of any other surface public transportation providers in the transportation service area of the project.

The Public Body shall provide to the Department of Labor and maintain at all times during the Project an accurate, up-to-date listing of all existing transportation providers which are eligible Recipients of transportation assistance funded by the Project, in the transportation service area of the Project, and any labor organizations representing the employees of such providers.

Certification by the Public Body to the Department of Labor that the designated Recipients have indicated in writing acceptance of the terms and conditions of the warranty arrangement will be sufficient to permit the flow of Section 5311 funding in the absence of a finding of non-compliance by the Department of Labor.

#### B. Standard Terms and Conditions

(1) The Project shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees of the Recipient and of any other surface public transportation provider in the transportation service area of the Project. It shall be an obligation of the Recipient and any other legally responsible party designated by the Public Body to assure that any and all transportation services assisted by the Project are contracted for and operated in such a manner that they do not impair the rights and interests of affected employees. The term "Project," as used herein, shall not be limited to the particular facility, service or operation assisted by Federal funds, but shall include any changes, whether organizational, or otherwise, which are a result of the assistance provided. The phrase "as a result of the Project," shall when used in this arrangement, include events related to the Project occurring in anticipation of, during, and subsequent to the Project and any program of efficiencies or economies related thereto; provided, however, that volume rises and falls of business, or changes in volume and character of employment brought about by causes other than the Project (including any economies or efficiencies unrelated to the Project) are not within the purview of this arrangement.

Any employee covered by this arrangement, who is not dismissed, displaced or otherwise worsened in his position with regard to his employment as a result of the Project, but who is dismissed, displaced or otherwise worsened solely because of the total or partial termination of the Project, discontinuance of Project services, or exhaustion of Project funding shall not be deemed eligible for a dismissal or displacement allowance within the meaning of paragraphs (6) and (7) of the Model agreement or applicable provisions of substitute comparable arrangements.

(2)(a) Where employees of a Recipient are represented for collective bargaining purposes, all Project services provided by that Recipient shall be provided under and in accordance with any collective bargaining agreement applicable to such employees which is then in effect.

(2)(b) The Recipient or legally responsible party shall provide to all affected employees sixty (60) days notice of

intended actions which may result in displacements or dismissals or rearrangements of the working forces. In the case of employees represented by a union, such notice shall be provided by certified mail through their representatives. The notice shall contain a full and adequate statement of the proposed changes, and an estimate of the number of employees affected by the intended changes, and the number and classifications of any jobs in the Recipient's employment available to be filled by such affected employees.

(2)(c) The procedures of this subparagraph shall apply to cases where notices involve employees represented by a union for collective bargaining purposes. At the request of either the Recipient or the representatives of such employees negotiations for the purposes of reaching agreement with respect to the application of the terms and conditions of this arrangement shall commence immediately. If no agreement is reached within twenty (20) days from the commencement of negotiations, any party to the dispute may submit the matter to dispute settlement procedures in accordance with paragraph (4) of this warranty. The foregoing procedures shall be complied with and carried out prior to the institution of the intended action.

(3) For the purpose of providing the statutory required protections including those specifically mandated by 49 U.S.C. Section 5333(b)<sup>1</sup>, the Public Body will assure as a condition of the release of funds that the Recipient agrees to be bound by the terms and conditions of the National (Model) Section 5333(b) Agreement executed July 23, 1975, identified below<sup>2</sup>, provided that other comparable arrangements may be substituted therefore, if approved by the Secretary of Labor and certified for inclusion in these conditions.

(4) Any dispute or controversy arising regarding the application, interpretation, or enforcement of any of the provisions of this arrangement which cannot be settled by and between the parties at interest within thirty (30) days after the dispute or controversy first arises, may be referred by any such party to any final and binding disputes settlement procedure acceptable to the parties, or in the event they cannot agree upon such procedure, to the Department of Labor or an impartial third party designated by the Department of Labor, for final and binding determination. The compensation and expenses of the impartial third party, and any other jointly incurred expenses, shall be borne equally by the parties to the proceeding and all other expenses shall be paid by the party incurring them

In the event of any dispute as to whether or not a particular employee was affected by the Project, it shall be his obligation to identify the Project and specify the pertinent facts of the Project relied upon. It shall then be the burden of either the Recipient or other party legally responsible for the application of these conditions to prove that factors other than the Project affected the employees. The claiming employee shall prevail if it is established that the Project had an effect upon the employee even if other factors may also have affected the employee.

(5) The Recipient or other legally responsible party designated by the Public Body will be financially responsible for the application of these conditions and will make the necessary arrangements so that any employee covered by these arrangements, or the union representative of such employee, may file claim of violation of these arrangements with the Recipient within sixty (60) days of the date he is terminated or laid off as a result of the Project, or within eighteen (18) months of the date his position with respect to his employment is otherwise worsened as a result of the

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1. Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (2) the continuation of collective bargaining rights; (3) the protection of individual employees against a worsening of their positions with respect to their employment; (4) assurances of employment to employees of acquired mass transportation systems and priority of reemployment of employees terminated or laid off; and (5) paid training and retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to 49 U.S.C. Section 11347 [ the codified citation of Section 5(2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended].

2. For purposes of this warranty arrangement, paragraphs (1); (2); (5); (15); (22); (23); (24); (26); (27); (28); and (29) of the Model Section 5333(b) Agreement, executed July 23, 1975, are to be omitted.

Project. In the latter case, if the events giving rise to the claim have occurred over an extended period, the 18-month limitation shall be measured from the last such event. No benefits shall be payable for any period prior to six (6) months from the date of the filing of any claim.

(6) Nothing in this arrangement shall be construed as depriving any employee of any rights or benefits which such employee may have under existing employment or collective bargaining agreements, nor shall this arrangement be deemed a waiver of any rights of any union or of any represented employee derived from any other agreement or provision of federal, state or local law.

(7) In the event any employee covered by these arrangements is terminated or laid off as a result of the Project, he shall be granted priority of employment or reemployment to fill any vacant position within the control of the Recipient for which he is, or by training or retraining within a reasonable period, can become qualified. In the event training or retraining is required by such employment or reemployment, the Recipient or other legally responsible party designated by the Public Body shall provide or provide for such training or retraining at no cost to the employee.

(8) The Recipient will post, in a prominent and accessible place, a notice stating that the Recipient has received federal assistance under 49 U.S.C. Chapter 53 and has agreed to comply with the provisions of 49 U.S.C. Section 5333(b). This notice shall also specify the terms and conditions set forth herein for the protection of employees. The Recipient shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the proper application, administration, and enforcement of these arrangements and to the proper determination of any claims arising hereunder.

(9) Any labor organization which is the collective bargaining representative of employees covered by these arrangements, may become a party to these arrangements by serving written notice of its desire to do so upon the Recipient and the Department of Labor. In the event of any disagreement that such labor organization represents covered employees, or is otherwise eligible to become a party to these arrangements, as applied to the Project, the dispute as to whether such organization shall participate shall be determined by the Secretary of Labor.

(10) In the event the Project is approved for assistance under 49 U.S.C. Chapter 53, the foregoing terms and conditions shall be made part of the contract of assistance between the federal government and the Public Body or Recipient of federal funds; provided, however, that this arrangement shall not merge into the contract of assistance, but shall be independently binding and enforceable by and upon the parties thereto, and by any covered employee or his representative, in accordance with its terms, nor shall any other employee protective agreement merge into this arrangement, but each shall be independently binding and enforceable by and upon the parties thereto, in accordance with its terms.

### C. Waiver

As a part of the grant approval process, either the Recipient or other legally responsible party designated by the Public Body may in writing seek from the Secretary of Labor a waiver of the statutory required protections. The Secretary will waive these protections in cases, where at the time of the requested waiver, the Secretary determines that there are no employees of the Recipient or of any other surface public transportation providers in the transportation service area who could be potentially affected by the Project. A 30-day notice of proposed waiver will be given by the Department of Labor and in the absence of timely objection, the waiver will become final at the end of the 30-day notice period. In the event of timely objection, the Department of Labor will review the matter and determine whether a waiver shall be granted. In the absence of waiver, these protections shall apply to the Project.

## APPENDIX B

### Provisions of the National (Model) Agreement for Incorporation in the Special Warranty

(1) All rights, privileges, and benefits (including pension rights and benefits) of employees covered by this agreement (including employees having already retired) under existing collective bargaining agreements or otherwise, or under any revision or renewal thereof, shall be preserved and continued; provided, however, that such rights, privileges and benefits which are not foreclosed from further bargaining under applicable law or contract may be modified by collective bargaining and agreement by the Recipient and the union involved to substitute other rights, privileges and benefits. Unless otherwise provided, nothing in this agreement shall be deemed to restrict any rights the Recipient may otherwise have to direct the working forces and manage its business as it deems best, in accordance with the applicable collective bargaining agreement.

(2) The collective bargaining rights of employees covered by this agreement, including the right to arbitrate labor disputes and to maintain union security and check-off arrangements, as provided by applicable laws, policies and/or existing collective bargaining agreements, shall be preserved and continued.<sup>1</sup> Provided, however, that this provision shall not be interpreted so as to require the Recipient to retain any such rights which exist by virtue of a collective bargaining agreement after such agreement is no longer in effect.

The Recipient agrees that it will bargain collectively with the union or otherwise arrange for the continuation of collective bargaining, and that it will enter into agreement with the union or arrange for such agreements to be entered into, relative to all subjects, which are or may be proper subjects of collective bargaining. If, at any time, applicable law or contracts permit or grant to employees covered by this agreement the right to utilize any economic measures, nothing in this agreement shall be deemed to foreclose the exercise of such right.

(3)(a) Whenever an employee, retained in service, recalled to service, or employed by the Recipient pursuant to paragraphs (5), (7)(e), or (18) hereof is placed in a worse position with respect to compensation as a result of the Project, he shall be considered a "displaced employee," and shall be paid a monthly "displacement allowance" to be determined in accordance with this paragraph. Said displacement allowance shall be paid each displaced employee during the protective period so long as the employee is unable, in the exercise of his seniority rights, to obtain a position producing compensation equal to or exceeding the compensation he received in the position from which he was displaced, adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for.

(3)(b) The displacement allowance shall be a monthly allowance determined by computing the total compensation received by the employee, including vacation allowances and monthly compensation guarantees, and his total time paid for during the last twelve (12) months in which he performed compensated service more than fifty per centum of each such months, based upon his normal work schedule, immediately preceding the date of his displacement as a result of the Project, and by dividing separately the total compensation and the total time paid for by twelve, thereby producing the average monthly compensation and the average monthly time paid for. Such allowance shall be adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for. If the displaced employee's compensation in his current position is less in any month during his protective period than the aforesaid average compensation (adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for), he shall be paid the difference, less compensation for any time lost on account of voluntary absences to the extent that he is not available for service equivalent to his average monthly

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1. As an addendum to this agreement, there shall be attached where applicable the arbitration or other dispute settlement procedures or arrangements provided for in the existing collective bargaining agreements or any other existing agreements between the Recipient and the Union, subject to any changes in such agreements as may be agreed upon or determined by interest arbitration proceedings.

time, but he shall be compensated in addition thereto at the rate of the current position for any time worked in excess of the average monthly time paid for. If a displaced employee fails to exercise his seniority rights to secure another position to which he is entitled under the then existing collective bargaining agreement, and which carries a wage rate and compensation exceeding that of the position which he elects to retain, he shall thereafter be treated, for the purposes of this paragraph, as occupying the position he elects to decline.

(3)(c) The displacement allowance shall cease prior to the expiration of the protective period in the event of the displaced employee's resignation, death, retirement, or dismissal for cause in accordance with any labor agreement applicable to his employment.

(4)(a) Whenever any employee is laid off or otherwise deprived of employment as a result of the Project, in accordance with any collective bargaining agreement applicable to his employment, he shall be considered a "dismissed employee" and shall be paid a monthly dismissal allowance to be determined in accordance with this paragraph. Said dismissal allowance shall first be paid each dismissed employee on the thirtieth (30th) day following the day on which he is "dismissed" and shall continue during the protective period, as follows:

<u>Employee's length of service prior to adverse effect</u>	<u>Period of Protection</u>
1 day to 6 years	equivalent period
6 years or more	6 years

The monthly dismissal allowance shall be equivalent to one-twelfth (1/12th) of the total compensation received by him in the last twelve (12) months of his employment in which he performed compensation service more than fifty per centum of each such months based on his normal work schedule to the date on which he was first deprived of employment as a result of the Project. Such allowance shall be adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for.

(4)(b) An employee shall be regarded as deprived of employment and entitled to a dismissal allowance when the position he holds is abolished as a result of the Project, or when the position he holds is not abolished but he loses that position as a result of the exercise of seniority rights by an employee whose position is abolished as a result of the Project or as a result of the exercise of seniority rights by other employees brought about as a result of the Project, and he is unable to obtain another position, either by the exercise of his seniority rights, or through the Recipient, in accordance with subparagraph (e). In the absence of proper notice followed by an agreement or decision pursuant to paragraph (5) hereof, no employee who has been deprived of employment as a result of the Project shall be required to exercise his seniority rights to secure another position in order to qualify for a dismissal allowance hereunder.

(4)(c) Each employee receiving a dismissal allowance shall keep the Recipient informed as to his current address and the current name and address of any other person by whom he may be regularly employed, or if he is self-employed.

(4)(d) The dismissal allowance shall be paid to the regularly assigned incumbent of the position abolished. If the position of an employee is abolished when he is absent from service, he will be entitled to the dismissal allowance when he is available for service. The employee temporarily filling said position at the time it was abolished will be given a dismissal allowance on the basis of that position, until the regular employee is available for service, and thereafter shall revert to his previous status and will be given the protections of the agreement in said position, if any are due him.

(4)(e) An employee receiving a dismissal allowance shall be subject to call to return to service by his former employer after being notified in accordance with the terms of the then-existing collective bargaining agreement. Prior to such call to return to work by his employer, he may be required by the Recipient to accept reasonably comparable employment for which he is physically and mentally qualified, or for which he can become qualified after a reasonable training or retraining period, provided it does not require a change in residence or infringe upon the employment rights of other employees under then-existing collective bargaining agreements.

(4)(f) When an employee who is receiving a dismissal allowance again commences employment in accordance with

subparagraph (e) above, said allowance shall cease while he is so reemployed, and the period of time during which he is so reemployed shall be deducted from the total period for which he is entitled to receive a dismissal allowance. During the time of such reemployment, he shall be entitled to the protections of this agreement to the extent they are applicable.

(4)(g) The dismissal allowance of any employee who is otherwise employed shall be reduced to the extent that his combined monthly earnings from such other employment or self-employment, any benefits received from any unemployment insurance law, and his dismissal allowance exceed the amount upon which his dismissal allowance is based. Such employee, or his union representative, and the Recipient shall agree upon a procedure by which the Recipient shall be kept currently informed of the earnings of such employee in employment other than with his former employer, including self-employment, and the benefits received.

(4)(h) The dismissal allowance shall cease prior to the expiration of the protective period in the event of the failure of the employee without good cause to return to service in accordance with the applicable labor agreement, or to accept employment as provided under subparagraph (e) above, or in the event of his resignation, death, retirement, or dismissal for cause in accordance with any labor agreement applicable to his employment.

(4)(i) A dismissed employee receiving a dismissal allowance shall actively seek and not refuse other reasonably comparable employment offered him for which he is physically and mentally qualified and does not require a change in his place of residence. Failure of the dismissed employee to comply with this obligation shall be grounds for discontinuance of his allowance; provided that said dismissal allowance shall not be discontinued until final determination is made either by agreement between the Recipient and the employee or his representative, or by final arbitration decision rendered in accordance with paragraph (15) of this agreement that such employee did not comply with this obligation.

(5) In determining length of service of a displaced or dismissed employee for purposes of this agreement, such employee shall be given full service credits in accordance with the records and labor agreements applicable to him and he shall be given additional service credits for each month in which he receives a dismissal or displacement allowance as if he were continuing to perform services in his former position.

(6) No employee shall be entitled to either a displacement or dismissal allowance under paragraphs (6) or (7) hereof because of the abolishment of a position to which, at some future time, he could have bid, been transferred, or promoted.

(7) No employee receiving a dismissal or displacement allowance shall be deprived, during his protected period, of any rights, privileges, or benefits attaching to his employment, including, without limitation, group life insurance, hospitalization and medical care, free transportation for himself and his family, sick leave, continued status and participation under any disability or retirement program, and such other employee benefits as Railroad Retirement, Social Security, Workmen's Compensation, and unemployment compensation, as well as any other benefits to which he may be entitled under the same conditions and so long as such benefits continue to be accorded to other employees of the bargaining unit, in active service or furloughed as the case may be.

(8)(a) Any employee covered by this agreement who is retained in the service of his employer, or who is later restored to service after being entitled to receive a dismissal allowance, and who is required to change the point of his employment in order to retain or secure active employment with the Recipient in accordance with this agreement, and who is required to move his place of residence, shall be reimbursed for all expenses of moving his household and other personal effects, for the traveling expenses for himself and members of his immediate family, including living expenses for himself and his immediate family, and for his own actual wage loss during the time necessary for such transfer and for a reasonable time thereafter, not to exceed five (5) working days. The exact extent of the responsibility of the Recipient under this paragraph, and the ways and means of transportation, shall be agreed upon in advance between the Recipient and the affected employee or his representatives.

(8)(b) If any such employee is laid off within three (3) years after changing his point of employment in accordance with paragraph (a) hereof, and elects to move his place of residence back to his original point of employment, the Recipient shall assume the expenses, losses and costs of moving to the same extent provided in subparagraph (a) of this paragraph (11) and paragraph (12)(a) hereof.

(8)(c) No claim for reimbursement shall be paid under the provisions of this paragraph unless such claim is presented to the Recipient within ninety (90) days after the date on which the expenses were incurred.

(8)(d) Except as otherwise provided in subparagraph (b), changes in place of residence, subsequent to the initial changes as a result of the Project, which are not a result of the Project but grow out of the normal exercise of seniority rights, shall not be considered within the purview of this paragraph.

(9)(a) The following conditions shall apply to the extent they are applicable in each instance to any employee who is retained in the service of the employer (or who is later restored to service after being entitled to receive a dismissal allowance), who is required to change the point of his employment as a result of the Project, and is thereby required to move his place of residence.

If the employee owns his own home in the locality from which he is required to move, he shall, at his option, be reimbursed by the Recipient for any loss suffered in the sale of his home for less than its fair market value, plus conventional fees and closing costs, such loss to be paid within thirty (30) days of settlement or closing on the sale of the home. In each case, the fair market value of the home in question shall be determined, as of a date sufficiently prior to the date of the Project, so as to be unaffected thereby. The Recipient shall, in each instance, be afforded an opportunity to purchase the home at such fair market value before it is sold by the employee to any other person and to reimburse the seller for his conventional fees and closing costs.

If the employee is under a contract to purchase his home, the Recipient shall protect him against loss under such contract, and in addition, shall relieve him from any further obligation hereunder.

If the employee holds an un-expired lease of a dwelling occupied by him as his home, the Recipient shall protect him from all loss and cost in securing the cancellation of said lease.

(9)(b) No claim for loss shall be paid under the provisions of this paragraph unless such claim is presented to the Recipient within one year after the effective date of the change in residence.

(9)(c) Should a controversy arise in respect to the value of the home, the loss sustained in its sale, the loss under a contract for purchase, loss and cost in securing termination of a lease, or any other question in connection with these matters, it shall be decided through a joint conference between the employee, or his union, and the Recipient. In the event they are unable to agree, the dispute or controversy may be referred by the Recipient or the union to a board of competent real estate appraisers selected in the following manner: one (1) to be selected by the representatives of the employee, and one (1) by the Recipient, and these two, if unable to agree within thirty (30) days upon the valuation, shall endeavor by agreement within ten (10) days thereafter to select a third appraiser or to agree to a method by which a third appraiser shall be selected, and failing such agreement, either party may request the State or local Board of Real Estate Commissioners to designate within ten (10) days a third appraiser, whose designation will be binding upon the parties and whose jurisdiction shall be limited to determination of the issues raised in this paragraph only. A decision of a majority of the appraisers shall be required and said decision shall be final, binding, and conclusive. The compensation and expenses of the neutral appraiser, including expenses of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the compensation of the appraiser selected by such party.

(9)(d) Except as otherwise provided in paragraph (11)(b) hereof, changes in place of residence, subsequent to the initial changes as a result of the Project, which are not a result of the Project but grow out of the normal exercise of seniority rights, shall not be considered within the purview of this paragraph.

(9)(e) "Change in residence" means transfer to a work location which is either (A) outside a radius of twenty (20) miles of the employee's former work location and farther from his residence than was his former work location, or (b) is more than thirty (30) normal highway route miles from his residence and also farther from his residence than was his former work location.

(10) A dismissed employee entitled to protection under this agreement may, at his option within twenty-one (21) days of his dismissal, resign and (in lieu of all other benefits and protections provided in this agreement) accept a lump sum payment computed in accordance with section (9) of the Washington Job Protection Agreement of May 1936:

<b>Length of Service</b>	<b>Separation Allowance</b>
1 year and less than 2 years	3 months' pay
2 years and less than 3 years	6 months' pay
3 years and less than 5 years	9 months' pay
5 years and less than 10 years	12 months' pay
10 years and less than 15 years	12 months' pay
15 years and over	12 months' pay

In the case of an employee with less than one year's service, five days' pay, computed by multiplying by 5 the normal daily earnings (including regularly scheduled overtime, but excluding other overtime payments) received by the employee in the position last occupied, for each month in which he performed service, will be paid as the lump sum.

(11)(a) Length of service shall be computed as provided in Section 7(b) of the Washington Job Protection Agreement, as follows:

For the purpose of this agreement, the length of service of the employee shall be determined from the date he last acquired an employment status with the employing carrier and he shall be given credit for one month's service for each month in which he performed any service (in any capacity whatsoever) and twelve (12) such months shall be credited as one year's service. The employment status of an employee shall not be interrupted by furlough in instances where the employee has a right to and does return to service when called. In determining length of service of an employee acting as an officer or other official representative of an employee organization, he will be given credit for performing service while so engaged on leave of absence from the service of a carrier.

(11)(b) One month's pay shall be computed by multiplying by 30 the normal daily earnings (including regularly scheduled overtime, but excluding other overtime payments) received by the employee in the position last occupied prior to time of his dismissal as a result of the Project.

(12) Whenever used herein, unless the context requires otherwise, the term "protective period" means that period of time during which a displaced or dismissed employee is to be provided protection hereunder and extends from the date on which an employee is displaced or dismissed to the expiration of six (6) years there from, provided, however, that the protective period for any particular employee during which he is entitled to receive the benefits of these provisions shall not continue for a longer period following the date he was displaced or dismissed than the employee's length of service, as shown by the records and labor agreements applicable to his employment prior to the date of his displacement or his dismissal.

(13) Nothing in this agreement shall be construed as depriving any employee of any rights or benefits which such employee may have under any existing job security or other protective conditions or arrangements by collective bargaining agreement or law where applicable, including P.L. 93-236, enacted January 2, 1974; provided that there shall be no duplication of benefits to any employees, and, provided further, that any benefit under the agreement shall be construed to include the conditions, responsibilities, and obligations accompanying such benefit.

(14) The Recipient shall be financially responsible for the application of these conditions and will make the necessary arrangements so that any employee affected as a result of the Project may file a claim through his union representative with the Recipient within sixty (60) days of the date he is terminated or laid off as a result of the Project, or within eighteen (18) months of the date his position with respect to his employment is otherwise worsened as a result of the Project; provided, in the latter case, if the events giving rise to the claim have occurred over an extended period, the 18-month limitation shall be measured from the last such event; provided, further, that no benefits shall be payable for any period prior to six (6) months from the date of the filing of the claim. Unless such claims are filed with the Recipient within said time limitations, the Recipient shall thereafter be relieved of all liabilities and obligations related to said claims. The Recipient will fully honor the claim, making appropriate payments, or will give notice to the claimant and his representative of the basis for denying or modifying such claim, giving reasons therefore. In the event the Recipient fails to honor such claim, the Union may invoke the following procedures for further joint investigation of the claim by giving notice in writing of its desire to pursue such procedures. Within ten (10) days from the receipt of such notice, the parties shall exchange such factual material as may be requested of them relevant to the disposition of the claim and shall jointly take such steps as may be necessary or desirable to obtain from any third party such additional factual material as may be relevant. In the event the claim is so rejected by the Recipient, the claim may be processed to arbitration as hereinabove provided by paragraph (15). Prior to the arbitration hearing, the parties shall exchange a list of intended witnesses. In conjunction with such proceedings, the impartial arbitrator shall have the power to subpoena witnesses upon the request of any party and to compel the production of documents and other information denied in the pre-arbitration period which is relevant to the disposition of the claim.

Nothing included herein as an obligation of the Recipient shall be construed to relieve any other urban mass transportation employer of the employees covered hereby of any obligations which it has under existing collective bargaining agreements, including but not limited to obligations arising from the benefits referred to in paragraph (10) hereof, nor make any such employer a third-party beneficiary of the Recipient's obligations contained herein, nor deprive the Recipient of any right of subrogation.

(15) During the employee's protective period, a dismissed employee shall, if he so requests, in writing, be granted priority of employment to fill any vacant position within the jurisdiction and control of the Recipient, reasonably comparable to that which he held when dismissed, for which he is, or by training or retraining can become, qualified; not, however, in contravention of collective bargaining agreements relating thereto. In the event such employee requests such training or retraining to fill such vacant position, the Recipient shall provide for such training or retraining at no cost to the employee. The employee shall be paid the salary or hourly rate provided for in the applicable collective bargaining agreement for such position, plus any displacement allowance to which he may be otherwise entitled. If such dismissed employee who has made such request fails, without good cause, within ten (10) days to accept an offer of a position comparable to that which he held when dismissed for which he is qualified, or for which he has satisfactorily completed such training, he shall, effective at the expiration of such ten-day period, forfeit all rights and benefits under this agreement.

As between employees who request employment pursuant to this paragraph, the following order where applicable shall prevail in hiring such employees:

- (a) Employees in the craft or class of the vacancy shall be given priority over employees within seniority in such craft or class;
- (b) As between employees having seniority in the craft or class of the vacancy, the senior employees, based upon their service in that craft or class, as shown on the appropriate seniority roster, shall prevail over junior employees;

(c) As between employees not having seniority in the craft or class of the vacancy, the senior employees, based upon their service in the crafts or classes in which they do have seniority as shown on the appropriate seniority rosters, shall prevail over junior employees.

(16) This agreement shall be binding upon the successors and assigns of the parties hereto, and no provisions, terms, or obligations herein contained shall be affected, modified, altered, or changed in any respect whatsoever by reason of the arrangements made by or for the Recipient to manage and operate the system.

Any such person, enterprise, body, or agency, whether publicly or privately owned, which shall undertake the management or operation of the system, shall agree to be bound by the terms of this agreement and accept the responsibility for full performance of these conditions.

(17) The employees covered by this agreement shall continue to receive any applicable coverage under Social Security, Railroad Retirement, Workmen's Compensation, unemployment compensation, and the like. In no event shall these benefits be worsened as a result of the Project.

(18) In the event any provision of this agreement is held to be invalid, or otherwise unenforceable under the Federal, state, or local law, in the context of a particular Project, the remaining provisions of this agreement shall not be affected and the invalid or unenforceable provision shall be re-negotiated by the Recipient and the interested union representatives of the employees involved for purpose of adequate replacement under 5333(b) of 49 U.S.C. Chapter 53. If such negotiation shall not result in mutually satisfactory agreement, any party may invoke the jurisdiction of the Secretary of Labor to determine substitute fair and equitable employee protective arrangements for application only to the particular Project, which shall be incorporated in this agreement only as applied to that Project, and any other appropriate action, remedy, or relief.

(19) If any employer of the employees covered by this agreement shall have rearranged or adjusted its forces in anticipation of the Project, with the effect of depriving an employee of benefits to which he should be entitled under this agreement, the provisions of this agreement shall apply to such employee as of the date when he was so affected.

## APPENDIX C

### Statutes, Regulations, Executive Orders, and Administrative Requirements Applicable to Section 5311 Program

#### STATUTES

Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109 – 59, Aug. 10, 2005, 49 U.S.C. Chapter 53, Title 23, United States Code.

49 U.S.C. 5323(a)(1)

- which requires, among other things, the recipient to meet certain requirements when acquiring the property of or interest in a private company or seeking to operate in competition with an existing transportation company.

49 U.S.C. 5323(b)

- which contains public hearing requirements for a capital project that will substantially affect a community or its transit service.

49 U.S.C 5332

- which, among other things, prohibits discrimination on the basis of race, color, creed, national origin, sex or age and prohibits discrimination in employment or business opportunity.

Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000(d)

- which, among other things, prohibits discrimination on the basis of race, color or national origin.

Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000(e)

- which, among things, prohibits discrimination in employment.

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794

- which among other things, prohibits discrimination on the basis of handicap.

Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 through 6107

- which, among other things, prohibits discrimination on the basis of age.

18 U.S.C. 1001, and/or The Program Fraud Civil Remedies Act, 31 U.S.C. 3801, et seq.

- which provides sanctions for those who knowingly and willfully provide false information to the federal government.

49 U.S.C. 5323(m) and FTA implementing regulations at 49 CFR Part 663

- which requires pre-award and post delivery reviews when acquiring rolling stock.

49 U.S.C. 5323(d) and FTA implementing regulations at 49 CFR Part 604

- which relates to restrictions on the provision of charter service.

49 U.S.C. 5323(f) and FTA implementing regulations at 49 CFR Part 605

- which contain restrictions on school bus operations.

49 U.S.C. 5333(b)

- which, among other things, contain transit employee protective provisions.

49 U.S.C. 40118 and implementing regulations at 41 CFR Parts 301-310

- which contain "Fly America" Act provisions.

Drug Abuse Office and Treatment Act of 1972, Pub. L. 92-255, March 21, 1972, and amendments thereto, 21 U.S.C. 1174 et seq.

- which, among other things, relates to nondiscrimination on the basis of drug abuse.

Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, Pub. L. 91-616, Dec. 31, 1970, and amendments thereto, 42 U.S.C. 4581 et seq.

- which, among other things, relates to nondiscrimination on the basis of alcohol abuse or alcoholism.

Public Health Service Act of 1912, as amended, 42 U.S.C. 290 dd-3 and 290 ee-3

- which, among other things, relates to confidentiality of alcohol and drug abuse patient records.

Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451, et seq.

- which, among other things, requires assurance of project consistency with the approved state management program developed pursuant to the requirements of the Act.

Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300 h, et seq.

- which, among other things, provides for the protection of underground sources of drinking water.

Endangered Species Act of 1973, as amended, 16 U.S.C. 1531, et seq. and other environmental protections for federal transit programs.

- which, among other things, provide protections for a park, recreation area, or wildlife or waterfowl refuge of national, state or local significance or any land from a historic site of national, state or local significance used in a transit project as required by 49 U.S.C. 303.

Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271, et seq.

- which relates to protecting components of the national wild and scenic rivers system.

National Research Act, Pub. L. 93-348, July 12, 1974, as amended, 42 U.S.C. 289 et seq.

- which provides protection of human subjects involved in research, development and related activities supported by federal assistance.

Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. 2131, et seq.

- which, among other things, regulates the care, handling and treatment of warm blooded animals held for research, teaching or other activities supported by FTA assistance.

Single Audit Act Amendments of 1966, 31 U.S.C. 7501, et seq.

- which requires the performance of financial and compliance audits.

Privacy Act of 1974, 5 U.S.C. 552

- which, among other things, restricts access to drug and alcohol records of individuals.

Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101, et seq.

- which, among other things, prohibits discrimination on the basis of disability.

“Hatch Act”, 5 U.S.C. 1501 through 1508, and 7324 through 7326

- which, among other things, imposes certain restrictions on political activities of recipients of federal financial assistance.

“Buy America Requirements”, 49 U.S.C. 5323j and 49 CFR Part 661

- which, among other things, requires that steel, iron, and manufactured products procured under FTA contracts are produced in the United States, unless a waiver has been granted.

“Davis-Bacon Act”, as amended, 40 U.S.C. 276a, et seq. and 29 CFR Part 5

- which requires, among other things, that all mechanics and laborers working on federally assisted construction projects (in excess of \$2,000 contract value) be paid not less than once a week, at wage rates computed at an amount not less than the prevailing wages for similar work in the same geographic area of the project.

“Copeland ‘Anti-Kickback’ Act”, as amended, 18 U.S.C. 874, 40 U.S.C. 276c and 29 CFR Parts 3 and 5

- which, among other things, prohibits payroll deductions from the wages of employees who are covered by the Davis-Bacon Act for any reason except those specifically stated in the Copeland Act.

“Contract Work and Safety Standards Act”, as amended, 40 U.S.C. 327-333 and CFR Parts 5 and 1926

- which, among other things, establishes the required basis and conditions for hours of work and for overtime pay of laborers and mechanics and directs the Department of Labor to formulate construction safety and health standards.

“National Environmental Policy Act of 1969”, as amended, 42 U.S.C. 4321, et seq.

- which, among other things, prohibits federal assistance that will adversely affect the quality of the environment.

“Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970”, as amended, 42 U.S.C. 4601, et seq.

- which, among other things, establishes the terms and conditions for compensation to property owners and occupants who are displaced or whose property is acquired as a result of federally assisted projects.

“Archeological and Historic Preservation Act of 1974”, as amended, 16 U.S.C. 469a-1, et seq.

- which provides protection for historically valuable property.

“National Historic Preservation Act of 1966”, as amended, 16 U.S.C. 470, et seq.

- which, among other things, provides for the protection of national historic sites.

“Federal Water Pollution Control Act”, as amended by the Clean Water Act of 1977, 33 U.S.C. 1251, et seq.

- which, among other things, sets limits on pollutants discharged in international waterways and requires safeguard against spills from oil storage facilities.

“Clean Air Act of 1955”, as amended, 42 U.S.C. 7401, et seq.

- which, among other things, establishes national standards for vehicle emissions.

“Energy Policy and Conservation Act”, 42 U.S.C. 6321, et seq.

- which, among other things, authorizes development and implementation of state energy conservation plans with mandatory standards and policies relating to energy efficiency.

Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4831(b).

- which, among other things, prohibits the use of lead-based paint in construction or rehabilitation of structures.

“National Flood Insurance Act of 1968”, 42 U.S.C. 4011, et seq.

- which, among other things, authorizes a national flood insurance program.

“Flood Disaster Protection Act of 1973”, as amended, 42 U.S.C. 4012a(a), et seq.

- which, among other things, requires the purchase of flood insurance by recipients of federal financial assistance who are located in areas having special flood hazards.

## REGULATIONS

U.S. DOT and FTA regulations at 49 CFR

- regulations promulgated by FTA and U.S. DOT.

49 CFR Part 29

- regulations promulgated by U.S. DOT on government-wide debarment and suspension.

49 CFR Parts 21, 24, 25, 26, 27, 37 and 38

- regulations promulgated by the Department of Transportation governing Title VI of the Civil Rights Act of 1964, as amended, Relocation and Real Property Acquisition, Disadvantaged Business Enterprise, Nondiscrimination on the Basis of Handicap and the American with Disabilities Act.

49 CFR Part 29, as modified by 41 U.S.C. 702

- regulations promulgated by U.S. DOT governing “Drug-Free Workplace Requirements”.

49 CFR Part 655

- regulations promulgated by FTA governing prevention of alcohol misuse and prohibited drug use in transit operations.

46 CFR Part 381

- regulations promulgated by the Maritime Administration governing cargo preference requirements.

49 CFR Part 663

- regulations promulgated by the U.S. DOT governing access to records and reports.

49 CFR Part 11

- regulations by U.S. DOT governing protection of human subjects involved in research, development, and related activities.

40 CFR Part 15 and 49 CFR Part 18

- regulations promulgated by the Environmental Protection Agency pertaining to administration of clean air and water pollution requirements for grantees.

29 C.F.R. Parts 5 and 215

- regulations promulgated by the Department of Labor pertaining to construction labor and transit employee protections.

49 CFR Part 41

- governing seismic safety design and construction requirements.

49 CFR Part 19 and Part 20

- regulations promulgated by U.S. DOT which provide restrictions on lobbying for contracts exceeding \$100,000.

49 CFR Part 665

- regulations promulgated by FTA pertaining to testing requirements for new bus acquisitions.

FTA National ITS Architecture Policy on Transit Projects, 66 FR 1459, January 8, 2001

- regulations pertaining to ITS projects.

40 CFR Part 247 and Executive Order 12873

- regulations pertaining to recycled products.

U.S Department of Agriculture regulations, "Animal Welfare", 9CFR subchapter A, parts 1,2, 3, and 4

- regulations regarding the care, handling, and treatment of warm blooded animals held or used for research, teaching, or other activities.

EXECUTIVE ORDERS

E.O. 11246

- which establishes requirements for equal employment opportunity.

E.O. 11593

- which provides for identification and protection of historic properties.

E.O. 11988

- which establishes certain specific requirements related to flood protection and control.

E.O. 11990

- which relates to wetland protection.

E.O. 11514 and 11738

- which relates to environmental quality control measures.

E.O. 12372 and implementing regulations at 49 CFR Part 17

- which requires an intergovernmental review of transportation programs and activities.

#### ADMINISTRATIVE REQUIREMENTS

Office of Management and Budget (OMB) Circular A-87

- which provides cost principles applicable to grants and contracts with state and local governments.

Office of Management and Budget (OMB) Circular A-102

- which provides uniform requirements for assistance to state and local governments.

Office of Management and Budget (OMB) Circular A-133

- which provides principles for audits of states, local governments and non-profit organizations.

Federal Transit Administration (FTA) Circular 4220.1D

- which provides requirements for third party contracting and for compliance with procurement regulations.

48 CFR Part 31 – Federal Acquisition Regulations

- which provides cost principles applicable to contracts with commercial organizations.