



## Minnesota Department of Transportation

### Office of Transit

395 John Ireland Boulevard

Mail Stop 430

Saint Paul, MN 55155

# Technical assistance brief

**Date:** July 17, 2015  
**To:** Minnesota intercity bus program stakeholders  
**From:** Shaun Morrell, Intercity Bus Program Coordinator, MnDOT Office of Transit  
**E-mail:** [intercitybus.dot@state.mn.us](mailto:intercitybus.dot@state.mn.us)  
**Subject:** Intercity bus program policies

---

## I. Introduction

While intercity bus transportation serves only a small fraction of long-distance travel demand throughout the Midwest, it provides an essential mobility link for many citizens who cannot or choose not to drive a private automobile. The [MnDOT Office of Transit](#) administers a grant program supporting intercity bus service to communities that, without public subsidy, would likely have limited or no access to other long-distance surface transportation options.

### A. Federal program origins

Minnesota's intercity bus program originates from Federal transportation legislation<sup>1</sup>, which authorizes Federal funding to support public transportation in non-urbanized communities. Section 5311 funding is administered at the Federal level by the [Federal Transit Administration \(FTA\)](#), and is apportioned to each State by formula.

Subsection (f) of Section 5311 requires each State to spend 15 percent of its annual Section 5311 apportionment "to carry out a program to develop and support intercity bus transportation" unless the Governor of the State certifies that "the intercity bus service needs of the state are being met adequately."

Each State is responsible for administering its apportionment of Section 5311 (including Section 5311(f)) funding in accordance with Federal rules and regulations. States disseminate these funds to transportation providers in support of eligible public transportation activities. Each State is responsible for ensuring that its subrecipients<sup>2</sup> (grantees) adhere to the requirements associated with the use of Federal transit funds.

FTA publishes circulars that explain the requirements that apply to States and other recipients of Federal transit funds. [FTA Circular 9040.1G](#) describes the Federal requirements that apply specifically to Section 5311. Each State must develop a [State Management Plan](#) explaining how it administers Section 5311 in that State. Each State may adopt policies and procedures that stipulate how Section 5311 is carried out

---

<sup>1</sup> [Title 49, United States Code \(USC\), Section 5311](#)

<sup>2</sup> The term "subrecipient" is explained further in part VII of this brief.

uniquely in that State, provided that those policies and procedures uphold Federal requirements.

The [State of Minnesota](#) designates the MnDOT Office of Transit to administer the State's allocation of Section 5311 funding, which includes the minimum 15 percent suballocation to intercity bus. The MnDOT Office of Transit publishes a [State Management Plan](#) explaining how Section 5311 is carried out in Minnesota.

## **B. State of Minnesota support for intercity bus**

In addition to administering a variety of Federal transit programs in Minnesota, the MnDOT Office of Transit also administers State assistance to providers of public transportation. The State transit assistance program is established in State law ([Minnesota Statutes 174.24](#)) as the Public Transit Participation Program. State funding sources may include general funds and/or the Greater Minnesota transit account, as established in [Minnesota Statutes 16A.88](#). The MnDOT Office of Transit may utilize these State funding sources to support eligible intercity bus services, as a means of supplementing the Federal intercity bus funding provided under Section 5311(f).

In its annual allocation of State transit assistance funding, the MnDOT Office of Transit considers statewide intercity bus needs alongside local and regional public transportation needs. The MnDOT Office of Transit prioritizes the State's transit and intercity bus investments in light of each program's objectives, the projects proposed in pursuit of those objectives, and the funding available to support the proposed projects.

Aside from direct financial assistance, the MnDOT Office of Transit also supports intercity bus in Minnesota by conducting long-range planning, studies, and technical assistance for program participants.

## **II. Purpose of this document**

This technical assistance brief describes the [Minnesota Department of Transportation \(MnDOT\)](#), Office of Transit's policies in the administration of the State's intercity bus grant program (hereinafter referred to as the "Program", except where specified otherwise).

This Program is generally subject to the provisions of the Minnesota State Management Plan for the Section 5311 program. (Section 5311 supports public transportation in rural, or "non-urbanized" areas.) This brief supplements the [Minnesota State Management Plan for Section 5311](#) by setting forth provisions that apply uniquely to intercity bus service. The MnDOT Office of Transit may further supplement this brief with administrative procedures, technical memoranda (for internal audiences), technical assistance briefs (for external audiences), application materials, and other instructions and guidance as needed to carry out the Program. The MnDOT Office of Transit may amend this brief as necessary.

This brief is not an exhaustive inventory of all requirements that may apply to Program participants (applicants and subrecipients). Program participants are responsible for understanding and following all applicable Federal, State, and local requirements.

### III. Definitions

#### A. Definition of intercity bus service

FTA defines intercity bus service as “regularly scheduled bus service for the general public that operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, that has the capacity for transporting baggage carried by passengers, and that makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available”<sup>3</sup>.

The MnDOT Office of Transit further specifies that intercity bus service may include local and regional feeder services, if those services are designed expressly to connect to the broader intercity bus network.

#### B. Distinction from other long-distance bus transportation

The MnDOT Office of Transit specifies that intercity bus service does not include the following:

- Commuter bus, defined for the purposes of this Program as bus transportation designed for daily, round-trip service, which accommodates a typical 8-hour, daytime work shift (e.g., an outbound trip arriving at an employment center by 8:00 a.m., with the return trip departing after 5:00 p.m.)
- Charter bus, defined for the purposes of this Program as privately arranged bus transportation, operating outside of a fixed route or regular schedule, and not meaningfully connected to the broader intercity bus network
- Tour bus, defined for the purposes of this Program as bus transportation oriented toward sightseeing or tourist destinations, and not meaningfully connected to the broader intercity bus network

Importantly, operators of the transportation services listed above may be eligible to apply for and receive Program funding if the proposed service meets the definition of intercity bus and other requirements described in this brief.

#### C. Distinction from public transportation

Intercity bus differs from local public transit in several key respects:

1. FTA specifically excludes intercity bus from the definition of public transportation, which highlights fundamental differences in the scope, scale, and purpose of these two types of services and the grant programs that support them.
2. Intercity bus, by definition, operates between communities not in close proximity, resulting in a widely dispersed network, customer base, vehicles, facilities, and other assets.
3. Intercity bus operators tend to be private, for-profit entities, only a portion of whose operations and capital assets are publicly subsidized. Local public transportation, in contrast, is typically funded entirely by Federal, State, and/or

---

<sup>3</sup> From [FTA Circular 9040.1G, Chapter I\(4\)\(o\)](#)

local government subsidies, as well as directly generated revenue (passenger fares, advertising sales, etc.).

4. Much of the intercity bus network, within and outside of Minnesota, is operated using over-the-road coach buses, which differ significantly in size, function, and mechanical design from those typically used for local public transportation.

These differences affect how Federal and State rules apply to subrecipients of Section 5311(f) (intercity bus), in contrast with Section 5311 in general (rural public transit).

#### **IV. Intercity bus program goals and objectives**

This Program seeks to advance the following transportation objectives<sup>4</sup> within the State of Minnesota:

- To support the connection between rural areas and the larger regional or national system of intercity bus service;
- To support services to meet the intercity travel needs of residents in rural areas; and
- To support the infrastructure of the intercity bus network through planning, marketing, and capital investments.

#### **V. Roles and responsibilities**

Except as noted throughout this brief, the roles and responsibilities associated with this Program are generally the same as those for the broader Section 5311 program, as administered in Minnesota by the MnDOT Office of Transit. For additional details, refer to the [Minnesota State Management Plan for Section 5311](#).

#### **VI. Coordination**

The interstate nature of intercity bus service requires coordination with other States to promote regional consistency in the implementation of state programs, and to ensure the appropriate use of Federal funds for services crossing state boundaries. The Program does not strictly limit its participation to intercity bus route mileage within the boundaries of the state of Minnesota. (See *Eligible services and service areas*, below.)

In particular, the MnDOT Office of Transit seeks to ensure that both subsidized intercity bus routes and unsubsidized routes used for in-kind match<sup>5</sup> are being administered appropriately and efficiently when these routes cross state boundaries. To that end, the MnDOT Office of Transit initiates written contact with fellow State Departments of Transportation in the adjoining states prior to the execution of intercity bus grant contracts, and upon any change in the use of unsubsidized connecting routes as in-kind match. The MnDOT Office of Transit conducts this communication in an effort to ensure that the same portion of available in-kind match reported under one State's Section 5311(f) program is not also utilized simultaneously by another.

The MnDOT Office of Transit promotes local coordination with intercity bus service in the following ways:

---

<sup>4</sup> [FTA Circular 9040.1G, Chapter VIII\(2\)](#)

<sup>5</sup> In-kind match is explained further in part IX.A.2 of this brief.

- Conducting statewide planning for intercity bus service to ensure a cohesive and comprehensive approach to network development;
- Encouraging operators of subsidized intercity bus service to optimize connections with local public transportation service (coordinated timing, ticketing, and co-location of services); and
- Permitting local outreach and joint marketing between transportation agencies as eligible activities under the Program.

## VII. Eligible applicants and subrecipients

An entity interested in becoming a Program subrecipient (grantee) must submit an application to the MnDOT Office of Transit during an open application period<sup>6</sup>. To be eligible to submit an application for funding under the Program, the applicant must be one of the following:

- A private, for-profit operator of bus transportation;
- A private, non-profit organization;
- A public transportation provider; or
- Another public entity.

An applicant to the Program must provide written documentation of the organization's legal status, as well as a resolution from its governing body (e.g., a Board of Directors) authorizing the organization's participation in the Program.

The application must also demonstrate the organization's capacity and willingness to comply with State and Federal rules and regulations, and to provide data and documentation upon request by the MnDOT Office of Transit in order to demonstrate compliance.

Upon the MnDOT Office of Transit's award of Federal funding to an applicant, as formalized by the execution of a grant contract, the applicant becomes a subrecipient of Section 5311(f) funding. (The State of Minnesota is the direct recipient of Federal Section 5311 funds, and each local grantee is a "subrecipient" under the MnDOT Office of Transit.)

## VIII. Eligible services and service areas

### A. Service to rural communities

The Program provides financial assistance for operating and capital expenses incurred in support of intercity bus routes serving one or more rural (non-urbanized) communities in Minnesota. FTA defines a rural area as "an area encompassing a population of less than fifty thousand people that has not been designated in the most recent decennial census as an 'urbanized area' by the secretary of Commerce".<sup>7</sup>

The MnDOT Office of Transit considers a community as "served" by a given intercity bus route if all of the following criteria are met:

<sup>6</sup> The Program application process is discussed further under part X.A of this brief.

<sup>7</sup> [FTA Circular 9040.1G, Chapter I\(4\)\(ff\)](#)

1. The route provides a passenger boarding / alighting stop within the boundaries of a Census-designated place or incorporated place, or is accessible from such place by public transportation at the time of the scheduled stop; and
2. The route provides at least 3 weekly round trips to and from the community in question (i.e., the provider must operate 3 outbound trips from the community in question to any other destination on the route, and 3 corresponding return trips within 7 days); and
3. The stop occurs at a sheltered facility that is open to the general public at the scheduled time of the stop.

## **B. Meaningful connections between services**

FTA's definition of intercity bus requires "meaningful connections with scheduled intercity bus service to more distant points, if such service is available." The MnDOT Office of Transit defines a "meaningful connection" as one that meets all of the following criteria:

- Each of the connecting routes meets the criteria to be considered "intercity bus", as defined in this brief; and
- The connection occurs at a common location; and
- The scheduled connection window is long enough to guarantee the connection under normal operating conditions, but is no longer than 2 hours, to avoid excessive wait time; and
- The connection is reciprocal (i.e., allows for outbound and return travel between the community in question and any other destination on either route); and
- The connection is clearly advertised and easily accessible to the general public, such as through coordinated ticketing, marketing, and/or customer service.

## **C. Eligible service areas**

Generally, the Program supports projects (and route-miles) that occur within the boundaries of the State of Minnesota. However, due to the interstate nature of intercity bus service and the fact that several population clusters in Minnesota straddle state boundaries, the Program's support is not strictly confined to state boundaries. The MnDOT Office of Transit may consider using Program funds to support intercity bus projects that benefit geographic areas outside of Minnesota, provided that one of the following conditions applies:

- The benefits of the project to communities outside of Minnesota are incidental. A typical example would be a route tail that terminates at a population center a relatively short distance beyond the state boundary (e.g., Fargo or Grand Forks, ND; La Crosse, WI; or Sioux Falls, SD).
- The project costs are allocated between states using a methodology such as the one described further below.

Regional feeder services may be considered eligible under this Program, if such services are designed to create a meaningful connection with the broader network of intercity bus service. An eligible feeder service may incidentally serve other local and regional

transportation purposes, as long as its primary purpose is to fulfill the objectives of this Program.

The MnDOT Office of Transit avoids subsidizing any intercity bus service that competes with equivalent service already operated by a private-sector provider along the same corridor. When considering an award under the Program, the MnDOT Office of Transit makes reasonable efforts to identify any intercity bus or related services that may already exist in the corridor. The MnDOT Office of Transit evaluates whether two potentially competing routes are “equivalent” based on the following criteria:

- Adherence to the definition of “intercity bus” and other eligibility criteria, as specified in this brief;
- Route alignment, including origin, destination, and intermediate stops;
- Schedule (frequency, travel time, and time of day); and
- Accessibility to the general public and to persons with disabilities.

## **IX. Eligible assistance categories**

Eligible assistance categories under this Program are generally the same as those for the broader Section 5311 program, except as described in this section. FTA allows States to utilize Section 5311(f) funding for operating, capital, marketing, and planning activities that support intercity bus service to non-urbanized communities<sup>8</sup>.

### **A. Operating assistance**

FTA defines eligible operating expenses under Section 5311<sup>9</sup>. Because the state’s intercity bus system relies largely on the participation of private, for-profit entities, it is important to note that FTA rules specifically authorize depreciation and interest on privately funded capital used in support of Section 5311 activities<sup>10</sup>. Therefore, the MnDOT Office of Transit allows private capital depreciation and interest as an operating expense under intercity bus grant contracts. Assets subsidized publicly by Federal, State, or local sources must be excluded from this cost allocation, so as to avoid duplicating the subsidy (for example, using public funding to purchase a vehicle, and also subsidizing the depreciation of that vehicle in an operating grant contract).

FTA allows a Federal share of up to 50 percent of the net operating deficit of eligible intercity bus services. Matching funds can be provided in one of the following two ways:

#### **1. Direct (local) match**

Under a direct-match arrangement, the remaining 50 percent of net operating deficit (the portion not subsidized by Federal funds) must be provided by the subrecipient as local match, or by some other non-Federal funding source, whether public or private. The MnDOT Office of Transit may also consider

---

<sup>8</sup> [FTA Circular 9040.1G, Chapter VIII\(8\)](#)

<sup>9</sup> [FTA Circular 9040.1G, Chapter III\(3\)\(c\)](#)

<sup>10</sup> [FTA Circular 9040.1G, Appendix F](#)

utilizing State transit assistance funding to reimburse Program subrecipients for the remaining 50 percent of the operating deficit<sup>11</sup>.

## 2. In-kind match

Under the in-kind match method<sup>12</sup>, a subrecipient may include both a subsidized route and an unsubsidized connecting route in the proposed project. This method allows for the capital cost of the unsubsidized connecting route to be included in the total cost of the project.

For example, an entity may apply to the Program for operating assistance to run a route from Town A to Town B. Rather than using State or local “cash match” to the 50 percent Federal share, the applicant may augment the Federal share by declaring the capital costs of a privately funded route operating between Town B and Town C, and which connects to the subsidized route in Town B. Therefore, both route segments (A to B, and B to C) are part of the operating project.

This arrangement effectively allows the equivalent of up to 100 percent Federal share of the operating deficit of the subsidized route. Note that the Federal share is still technically 50 percent of the total project deficit. In this case, the deficit includes both the operating loss on the subsidized route (A to B) and the capital cost of the unsubsidized connecting route (B to C).

The following requirements apply to the use of in-kind match:

- The unsubsidized connecting route must meet the definition of “intercity bus”, as specified in this brief.
- A meaningful connection, as defined in this brief, must be provided between the subsidized and unsubsidized connecting routes.
- Only those unsubsidized vehicle trips that actually connect with the subsidized service can be used for in-kind match. For example, if the unsubsidized route operates four vehicle trips from the connecting point daily, but the subsidized service operates only two vehicle trips daily, only the capital costs of the two daily connecting trips can be used as in-kind match.
- The allowable capital cost is calculated using the Capital Cost of Contracting guidance<sup>13</sup>. (Typically, this equates to 50 percent of the operating cost of an unsubsidized connecting route, where the operator provides and maintains all of the facilities and equipment.)
- Only privately-funded operations and capital assets are allowed in the calculation of capital cost. Costs and assets for which any public agency provides a direct subsidy, or maintains a vested interest<sup>14</sup>, must be excluded from the calculation of capital cost.

---

<sup>11</sup> The use of State funding to support intercity bus is discussed further under part I.B of this brief

<sup>12</sup> [FTA Circular 9040.1G, Chapter VIII\(5\)](#)

<sup>13</sup> [FTA Circular 9040.1G, Appendix F](#)

<sup>14</sup> Vested interest is discussed further under part IX.C.4 of this brief.

- The capital cost claimed from the unsubsidized connecting route must not exceed the amount of the operating deficit of the subsidized route. In other words, the total Federal subsidy must not exceed the operating deficit of the subsidized route.
- The calculation of in-kind match assumes that operating revenue on the unsubsidized route is equal to the operating cost. This effectively negates the operating cost of the unsubsidized route, leaving only the capital cost as eligible in-kind match.
- An unsubsidized route or route segment may be used to provide in-kind match on multiple connecting routes, provided that no portion of eligible in-kind match (capital value) is used more than once under the Program.
- The MnDOT Office of Transit does not limit the use of in-kind match to state boundaries, provided that no portion of eligible in-kind match (capital value) is used more than once (i.e., the match value is not reported under the Section 5311(f) program of another State, or multiple States).

The formula for calculating in-kind match is explained and demonstrated in the table that follows. This formula, a slight departure from the one in effect through calendar year 2015, will take effect with grant contracts effective January 1, 2016.

**Table: Operating assistance scenarios using in-kind match**

<b>Step</b>	<b>Item</b>	<b>Scenario 1: excess in-kind match</b>	<b>Scenario 2: partial in-kind match</b>
A	Annual operating cost of the subsidized route	\$250,000	\$250,000
B	Annual operating revenue of the subsidized route	\$50,000	\$50,000
C	Annual net deficit of the subsidized route (A minus B)	\$200,000	\$200,000
D	Total annual cost of the unsubsidized connecting route	\$1,000,000	\$300,000
E	Annual capital cost of the unsubsidized connecting route (D x 50%, typically, using FTA's capital cost of contracting guidelines)	\$500,000	\$150,000
F	Annual operating cost of the unsubsidized connecting route (D minus E)	\$500,000	\$150,000
G	Annual operating revenue from the unsubsidized connecting route (assumed equal to F)	\$500,000	\$150,000
H	Annual net deficit of the unsubsidized connecting route (D minus G)	\$500,000	\$150,000
I	Total annual net deficit of the project (C + H)	\$700,000	\$350,000
J	50% of total annual net deficit (I x 50%)	\$350,000	\$175,000
K	Allowable Federal share of total annual net deficit (lesser of C or J)	\$200,000	\$175,000
L	Remaining annual capital cost of the unsubsidized connecting route, which may be used for in-kind match to other subsidized routes (E minus K, no less than zero)	\$300,000	\$0

If the operator of the unsubsidized connecting route is not the same as the applicant, the applicant must submit with the application a letter of support from the connecting operator certifying the following:

- That the connecting operator authorizes the applicant to utilize the capital value of its route for the purpose of providing in-kind match on the route specified; and
- That the data used in the application to calculate the capital value of the connecting route is accurate;
- That the route mileage of the connecting route will not be utilized in any other State for in-kind match under Section 5311(f) for the duration of the contract period, unless otherwise agreed in writing by the subrecipient and the affected State Departments of Transportation; and
- That the connecting operator acknowledges its participation in a project supported by MnDOT and FTA, and thereby agrees to adhere to applicable State and Federal requirements.

The MnDOT Office of Transit validates the source of the in-kind match both prior to the award of a grant contract and at least once during the implementation of the grant contract. Program staff verifies, by inspecting publicly available schedule and ticketing information, and/or by physically observing operations in the field, that the subsidized and unsubsidized services, and the connections between them, are being provided in a manner consistent with the information presented in the grant application, or as otherwise agreed in writing by all affected parties.

By accepting operating assistance under the Program, subrecipients agree to report the following data on a frequency to be determined by the MnDOT Office of Transit (monthly or quarterly), by route and direction, both for directly subsidized routes and those utilized for in-kind match:

- Expenses by line item
- Fare revenue and system revenue (e.g., advertising sales, package delivery, etc.)
- Revenue (in-service) miles and hours
- Passenger boardings

Subrecipients are also required to provide other data and documentation, as requested by the MnDOT Office of Transit, to substantiate expenses, revenues, service volume, and productivity, as well as to ensure compliance with State and Federal requirements.

The service plan (route alignment, stops, timetable, and connections) for any subsidized route, or for any unsubsidized route utilized for in-kind match, may be revised only with the mutual written consent of the MnDOT Office of Transit and the subrecipient. A subrecipient proposing a change to a service plan under an existing operating grant contract must notify the MnDOT Office of Transit of the proposed change at least 30 days

prior to the date of implementation. The proposed change may be implemented only with the written consent of the MnDOT Office of Transit.

The MnDOT Office of Transit requires subsidized routes to meet minimum standards of performance, which are described in a separate Technical Assistance Brief (Attachment A).

## **B. Marketing assistance**

Starting with grant contracts effective January 1, 2016, the MnDOT Office of Transit will no longer award separate marketing grant contracts under this Program, but will allow applicants and subrecipients to report eligible marketing costs as operating expenses for subsidized routes.

[Title 41 USC Section 4304\(a\)](#) and [Federal Acquisition Rules, Title 48, Code of Federal Regulations \(CFR\) Section 31.603\(b\)](#), specify that advertising and promotional items, among other expenses, are unallowable under Federal contracts. However, [Title 2 CFR Section 200.421\(b\)\(2\)](#) allows advertising expenses “for the performance of a Federal award”, and FTA specifically allows marketing expenses in support of intercity bus.<sup>15</sup>

The MnDOT Office of Transit considers a marketing expense eligible if it can be attributed directly and discretely to a product or service that can be competitively procured, and for which the primary result of the activity is to enhance public awareness of the intercity bus service being marketed. Examples of common marketing expenses that the MnDOT Office of Transit considers eligible under the Program include, but are not limited to, the following:

- Purchase of advertising space or time in any medium of mass communication (television, radio, podcast, website, mobile application, printed publication, electronic publication, billboard, etc.)
- Purchase of exhibition / showcase space at conventions or events, at a cost of \$2,000 or less per event
- Purchase of printed marketing materials (e.g., brochures, flyers, posters, banners, etc.)
- Promotional gifts of a nominal value (e.g., pens, coffee mugs, keychains, flashlights, portable USB storage drives), at a cost of \$5 or less per unit
- Costs incurred in the design and production of marketing material associated with any eligible marketing activity
- Staff time incurred in the administration or implementation of eligible marketing activities
- Reasonable travel expenses incurred by staff in the administration or implementation of eligible marketing activities

Examples of common marketing activities that the MnDOT Office of Transit considers ineligible under the Program include, but are not limited to, the following:

---

<sup>15</sup> [FTA Circular 9040.1G, Chapter VIII\(8\)](#)

- Broad sponsorships of public or private events (typically, a payment of a lump sum from the sponsor to the event organizer, in return for a package of advertising benefits, such as including the sponsor's name or image in public communications pertaining to the event)
- Any other such expense that has the appearance of a contribution or donation to an organization for a purpose not related directly to the delivery or publicity of intercity bus service
- Any cost incurred to influence (directly or indirectly) legislative action at any level of government
- Promotional prizes, such as for a drawing or sweepstakes (except for those of a nominal value, described above as eligible)
- Meals, entertainment, travel, or lodging (except for staff time and travel expenses described above as eligible)

## C. Capital assistance

### 1. Eligible capital expenses

FTA defines eligible capital expenses under Section 5311<sup>16</sup>. Broadly, capital projects that are typically supported under this Program include, but are not limited to, the procurement of vehicles, equipment, computer hardware, software, and other technology; construction and improvement of facilities; and rehabilitation of existing vehicles. FTA defines capital equipment as “an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost that equals or exceeds ... \$5,000.”<sup>17</sup>

The MnDOT Office of Transit provides assistance for capital projects that support intercity bus service in Minnesota. The maximum Federal share of capital costs is 80 percent. The remaining 20 percent must be provided by the subrecipient as local match, or by some other non-Federal funding source. The MnDOT Office of Transit may also utilize State funds to support an intercity bus capital project, or to offset the local match against the Federal share. In any given funding cycle, the MnDOT Office of Transit considers statewide intercity bus capital needs alongside local and regional public transportation needs.

Eligible capital projects typically support services that are also subsidized with operating assistance through the Program. However, a capital project supporting an unsubsidized intercity bus route may also be considered eligible under the Program, provided that the applicant and the associated route meet the eligibility criteria and other requirements defined in this brief.

For example, a provider operates an intercity bus route that serves rural communities in Minnesota. The route generates sufficient revenue to cover its operating costs, which leaves no operating deficit for which to provide operating assistance under this Program. However, the provider may still be eligible to receive capital assistance under this Program to purchase vehicles or equipment

<sup>16</sup> [FTA Circular 9040.1G, Chapter III\(3\)\(b\)](#)

<sup>17</sup> [FTA Circular 9040.1G, Chapter I\(4\)\(i\)](#)

to support the route, provided that the costs are allocated appropriately to Program-eligible services, and that all other Program requirements are met.

FTA rules specifically authorize depreciation and interest on privately funded capital used in support of Section 5311 activities. Therefore, the MnDOT Office of Transit allows private capital depreciation and interest as an operating expense under intercity bus grant contracts. Assets subsidized publicly by Federal, State, or local sources must be excluded from this cost allocation, so as to avoid duplicating any public subsidy.<sup>18</sup>

## **2. Intercity bus vehicles**

In determining the eligibility of a proposed capital project for the purchase or rehabilitation of vehicles, the MnDOT Office of Transit considers the total number of vehicles needed to operate subsidized intercity bus services in Minnesota. Of a subrecipient's active fleet, the total number of vehicles in which the State of Minnesota (or FTA, through a MnDOT grant contract) retains a vested interest<sup>19</sup> must not exceed the quantity needed to operate subsidized services in Minnesota.

For example, a subrecipient operates a total of five subsidized routes in Minnesota, each requiring one vehicle for operation, for a peak vehicle usage of five vehicles. Two spare vehicles are needed to ensure the reliability of the fleet. Given these parameters, the MnDOT Office of Transit may consider capital assistance for the procurement, rehabilitation, or maintenance of a total of up to seven vehicles in the subrecipient's fleet. If, at the time of application, the State of Minnesota already retains vested interest in three vehicles, the MnDOT Office of Transit will only consider capital assistance for the remaining four vehicles of the seven required to operate subsidized service in the State.

Given the interstate nature of intercity bus and the practical need for some subrecipients to utilize vehicles for both subsidized and unsubsidized service, it is not required that subsidized vehicles be utilized exclusively for subsidized service to rural communities in Minnesota. However, subsidized vehicles are not permitted for the operation of services that would otherwise be ineligible under the Program, such as charter bus, school bus, or commuter bus service. Subrecipients must maintain vehicle usage logs (vehicle identification, date, time, origin, destination, and purpose of service) and provide them to the MnDOT Office of Transit upon request.

## **3. Intercity bus facilities**

The MnDOT Office of Transit may consider utilizing Program funds to support the construction or improvement of a facility, provided that the affected property is owned by a public entity. The MnDOT Office of Transit does not utilize Program funds to construct or improve privately owned facilities.

---

<sup>18</sup> The eligibility of depreciation and interest is discussed further under part IX.A of this brief.

<sup>19</sup> Retention of vested interest is discussed further under part IX.C.4 of this brief.

#### 4. Retention of vested interest

When the MnDOT Office of Transit utilizes Program funds to support an intercity bus capital project, the State of Minnesota and/or FTA may retain an interest in the assets being procured, constructed, or improved. The use and disposal of these assets are subject to the MnDOT Office of Transit's transit asset management plan and other applicable policies and procedures. Subrecipients must follow the MnDOT Office of Transit's disposition policy for transit vehicles in order to dispose of vehicles purchased or rehabilitated with Program funds.

#### D. Planning assistance

While FTA allows States to utilize Section 5311(f) funding for intercity bus planning projects, the MnDOT Office of Transit does not offer planning grant contracts to individual subrecipients. The MnDOT Office of Transit periodically conducts a statewide intercity bus study in an effort to assess Program performance and statewide needs.

#### E. Cost allocation

The MnDOT Office of Transit considers an expense eligible only in proportion to its impact on Program-eligible services. An applicant or subrecipient may directly allocate costs to a supported project (e.g., staff time logged in the management of a project), or indirectly (e.g., total system costs applied to a project at a proportional rate). Depending on the nature of a given project, and subject to MnDOT Office of Transit review, the proportional impact may be measured in route miles, vehicle miles, vehicle trips, passengers served, or a similar measure. A subrecipient must demonstrate its cost allocation methodology at the time of application, and throughout the effective period of the grant contract. The applicant or subrecipient may choose the most appropriate cost allocation method, subject to review and approval by the MnDOT Office of Transit.

As an example of cost allocation, an applicant may propose the construction of a multimodal transportation hub, where both intercity bus and local public transit services would interconnect. This proposal may be eligible for intercity bus capital assistance in proportion to the relative volume of intercity bus service that would utilize the facility. If the total cost of construction is \$10,000,000, and intercity buses represent about 10 percent of the number of vehicle trips planned to circulate through the facility over a given time period, the MnDOT Office of Transit may consider an intercity bus capital grant based on a total eligible cost of \$1,000,000. (The maximum Federal share, at 80 percent, would equate to \$800,000).

#### F. Ineligible expenses

State funding may not be utilized for any purpose listed under [Minnesota Administrative Rules 8835.0290](#). Examples of such prohibited expenses include, but are not limited to, "general purpose equipment" (for a purpose other than public transportation); interest<sup>20</sup>; fines and penalties; contingency reserves; and charitable contributions.

Federal funding may not be utilized for any purpose listed under [Title 41 USC Section 4304\(a\)](#), and under the [Federal Acquisition Rules, Title 48 CFR Section 31.603\(b\)](#)<sup>21</sup>.

---

<sup>20</sup> Exceptions for capital depreciation and interest are discussed under part IX.A of this brief.

<sup>21</sup> Exceptions for marketing expenses are discussed under part IX.B of this brief.

Examples of such prohibited expenses include, but are not limited to, costs associated with entertainment and social events; lobbying; fines and penalties; alcoholic beverages; certain legal expenses; and excessive compensation for senior executives.

## **X. Project selection and method of distributing funds**

### **A. Application solicitation**

Starting with the solicitation for intercity bus grant contracts effective January 1, 2016, the MnDOT Office of Transit solicits intercity bus applications annually and issues grant contracts effective for the period of one calendar year. The MnDOT Office of Transit may hold an industry consultation<sup>22</sup> in conjunction with the opening of an application period.

The MnDOT Office of Transit announces each application opportunity via the State Register, the [Intercity Bus Program website](#), and direct communication to known intercity bus providers approximately 30 days in advance of the opening of the application period. Application materials are made available online, and submittals accepted, from approximately June through August.

Either before or during the application period, the MnDOT Office of Transit provides one or more opportunities for applicants and potential applicants to learn about Program requirements and seek technical assistance to complete the application. Such opportunities may include application workshops, one-on-one consultations with applicants, and ad hoc support by phone, by e-mail, or in person.

### **B. Application evaluation**

Following acceptance of applications, the MnDOT Office of Transit convenes an application evaluation committee, consisting of internal technical staff and one or more representatives from external entities in the field of passenger transportation. The committee evaluates the submitted applications with consideration of the following general criteria:

#### **1. Coverage**

The MnDOT Office of Transit seeks to maximize, to the extent feasible, the number of Minnesota communities served by intercity bus, and the number of Minnesota residents within reach of intercity bus service (using 10-mile and 25-mile radii around passenger boarding stops within the intercity bus network).

#### **2. Productivity**

The MnDOT Office of Transit seeks to support intercity bus services that attract a significant volume of ridership. The MnDOT Office of Transit also supports investments that help to attract and retain riders, such as onboard passenger amenities and customer information technology.

---

<sup>22</sup> Industry consultation is discussed further under part XI of this brief.

### **3. Quality**

The MnDOT Office of Transit seeks to maintain intercity bus fleets and facilities in good condition, maximize the reliability and convenience of service, and generally enhance the customer experience, both on and off the bus.

### **4. Financial effectiveness**

The MnDOT Office of Transit seeks to achieve the most effective possible outcomes with the resources available, maximizing efficiency and minimizing waste.

### **5. Management**

The MnDOT Office of Transit requires that subrecipients administer Program-supported activities effectively and comply with all Federal and State requirements.

## **C. Project selection and grant award**

Following application evaluation, the committee develops a recommendation identifying successful projects and proposed funding awards, and delivers these recommendations to the MnDOT Office of Transit Program Director. The Program Director, in turn, reviews, modifies (if appropriate), and delivers these recommendations to the Director of the MnDOT Office of Transit. The Director ultimately approves (with or without modifications) or rejects the proposed awards.

Following a final decision from the Director, the MnDOT Office of Transit notifies applicants of the final awards and assembles grant contracts for the approaching calendar year.

## **D. Appeal of rejected applications**

In the case of a rejected application, whether in whole or in part, the applicant may appeal the MnDOT Office of Transit's decision.

The applicant must appeal in writing (by e-mail or letter) to the Director of the MnDOT Office of Transit<sup>23</sup>. The written appeal must clearly identify the applicant, the project in question, and the grounds for appeal. Letters of appeal must be transmitted no later than 14 calendar days following the date on which the MnDOT Office of Transit transmitted notification of the rejected application.

The Director of the MnDOT Office of Transit reviews all appeals and provides a written response within 14 calendar days of receiving the written appeal.

## **E. Execution of grant contracts**

Grant funding is solidified only after the subrecipient and MnDOT sign and execute a grant contract, which defines the amount of the grant and the terms under which grant funding is paid to the subrecipient. Subrecipients that incur Program-related expenses prior to the execution of a grant contract do so at their own risk.

---

<sup>23</sup> Staff contact information can be found on the [MnDOT Office of Transit website](#).

## 1. Pre-Award Audit

MnDOT conducts a pre-award audit of first-time subrecipients to ensure that the participant has adequate financial management capacity to administer the grant contract.

## 2. Federal Certifications and Assurances

Approved subrecipients must agree to Federal certifications and assurances as part of the grant contract execution process. The MnDOT Office of Transit provides the required certifications and assurances to the subrecipient prior to the execution of the grant contract.

# XI. Governor's certification

As stated in the Introduction to this brief, Section 5311(f) requires each State to spend 15 percent of its annual Section 5311 apportionment in support of intercity bus transportation. When the intercity bus needs of the State can be met using less than the required 15 percent of the Section 5311 appropriation, the remaining Section 5311(f) funds can be transferred to the general Section 5311 non-urbanized area formula program (rural public transit) if the State's Governor or designee certifies that the intercity bus needs of the State have been adequately met. A State may determine whether intercity bus needs are "adequately met" relative to other rural transportation needs in the State.

Prior to such certification, Federal law and FTA guidance require an assessment of statewide intercity mobility needs, including consultation with the intercity bus industry, no more than four years prior to the date of certification. The following is a description of the elements required in an industry consultation process<sup>24</sup>, and the manner in which the MnDOT Office of Transit addresses these elements:

### A. Identification of intercity bus providers in the State

The MnDOT Office of Transit maintains a contact list of known providers of intercity bus service and other transportation operators that potentially qualify as Program participants, including providers of public transportation. Entities are added to (or removed from) the contact list as their existence and interest are made known to the MnDOT Office of Transit. The MnDOT Office of Transit may periodically consult [Russell's National Motorcoach Guide](#) and/or conduct internet searches to identify potentially interested parties. Interested parties may also contact Program staff and request to be added to the contact list. Notice of an impending industry consultation is distributed to this contact list and is also published in the State Register and on the [Intercity Bus Program website](#) at least 30 days prior to the date of any consultation meeting or deadline for written comment.

### B. Activities the State will perform as part of consultation with identified providers in the intercity bus industry

The MnDOT Office of Transit conducts each intercity bus industry consultation as a two-way channel of communication, both conveying information to and soliciting feedback from industry representatives. The MnDOT Office of Transit conducts industry

---

<sup>24</sup> [FTA Circular 9040.1G, Chapter VIII\(4\)\(b\)](#)

consultations by one or more of the following methods: in writing (sharing Program information and/or soliciting written comment by electronic or printed means); in person (meeting with industry representatives as a group, or in one-on-one consultations); and/or via conference call or webinar (again, as a group or one-on-one).

**C. An opportunity for intercity bus providers to submit proposals for funding as part of the State's distribution of its annual apportionment.**

The MnDOT Office of Transit conducts each industry consultation in advance of, or in conjunction with, the opening of an application period. However, a formal industry consultation does not necessarily precede every application period. Federal law and FTA guidance require the assessment of statewide intercity bus needs (including industry consultation) no more than four years prior to a Governor's certification of needs as adequately met. Prior to the opening of each application period, the MnDOT Office of Transit evaluates the need for an industry consultation, and the methods for conducting it, based on the significance of Program activities and new developments.

**D. A direct correlation between the results of the consultation process and a determination that the State's intercity service needs are adequately being met.**

The MnDOT Office of Transit solicits industry input on unmet intercity bus needs during each industry consultation. The MnDOT Office of Transit may incorporate identified unmet needs in a future update of the State's intercity bus study, or incentivize the fulfillment of unmet needs in the upcoming solicitation.

The MnDOT Office of Transit typically seeks a Governor's certification, if necessary, following the evaluation of submitted applications and final grant awards. This ensures that interested applicants have a reasonable opportunity to implement the unmet needs that they have identified through the consultation process.

The identification of unmet needs through the industry consultation, in concert with the most recent statewide intercity bus study, constitutes the MnDOT Office of Transit's assessment of intercity bus needs. The MnDOT Office of Transit recommends that the Governor sign a certification allowing the transfer of unused Section 5311(f) funds (including prior-year appropriations and unspent obligations) to the general Section 5311 non-urbanized area formula program (rural public transit) if one or both of the following conditions are met:

1. If the MnDOT Office of Transit's assessment demonstrates that the non-urbanized intercity bus needs of Minnesota can be met using less than the required 15 percent appropriation, and/or
2. If no eligible provider has submitted a viable proposal to carry out one or more identified unmet needs.

A previous Governor's certification is attached to this brief as a sample. (See Attachment B.)

## **XII. State administration and technical assistance**

State administration activities associated with this Program are generally the same as those for the broader Section 5311 program, except as noted throughout this brief. Refer to the Minnesota Section 5311 State Management Plan for additional details.

Projects supported under this Program typically represent only a fraction of a subrecipient's business, whether the subrecipient is a provider of local public transit, or a larger-scale, private-sector operator of intercity bus service. The MnDOT Office of Transit's oversight of a subrecipient under this Program is limited strictly to those activities that pertain directly to this Program. The MnDOT Office of Transit attempts to avoid duplication of oversight with regard to entities that receive FTA funding from multiple sources through the MnDOT Office of Transit. For example, if a subrecipient reports its drug and alcohol testing practices to the MnDOT Office of Transit as a public transit provider under Section 5311, the MnDOT Office of Transit does not duplicate this oversight under Section 5311(f). However, a finding of non-compliance under another Federal program may affect an entity's eligibility to participate under this Program.

Technical assistance activities associated with this Program are generally the same as those for the broader Section 5311 program, except as noted throughout this brief. Refer to the Minnesota Section 5311 State Management Plan for additional details.

Program subrecipients are eligible to participate in the MnDOT Office of Transit's Rural Transit Assistance Program (RTAP). Additionally, subrecipients should include training expenses as directly or indirectly allocated costs in the operating budgets of subsidized intercity bus routes.

## **XIII. Private-sector participation**

Because intercity bus transportation has historically fallen within the domain of private-sector operators, few public agencies are equipped to operate the kind of long-haul routes that form the core of an effective intercity bus network. For that reason, this Program is unique among the MnDOT Office of Transit's grant programs in its degree of reliance on private, for-profit entities to carry out Program objectives as subrecipients and operators.

Additionally, the private sector also plays a role in the Program through participation as vendors, contractors, and consultants, whose products and services are procured in conjunction with intercity bus projects supported by this Program.

## **XIV. Compliance with Federal requirements**

Subrecipients must comply with all applicable Federal requirements (laws, rules, regulations, and guidance) associated with the grant funds awarded. MnDOT, as the direct recipient of Section 5311(f) funds, is responsible for overseeing subrecipients' compliance with the requirements that apply to Federal transit programs. However, subrecipients are ultimately responsible for understanding and complying with all applicable Federal requirements.

A list of applicable Federal requirements is provided below. This list is intended as a general guide for Program stakeholders, and should not be considered an exhaustive or legally authoritative list of all Federal requirements that may apply to Program subrecipients. Federal requirements amended or adopted after the publication of this brief shall supersede.

**Table: Federal requirements applicable to the intercity bus program**

Topical area	Common nomenclature	Legal foundation (Federal code or other)	Rules and guidance
Civil Rights	<a href="#">Title VI of the Civil Rights Act of 1964</a>	<a href="#">42 USC §2000d</a>	<a href="#">FTA Circular 4702.1B</a>
	Equal Employment Opportunity	<a href="#">49 USC §5332(b)</a>	<a href="#">Circular 4704.1</a> , adopted in 1988 under the Urban Mass Transportation Administration (now <a href="#">FTA</a> )
	Environmental justice	<a href="#">Executive order 12898</a>	<a href="#">FTA Circular 4703.1</a>
	Disadvantaged Business Enterprises (DBE)	Various	<a href="#">49 CFR Part 26</a>
	Section 504 of the Rehabilitation Act of 1973	<a href="#">29 USC §701</a>	<a href="#">49 CFR Part 27</a> , <a href="#">49 CFR Part 37</a> , and <a href="#">49 CFR Part 38</a> ;
	Americans with Disabilities Act (ADA) of 1990	<a href="#">42 USC §12101 through §12213</a>	(proposed) <a href="#">FTA Circular 4710.1</a>
Drug and alcohol testing		<a href="#">49 USC §5331</a>	<a href="#">49 CFR Part 665</a>
Labor standards		<a href="#">49 USC §5333</a>	
Charter rule		<a href="#">49 USC §5323(d)</a>	<a href="#">49 CFR Part 604</a>
National Transit Database (NTD)		<a href="#">49 USC §5335(a)</a>	<a href="#">49 CFR Part 630</a>
Procurement	Third-party contracting	Various	<a href="#">FTA Circular 4220.1F</a>
	Buy America	<a href="#">49 USC §5323(j)</a>	<a href="#">49 CFR Part 661</a> and <a href="#">49 CFR Part 663</a>
National Environmental Policy Act (NEPA)		<a href="#">42 USC §4321</a> , et seq.	<a href="#">23 CFR Part 771</a>
Lobbying restrictions		<a href="#">31 USC §1352</a>	<a href="#">49 CFR §20.110</a>
All other FTA Certifications and Assurances		Various	<a href="#">Various</a>

State oversight of subrecipients for compliance with Federal regulations applicable to this Program are generally the same as those for the broader Section 5311 program, except as noted throughout this brief. Refer to the Minnesota Section 5311 State Management Plan for additional details.

The MnDOT Office of Transit oversees Program subrecipients only to the extent that each subrecipient's activities are directly supported by grant funding through the MnDOT Office of Transit. For example, the MnDOT Office of Transit monitors a subrecipient's vehicle maintenance practices only for vehicles in which either the State of Minnesota or FTA, through a MnDOT grant contract, maintains a vested interest.

The MnDOT Office of Transit monitors Program subrecipients for compliance with Federal requirements. The MnDOT Office of Transit documents its oversight by using the Annual Checklist for Section 5311. Not all subrecipients are necessarily evaluated in every compliance area every year, unless State or Federal law requires the MnDOT Office of Transit to do so.

## **XV. State program management**

Subrecipients agree to comply with all applicable State requirements associated with the grant funds awarded. The MnDOT Office of Transit is responsible for overseeing subrecipients' compliance with State rules, including, but not limited to, the following areas:

- Procurement
- Financial management
- Property management
- Vehicle use
- Maintenance and disposition
- Accounting
- Audit
- Closeout
- Financial reviews

State oversight of subrecipients for compliance with State rules applicable to this Program are generally the same as those for the broader Section 5311 program, except as noted throughout this brief. For additional details, refer to the [Minnesota State Management Plan for Section 5311](#). The MnDOT Office of Transit oversees Program subrecipients only to the extent that each subrecipient's activities are directly supported by grant funding through the MnDOT Office of Transit.

**Minnesota Department of Transportation****Office of Transit**

395 John Ireland Boulevard

Mail Stop 430

Saint Paul, MN 55155

## Technical assistance brief

**Date:** July 17, 2015  
**To:** Minnesota intercity bus program stakeholders  
**From:** Shaun Morrell, Intercity Bus Program Coordinator, MnDOT Office of Transit  
**E-mail:** [intercitybus.dot@state.mn.us](mailto:intercitybus.dot@state.mn.us)  
**Subject:** Intercity bus program performance measures

---

### I. Introduction

The MnDOT Office of Transit provides State and Federal grant funding to assist intercity bus operators in delivering intercity bus service to rural communities in Minnesota. In an effort to utilize the available funding in a responsible manner, the MnDOT Office of Transit periodically evaluates the productivity of grant-supported intercity bus services. Continued funding from the MnDOT Office of Transit for a given intercity bus route is contingent upon the route's compliance with the performance standards described below.

### II. Definitions

Routes are defined as follows:

- A. A "route" is defined as a regularly operated, bi-directional service of a fixed alignment and series of stops for passenger boarding and drop-off. Vehicle trips with minor variations in alignment and/or stop location(s) may be considered part of the same route. Performance is evaluated as a whole for all components of the same route (i.e., both directions on all variations of the route).
- B. A route that directly serves a location in the Twin Cities metropolitan area is considered a "trunk route".
- C. A route that does not directly serve a location in the Twin Cities metropolitan area is considered a "regional feeder route", although it may connect to a trunk route.

### III. Performance measures and standards

The MnDOT Office of Transit's performance measures and standards for intercity bus operations are modified from those proposed in the MnDOT Office of Transit's [Minnesota Intercity Bus Study](#), adopted in 2014 (see [Chapter 5](#)). The MnDOT Office of Transit expects each subsidized intercity bus route\* to meet the following performance standards, averaged over a span of time as determined by the MnDOT Office of Transit (discussed further below, under "Evaluation of route performance"):

## A. Passenger boardings per vehicle trip

### 1. Trunk routes

Each trunk route is expected to generate an average of at least **10 passenger boardings per vehicle trip**.

### 2. Regional feeder routes

Each regional feeder route is expected to generate an average of at least **3 passenger boardings per vehicle trip**.

## B. Fare recovery ratio

Fare recovery ratio is calculated as the passenger fare revenue generated by a route, divided by the total (gross) operating cost for that route over the same period. Each route (both trunk routes and regional feeder routes) is expected to generate **passenger fare revenue equal to at least 20% of its total operating cost**. Other forms of revenue (package delivery, advertising sales, etc.) are not included as passenger fare revenue for the purpose of calculating fare recovery ratio.

## IV. Evaluation of route performance

The MnDOT Office of Transit may evaluate the performance of grant-supported intercity bus routes at any time. Typically, route performance is evaluated during the grant application process, when intercity bus operators request funding under the program to start or continue operations to rural communities in Minnesota. However, the MnDOT Office of Transit may evaluate route performance and take corrective action at any time during the course of an active grant contract.

In its evaluation of route performance, the MnDOT Office of Transit determines the appropriate span of time within which to examine performance data. Typically, this span of time is either 12 or 24 months, but may be more or less, depending on the history and the characteristics of the route in question.

## V. Outcomes of performance evaluation

### A. Finding of sufficiency

The MnDOT Office of Transit shall deem an intercity bus route as sufficient, for the purpose of performance, if it meets either of the above standards (minimum passenger boardings per vehicle trip or minimum fare recovery ratio) during the examination period. The MnDOT Office of Transit shall not deny or cancel grant funding for the route on the basis of performance if the route is deemed sufficient as described here.

### B. Finding of deficiency

The MnDOT Office of Transit shall deem an intercity bus route as deficient if it meets neither the minimum passenger boardings per vehicle trip, nor minimum fare recovery ratio, during the examination period.

If the evaluation is conducted in conjunction with an application for grant funding (whether to start or continue operation of an intercity bus route), the MnDOT Office of Transit may reject the application on the basis of deficiency.

If the evaluation is conducted during the course of an active grant contract, the MnDOT Office of Transit may cancel the remaining grant funding for expenses not yet incurred in the operation of a deficient route. The MnDOT Office of Transit notifies the grant recipient of such cancellation in writing at least 60 days in advance. The MnDOT Office of Transit may or may not pursue a formal amendment of the grant contract, depending on the circumstances of the grant contracts in question.

The MnDOT Office of Transit requires the grant recipient to issue public notification of any route cancellation or restructuring with at least 30 calendar days' advance notice, and to refund any prepaid passenger fares for travel scheduled on or after the date of cancellation.

## **1. Exception for continual improvement**

The MnDOT Office of Transit may make an exception to the finding of deficiency if the route demonstrates clear and continual improvement in one or both performance measures during the examination period.

## **2. Other corrective measures**

The MnDOT Office of Transit may also make an exception if the applicant or subrecipient proposes to restructure the route significantly in an effort to improve ridership and/or fare recovery (whether by increasing fare revenue or reducing operating cost). If appropriate, the MnDOT Office of Transit may also consider a targeted marketing campaign as an acceptable measure to improve route performance.

## **3. Reinstatement of grant funding**

The MnDOT Office of Transit does not reinstate grant funding for a deficient route for at least 24 months following the date on which grant funding was terminated, unless the proposal for reinstatement involves a significant restructuring of the route and/or is supported by a rigorous quantitative analysis demonstrating that the route would meet the MnDOT Office of Transit's performance standards for this program.



**ATTACHMENT B**

**STATE OF MINNESOTA**  
Office of Governor Mark Dayton  
130 State Capitol ♦ 75 Rev. Dr. Martin Luther King Jr. Boulevard ♦ Saint Paul, MN 55155

April 15, 2014

Ms. Marisol R. Simón  
Regional Administrator  
FTA Region V  
200 West Adams Street, Suite 320  
Chicago, Illinois 60606-5215

Re: Certification of Intercity Bus Needs for Release of Federal §5311(f) Funding

Dear Ms. Simón:

The Minnesota Department of Transportation (MnDOT) carries out a program to develop and support rural intercity bus transportation. MnDOT receives grants from the Federal Transit Administration (FTA) for that purpose. Title 49, United States Code (USC), §5311(f)(1), requires states to "...expend at least 15 percent of the amount made available in each fiscal year [under the broader Formula Grants for Other Than Urbanized Areas program, §5311] to carry out a program to develop and support intercity bus transportation...".

Pursuant to §5311(f)(2), this minimum expenditure can be waived if "...the Governor of the State certifies to the Secretary [of Transportation, via the Federal Transit Administrator], after consultation with affected intercity bus service providers, that the intercity bus service needs of the State are being met adequately." This certification process allows unused intercity bus funding to be redirected toward more general, local public transportation purposes in non-urbanized communities. Many States undertake this certification process as a matter of routine in managing their non-urbanized transit funding, and Minnesota employed this tool last year for the release of §5311(f) funds appropriated in Federal fiscal year (FFY) 2011.

Pursuant to §5311(f)(2), I certify that the state of Minnesota is meeting its intercity bus needs adequately, while utilizing less than the minimum dedication of Federal transit funding to rural intercity bus purposes. It is this state's intention, therefore, to transfer \$1,118,492 of the FFY 2012 appropriation from the §5311(f) program into the more general Formula Grants for Other Than Urbanized Areas program (§5311). This represents a "partial certification" (i.e., less than the full appropriation) against the FFY 2012 funds.

The MnDOT has fully funded all eligible intercity bus projects through the current state fiscal year (through June 30, 2014), using appropriations from past FFYs and previously unspent obligations. However, there are other, significant unmet needs for local transit in Greater Minnesota, to which purpose we wish to redirect some of the unobligated funds made available under §5311(f). This release of funding will enable MnDOT to create a better balance between public transportation appropriations and real transit needs in Greater Minnesota.

Ms. Marisol R. Simón  
April 15, 2014  
Page 2

According to the Minnesota Intercity Bus Study, updated in January 2014, 95% of Minnesota residents live within a 25-mile radius of an active intercity bus stop. The updated study also demonstrates that Minnesota travel corridors, which are currently unserved, could not be served in a cost-effective manner by intercity bus.

In accordance with FTA guidance (Circular 9040.1F), and following due public notice, MnDOT held a consultation meeting on November 13, 2013, with a broad base of representatives from the intercity bus industry and related carriers to assess the unmet needs of the state and discuss the prospect of this certification. Representatives from major intercity bus carriers, airport shuttle services, and local public transit providers participated in the consultation. At this consultation, MnDOT provided industry stakeholders with an opportunity to bring unmet needs to light, and these unmet needs (mainly capital, marketing, and agency coordination needs) were taken into consideration in developing the 2014 Intercity Bus Study's findings and recommendations. The consultation also offered industry representatives with an opportunity to voice concerns about potential certification and release of funds. No objections were raised, either during the consultation meeting or in writing.

Following the industry consultation, MnDOT solicited project applications under the intercity bus program for the 18-month period from July 1, 2014, through December 31, 2015. Public and private providers submitted project applications, requesting more than \$3.8 million in total Federal subsidy during that period. All of the requested subsidy could, pending application evaluation and approval, be funded in full with Minnesota's outstanding FFY 2013 and 2014 appropriations, and the unspent obligations from prior-year FTA grants. While these sources alone total more than the requested subsidies, the Office of Transit also anticipates that current FTA grant money currently obligated to intercity bus contracts through June 30, 2014, will be underspent, resulting in additional remainders, which will be applied to the upcoming project contracts.

In short, MnDOT anticipates no shortage of Federal funding to fulfill Minnesota's intercity bus needs through calendar year 2015 and beyond. Rather, our challenge in the near future will be to identify match sources at the local, state, and private levels, including an in-kind capital match provided through unsubsidized connecting services.

I look forward to a continuing partnership with the FTA in meeting the transportation needs of the people of Minnesota.

Sincerely,



Mark Dayton  
Governor

cc: Tim Henkel, Assistant Commissioner, MnDOT  
Mike Schadauer, Director, MnDOT