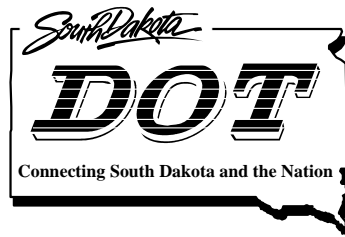


**South Dakota Management Plan
For the
Section 5311 Program
CFDA 20.509**



**Prepared by:
South Dakota Department of Transportation
In Cooperation with
U.S. Department of Transportation
Federal Transit Administration
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INTRODUCTION

Section 5311 of the Surface Transportation Assistance Act authorized the Section 5311 Program. The Section 5311 program offers Federal assistance for public transportation in rural and small urban areas by way of a formula grant program to be administered by each state. Rural and small urban areas and nonurbanized areas mean any area outside an urbanized area. Urbanized areas consist of a core area and the surrounding densely populated area with a population of 50,000 or more. Section 5311 projects may include the transportation of nonurbanized residents to and from urbanized areas.

Program funds may be used for capital, operating and administration assistance to State agencies, local public bodies and agencies thereof, nonprofit organizations, Indian Tribes and groups, and operators of public transportation services in areas other than urbanized areas. Private for-profit operators are eligible to receive Section 5311 program funds through purchase of service agreements with any nonprofit public body.

An Application Guide for Public Transportation Assistance for Small Urban and Rural Areas has been prepared, and is transmitted to all applicants. The guide addresses most of the supporting information that must be included in the application.

Public transportation means transportation by bus, rail, or other conveyance, either publicly or privately owned, which provides to the public general or special service on a regular and continuing basis.

PROGRAM MANAGEMENT

The Governor of the State of South Dakota has designated SDDOT as the agency responsible for administering the Section 5311 program. The Office of Air, Rail and Transit (hereafter referred to as SDDOT), under the Division of Fiscal and Public Assistance has the day-to-day management responsibility for the Section 5311 program.

Other offices support the SDDOT in administering the Section 5311 program, including:

1. Internal Audits, under the Department of Transportation reviews independent audits of subgrantees with more than \$500,000 per year to ensure that audit findings are resolved. They conduct the program review of subrecipients of projects that receive less than \$500,000 per year in federal funds.
2. Office of Procurement Management under the Bureau of Administration, secures statewide contracts for state and local government agencies to purchase items.
3. DOT Legal Section under the Attorney General reviews agreements between SDDOT and subrecipient for compliance with state and federal requirements.
4. Accounting Section under the Division of Fiscal and Public Assistance, processes payment to vendors for vehicles procured for subrecipients. They also process the ECHO drawdown from FTA.
5. Compliance Section under the Department of Transportation is responsible for Title VI, DBE and EEO.

**SOUTH DAKOTA MANAGEMENT PLAN
FOR THE SECTION 5311 PROGRAM**

I. Goals and Objectives

A. Statewide

1. To improve the mobility of people in nonurbanized areas for purposes of nutrition, health care, shopping, education, recreation, public services and employment.
2. To encourage the development, improvement, maintenance, and use of public transportation services in rural and small urban areas.
3. To encourage and facilitate the most efficient use of all federal funds to provide passenger transportation in nonurbanized areas through the coordination of programs and services.
4. To provide for the participation of private transportation providers in nonurbanized transportation to the maximum extent feasible.

B. Priorities

1. To support and improve existing public and privately-owned transportation services for an area rather than implementing new services.
2. To improve the mobility of elderly persons, persons with disabilities and general public by supplementing existing transportation programs with Section 5311 funds.
3. To develop and implement new public transportation projects (capital, administration and operations) based on areas of highest priority need.

II. Distribution of Funds

Transportation for elderly persons and persons with disabilities in South Dakota had been provided for several years through funding available through both the Department of Social Services and SDDOT. These funding sources were all categorically restricted, so existing transportation services were principally developed for elderly persons and persons with disabilities. A major policy of the SDDOT was to make ongoing transportation services open to the general public for both private and special service providers with Section 5311 funds. This policy allows SDDOT to make a statewide distribution of limited Section 5311 funds.

The use of transit service organizations, as applicants of Section 5311 funds, is actively promoted by SDDOT staff. The development of two or more projects within the same rural community is not allowed. This policy encourages coordination and reduces duplication at the local level. Section 5311 subgrantees are encouraged by SDDOT staff to invite proposals, evaluate cost benefits, and contract with private sector organizations for goods and services; especially transportation services.

III. Coordination

The United We Ride Initiative is a joint effort between the South Dakota Departments of: Transportation, Social Services, Human Services, Health and Labor, as well as representation from the Statewide Independent Living Council. Coordination has been defined as an arrangement for the provision of transportation services in a manner that is cost effective, efficient and reduces fragmentation and duplication of services. The major purpose of coordination is to increase vehicle utilization and ridership, thereby helping local agencies meet a greater number of needs by pooling resources. The United We Ride Initiative seeks to create a single entity in each community which:

1. Coordinates existing community agencies receiving funds from state and government for transportation services.
2. Acts primarily as the hub of transportation services to all segments of the community population, not to specialized segments of citizens. The applicant is willing to structure its activities in order to effect coordinated transportation with other agencies and private transportation providers.
3. Has a governing board comprised of community leaders from businesses, local government, riders, transportation providers and human service agencies.
4. Demonstrates that existing equipment operated by public or private providers are being fully utilized.
5. Applicants are required to describe how the service they proposed to provide will be coordinated with existing public and private services. If another public or private agency currently provides transportation service similar to that proposed by the application, the applicant must explain why the proposed service will not be duplicative. Applicant will seek and consider proposals by private operators to provide necessary services under contract.

Communities with a community developed transportation coordination plan are not guaranteed additional state or federal dollars for transit purposes but they will receive a higher priority for funding from state agencies when dollars for transit vehicle procurements and operating grants are being allocated.

IV. Criteria for Project Selection

A. Capital Projects

When Section 5311 funds are used for capital projects the following procedures will be used:

1. The SDDOT's Project Replacement Schedule, Grantee's Replacement Schedule, are compared to fund projects that are listed in two or more of the replacement schedules. A list of projects is completed. Each of these projects is evaluated by the SDDOT. The criteria used are vehicle age and mileage, coordination with existing service providers, availability of local funding for capital match and operating expenses and accessible features for persons with disabilities. A tentative prioritized Program of Projects is developed.

Communities with a community developed transportation plan are not guaranteed additional state or federal dollars for transit purposes but they will receive a higher priority for funding from state agencies when dollars for transit vehicles procurement and operating grants are being allocated.

B. Administrative and Operating Projects

An annual statewide program of projects is developed based on the following procedures:

1. Potential applicants are notified of availability of funds.
2. Applications are accepted and reviewed by SDDOT staff. Areawide transportation projects are encouraged and given preference. Individual communities or organizations submitting proposals are encouraged to coordinate with existing areawide providers. Past performance (units of service, coordination efforts and financial management) is reviewed when considering existing projects for continued funding. Preference is given to existing projects with good records of service. Preference is also given to projects which demonstrate involvement with, and utilization of, available private transportation services.
3. Using the State's fiscal year set-aside amount available under the Section 5311 program, the SDDOT determines how far down the priority list project can be funded.
4. The list of projects is sent to the FTA.

C. State Imposed Requirements

1. As of Fiscal Year 1987, Section 5311 subgrantees must achieve operating revenues and/or other income equivalent to 15% of total funds expended for both administrative and operating purposes by the sixth month of the fiscal year. At that time, the SDDOT staff review revenues to ensure that the 15% is being met. If the 15% is not met, the 15% revenue figure is calculated and payment to the subgrantee is decreased. With SDDOT approval, certain designated expenditures will not be counted in figuring the 15% requirements.

V. Public Input and Private Provider Participation

A. Public Input

1. State agencies provide input at meetings of the United We Ride Initiative. These meetings cover dissemination of information, planning, programming, implementation, and legislation concerning public transportation programs. State agencies provide services to minorities, economically disadvantaged, elderly persons and persons with disabilities and other consumer groups that are frequently in need of public transportation services.
2. SDDOT will develop a Statewide Transportation Improvement Program (STIP) which will include a multiyear programming of Section 5311 funds.
3. Annually, during the month of July, SDDOT holds statewide public hearings on the 5-Year Statewide Transportation Improvement Program (STIP). Citizens are encouraged to attend these published public hearings on the STIP and to make comments or to recommend changes on the projects listed for future funding.

B. Private Provider Participation

1. SDDOT requires that any local group interested in establishing a new, or continuing an existing transportation program, contact area public and private providers of transit and paratransit services, directly or by mail, with information on proposed public transportation programs, and that these area service providers be allowed to request a public hearing or make a proposal to provide the necessary services on a proposed project.

Applicants for Section 5311 Funding must publish notice of intent to apply in an area newspaper.

2. Subgrantees are urged by SDDOT to involve the private transportation providers in the planning and early development of proposed projects.
3. In the event that a public or private for profit transit provider raises a complaint seeking to prevent SDDOT from approving the proposed grant application, the following complaint resolution procedure shall be initiated:
 - a. Complaints made directly to the subgrantee shall be resolved locally by the subgrantee's Board of Directors.
 - b. Complaints made directly to SDDOT shall be sent to the subgrantee for local resolution attempts. The subgrantee will be given 14 days to return a written statement from the objecting party stating that the complaint is being withdrawn.

- c. Failure to resolve complaint(s) locally will require the Office of Air, Rail and Transit to receive assistance from the South Dakota Department of Transportation Secretary for resolution. .
- d. Only complaints about the lack of need and/or charges of service duplication related to the proposed grant application will trigger Paragraph (C) of the complaint resolution procedures above.

VI. Title VI, EEO and MBE Requirements

The State procedure for compliance with Title VI, EEO, and DBE/MBE requirements are in accordance in the South Dakota Department of Transportation Title VI Program, the South Dakota Department of Transportation EEO Program, and the South Dakota Department of Transportation DBE/MBE Program, respectively.

Annually, each subgrantee will submit a signed and dated Standard DOT Title VI Assurance. As a part of each third party contract executed, the local recipient will sign a local Civil Rights Assurance.

Subgrantees will take all necessary and reasonable steps to:

1. Identify contracting opportunities
2. Analyze area DBE/WBE availability
3. Use good faith efforts to utilize DBE/WBE firms, and,
4. Maintain necessary records to verify steps taken and participation achieved.

Subgrantees will file an annual DBE/WBE activity report. This report details: A) dollar value of contracting opportunities, B) expenditures made to certified DBE and WBE firms, and C) identification of any potential DBE/WBE firms in the area.

Subgrantees will certify to SDDOT "that special efforts are being made to provide transportation that persons with disabilities can use, including wheelchair users and semiambulatory persons. This transportation shall be reasonable in comparison to the transportation provided to the general public and shall meet a significant fraction of the actual transportation needs of such persons within a reasonable time." All capital purchases approved by SDDOT will show consideration for any persons with disabilities needs currently unmet in the project area.

Subgrantees will file a yearly Title VI report. This report details: A) list of any complaints or lawsuits, B) list of federal funding, C) description of program advisory committee and D) summary of any civil rights compliance review activities conducted by the subgrantee.

SDDOT conducts site visits to each subgrantee. Civil Rights will be one of the items of discussion. All complaints of a Civil Rights nature will be forwarded to SDDOT's Civil Rights Officer for investigation and resolution.

VII. Financial Management

- A. Contracts
A contract between SDDOT and each of the subgrantees is fully executed after a Program of Projects approval by FTA. The contract provides for Federal reimbursement of up to 80 percent of the costs for capital equipment, 81.95 percent for administration costs and 51.218 percent of the net operating deficit. A minimum level for revenues is set at 15 percent of total administrative and operating costs by the sixth month of the fiscal year. At that time, SDDOT staff review revenues to ensure that the 15 percent is being met. If the 15 percent is not met, the 15% revenue figure is calculated and payment to the subgrantee is decreased.
- B. Invoices
Upon receipt of a vendor invoice and state inspection of the vehicle or equipment, the State processes a direct voucher to the State Auditor for payment to the vendor.
- C. Direct Vouchers
Each subgrantee will provide a direct voucher to request reimbursement for 51.76 percent of the net operating costs and 82.82 percent of the administrative costs that are directly related to the project approved budget. Eligible operating and administrative costs are defined by SDDOT.
- D. Reimbursement to SDDOT
South Dakota Department of Transportation, Division of Fiscal and Public Assistance, will request reimbursement from FTA by Letter of Credit.
- E. Audits
A review will be conducted on each grant when required, to assure that all payments made for invoices and direct vouchers were made and were eligible project costs. The review will be performed by Internal Audits, or Internal Audits will review audits performed by independent auditing firms.

VIII. Monitoring and Evaluating Projects

Minimum federal reporting requirements are required on all projects. Annual meetings will be held with each subgrantee and an inspection of applicable Section 5311 vehicles will be conducted. Subgrantees will be evaluated on a continuing basis as needed.

A comparative summary of Section 5311 projects is prepared at the end of each federal fiscal year. This summary will be used internally by SDDOT as a quick reference that will give a capsule look at the transportation services being provided by each project. Each recipient of Section 5311 funds will be sent a copy of the summary. Data from these summaries may also be used by SDDOT when determining if continued funding is justified and, if so, evaluating the funding levels of each project compared to other similar projects throughout the State.

Reports that are required from subgrantees are outlined as follows:

- A. Quarterly Progress Report for Section 5311
Reports include project number, the period covered, name and agency name, service description, marketing efforts, major accomplishments, classification of passengers (aggregate number of one-way trips) by elderly persons, persons with disabilities, school age and general public.
- B. Vehicle Monitoring Report
Reports include grantee name, agency name, period covered, vehicle number, license number, serial number, operating characteristics, ridership, trip purpose, financial data, and assurances. Monthly, quarterly or yearly monitoring report must be completed for every vehicle under every subgrantee receiving funding under the Section 5311 program.

IX. State Program Management and Technical Assistance

- A. Planning and Project Development
 - 1. SDDOT assists in determining public transportation needs for service areas. This assistance may include an inventory of existing public and private transportation services, the total estimated demand for transportation and the estimated number of vehicles needed to satisfy the unmet demand.
 - 2. SDDOT offers to provide technical assistance to local groups or organization that plans to provide public transportation services, for a given area, assisted by Federal programs. The local group or organization is responsible for development of a functional plan for public transportation, and SDDOT provides information on available Federal and State resources, planning requirements, involvement of other private and public transportation providers, and programming requirements.
- B. General Administration
SDDOT may utilize up to 15 percent of the annual Section 5311 apportionment to administer the Section 5311 program and provide any necessary planning, technical assistance and research. These funds may be passed on to local recipients for appropriate functions on a discretionary basis.

The SDDOT, acting through the Office of Procurement Management, will conduct bid lettings for all new Section 5311 funded vehicles in accordance with State bid letting procedures. Vehicle bid specifications will be provided by SDDOT, including Buy America requirements. All used vehicles will be procured by SDDOT.

SDDOT is responsible, without recourse to FTA, for the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into support of a grant. This includes, but is not limited to, disputes, claims, private sector involvement, protests of award, source evaluation, or other matters of a

contractual nature. Matters concerning violation of law will be referred to the local, State or Federal authority with proper jurisdiction.

SDDOT is responsible for the award and administration of FTA contracts and support of grants, recognizing that public funds are being expended, and SDDOT will take every care and precaution to assure that the expenditures are made for allowable costs. All actions are thoroughly documented.

For all procurement over \$100,000, vendors are required to complete a certification on debarment, suspension, and lobbying, Buy America, and bus testing. In addition, subgrantees must sign Exhibit D of each Section 5311 Agreement "Certification for Debarment and Other Responsibility Matters". All purchase agreements with vendors include all Federally Required Clauses.

For all new buses, vendors are required to comply with all federally required clauses.

For any actions that must be approved by FTA, SDDOT will submit documentation that justifies the action taken.

No employee, officer or agent of the State of South Dakota or approved third-party applicant shall participate in the selection, award or administration of a procurement supported by Federal funds, if, to his or her knowledge, any of the following has a financial or other interest in suppliers considered for award:

1. The employee, officer or agent;
2. Any member of his or her immediate family;
3. His or her partner; or,
4. An organization which employs or is about to employ, any of the above, has a financial or other interest in the firm selected for the award.

No employee, officer or agent of the SDDOT or approved third-party applicant shall receive gratuities, favors or anything of monetary value from suppliers considered for award.

SDDOT staff will be alert to any organizational conflicts of interest or noncompetitive practices among vendors which may restrict or eliminate private sector competition or otherwise restrain trade.

All procurement transactions will provide maximum open and free competition. Contract provisions that may amount to cost-plus-a-percentage-of-cost contracting are prohibited.

C. Property Management

1. Vans and Station Wagons Disposition

The useful life of a van and station wagon has been defined as 7 years, or 100,000 miles. After this standard is reached, they will no longer be required to submit quarterly reports to SDDOT.

2. Mini-Buses, Medium Buses and School Buses Useful Life

The useful life for mini-buses, medium buses and school buses has been defined as having a market value of less than \$5,000. Market value for buses will be figured by depreciating the value of the vehicle by 18% per year.

D. Vehicle and Lift Equipment Maintenance and Inspection Records

In the owner's manual and the lift equipment manual that is included with each vehicle, there is a complete vehicle maintenance schedule. The schedules list the service functions and the service time intervals, in months, miles, or cycles. Each transit manager is instructed to service the vehicle(s) and lift equipment, at a minimum, in accordance with the maintenance schedules, and to keep records to show that service was completed. During an annual inspection, SDDOT staff will ask to review the maintenance records. The SDDOT staff will randomly pick maintenance reports to review. In addition, each agency will submit certification that service is completed at least as scheduled per the owner's manuals. Request for certification will be sent out annually by the SDDOT.

E. Record Keeping Requirements

1. SDDOT provides instructions on record keeping necessary to satisfy State and Federal requirements. "The Financial Management Guidelines for the Section 5311 Nonurbanized Area Public Transportation Assistance Program", prepared by SDDOT, is distributed to each subgrantee. The Guidelines discuss how eligible costs must be documented.

X. Other Provisions

A. Labor Protection Provisions

Local recipients will indicate in writing acceptance of the terms and conditions of the Special 13(c) Warranty. Such acceptance will be sufficient to permit the release of Section 5311 funding in the absence of a finding of non-compliance by the U.S. Department of Labor. The letters of acceptance are on file at SDDOT.

A listing of all transportation providers receiving Section 5311 funds, a listing of other eligible transportation providers in the geographic area of each project, and any labor organization representing the employees of such providers is forwarded to the U.S. Department of Labor at least annually.

B. Environmental Protection

Most transit projects funded under Section 5311 will be classified by FTA as categorical exclusions. SDDOT will screen potential projects to make an initial determination as to which projects clearly meet the FTA criteria for categorical exclusions and which projects may require additional documentation. The latter projects will be coordinated with the FTA Regional Office early in project

development so that any necessary environmental analysis and review will not delay implementation.

- C. Pre-Award, Post Delivery Audits and Buy America
All vendors of applicable Section 5311 funded new equipment will certify in writing, to be in compliance with the Buy America requirements of Section 165(a) of the Surface Transportation Act of 1982 and the regulations set forth in 49 CFR Parts 660 and 661 of the Federal Register. In addition, SDDOT will conduct a pre-award and post-delivery audit to assure compliance with SDDOT bid specifications, Buy America and Federal vehicle safety requirements.
- D. Charter and School Bus Operations
Subgrantee must submit to SDDOT assurances on compliance with all charter and school bus regulations in each Section 5310 and Section 5311 Agreement. A sample of this assurance is found as Attachment 2 in this document. The assurance must also be submitted with each Section 5309 & 5310 Capital Grant Application and is attached to that application. This assurance is also required with each Section 5311 Grant Application.
- E. Section 504 Regulations and Americans with Disabilities Act
Subgrantees must submit to SDDOT assurances on compliance with the Section 504 regulations and the Americans with Disabilities Act (ADA).
- F. Recipient Assurances
Subgrantees will sign, on a one time basis (with appropriate updates and amendments), an assurance of compliance with the laws and administrative requirements listed in Attachment 3 of this document.
- G. Lobbying
No Federal funds will be used to influence Federal or State grants or programs. All Section 5311 subgrantees and bidders for vehicle procurements must complete an annual certification on debarment, suspension and other responsibility matters in each Section 5311 Agreement.
- H. Drug and Alcohol Abuse
Section 5311 recipients are required to comply with regulations issued by the Federal Transit Administration on drug and alcohol testing, 49 C.F.R. Parts 653 and 654. Among other requirements, these regulations require that all safety sensitive employees be tested for drug and alcohol use pre-employment (drug only), random, and post accident, return-to-duty, or reasonable suspicion, that certifications be made, and that reports be submitted.

The SDDOT requires that each subgrantee complete the following on an annual basis: (1) the Federal Transit Administration Drug and Alcohol collections forms

(2) the Annual Project Review Report, which includes questions relating to their Drug and Alcohol policies.

SDDOT will review the subgrantee's Drug and Alcohol Policies when annual performance reviews are being conducted.

XI. Rural Transit Assistance Program

A. Introduction

Section 5311 (b) (2) of the Federal Transit Act, as amended, reauthorizes the Rural Transit Assistance Program. Section 5311(b) (2) authorizes the Secretary of the United States Department of Transportation to carry out a rural transit assistance program in non-urbanized areas. In carrying out this subsection, the South Dakota Department of Transportation, Office of Air, Rail and Transit, is authorized to make grants and to enter into direct contracts for transit research, technical assistance, training, and related support services in non-urbanized areas. The RTAP program provides a source of funding to assist in the design and implementation of training and technical assistance projects and other support services tailored to meet the special needs of transit operators in nonurbanized areas.

RTAP has two components: fifteen percent of the funds are used to support a national program which is developing training and technical assistance materials for use by States and local operators and to perform clearinghouse and research functions; the remaining eighty-five percent of the funds are used for State programs, through an annual allocation of funds to the States to carry out needed training and technical assistance in non-urbanized areas.

B. National Rural Transit Assistance Program

The national program objectives of the RTAP are as follows:

1. To promote the safe and effective delivery of public transportation in nonurbanized areas and make more efficient use of public and private resources.
2. To foster the development of state and local capacity for addressing the training and technical assistance needs of the rural transportation community.
3. To improve the quality of information and technical assistance available through development of training and technical assistance resource materials.
4. To facilitate peer-to-peer self help through the development of local networks of transit professionals.
5. To support the coordination of public, specialized and human service transportation services.

6. To build a national database on the nonurbanized segment of the public transportation industry.

The National RTAP Program has developed modules on Substance Abuse Awareness, Emergency Procedures for Rural Transit Drivers, Essential Skills for Dispatching, Rules and Responsibilities for Transit Board Members and Special Transit and Rural Transit Safety. These modules can be used in either a self-paced or an instructor-led situation and are available from the South Dakota Department of Transportation, Office of Air, Rail and Transit.

C. South Dakota Department of Transportation

The South Dakota Department of Transportation views the RTAP Program as an important resource to help strengthen rural and specialized transit operations providing service in South Dakota.

The South Dakota RTAP Program of Projects is divided into the following four functions or categories:

1. Technical Assistance - Travel expenses for peer-to-peer network, reimbursement to subgrantee managers for helping new projects get started, assistance in responding to contract opportunities, support for review of existing systems.
2. Training - Sponsor workshops, scholarships for local managers to attend workshops, scholarships for attending Dakota Transit Association and regional transit trainings and meetings, developing videos and other training tools.
3. Related Support Service - Support for joint projects, cost-sharing of interstate projects, surveys, and assessments, and support for State transportation conferences.
4. Special Studies - Staff training, interstate projects and staff development.
The South Dakota RTAP Program of Projects is developed from information from Dakota Transit Association meetings, Rural Public and Special Transit Directors meetings, staff contact with grantees and from the State evaluation of Section 5310 and Section 5311 projects. This training is made available to the rural and specialized transit operators by workshops put on by South Dakota Department of Transportation, Office of Air, Rail and Transit, Dakota Transit Association meetings and conferences, local workshops put on by the transit provider, and requests from the transit providers to attend a local or regional training course.

XII. Intercity Bus

A. Introduction

Section 5311(f) of the Federal Transit Act, as amended, addresses the intercity bus program. The Governor of South Dakota can make an annual certification that all the intercity bus service needs of the state are being met adequately.

B. National Objectives

One objective of funding for intercity bus services under Section 5311(f) is to support the connection between nonurbanized areas and the larger regional or national system of intercity bus services. Another objective is to support services to meet the intercity travel needs of residents in nonurbanized areas. The third objective is to support the infrastructure of the intercity bus network through planning and marketing assistance and capital investment in facilities.

C. Eligible Activities

Assistance under Section 5311(f) must support intercity bus service in rural and small urban areas. According to statute, eligible activities include "planning and marketing for intercity bus transportation, capital grants for intercity bus shelters, joint-use stops and depots, operating grants through purchase-of-service agreements, user-side subsidies and demonstration projects, and coordination of rural connections between small transit operations and intercity bus carriers." Other capital and operating projects for the support of rural intercity bus service are not precluded. For example, operating assistance may be given to a public or private nonprofit organization for the direct operation of intercity service after appropriate consideration of participation by private for-profit service providers. Capital assistance may be provided to purchase vehicles or vehicle related equipment such as wheelchair lifts for use in intercity service. Charter and tour services are not eligible for FTA assistance.

D. Definition

Intercity service is defined as regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available. Package express service may also be included, if incidental to passenger transportation. (Urban area is defined in Section 12(c)(10) of the Federal Transit Act as "any area that includes a municipality or other built-up place which is appropriate...for a public transportation system..." Commuter service (service designed primarily to provide daily work trips within the local commuting area) is excluded from the definition. Intercity service is not limited by the size of the vehicle used or by the identity of the carrier. Air, water, and rail passenger service are not included.

While much of the public transportation service assisted under Section 5311 covers large distances, because of the nature of the areas served, not all long distance trips are included in the definition of intercity service. For example, service which

provides extensive circulation within a region (in contrast to regular but infrequent service from limited points in the community of origin to limited points in the destination community) is not considered intercity service, although it may be an eligible public transportation service. Similarly, service which only incidentally stops at an intercity bus facility among other destinations within the city at either end of a route which covers a long distance, without regard to scheduled connections, is eligible for Section 5311 assistance as public transportation, but is not an intercity feeder service. Likewise, commuter service is excluded because it is considered a local public transportation service, eligible for assistance under Section 5311 but not counting toward the required percentage for Section 5311(f).

E. ADA Requirements

A public entity operating or contracting for intercity bus service is not required to provide complementary paratransit service for individuals with disabilities who are unable to use the fixed route intercity bus service. Under the ADA, commuter bus service is statutorily exempted from the requirement for complementary paratransit service. In its implementing regulation, USDOT exempted certain other services from the complementary paratransit requirement because they are functionally like commuter bus service. Similarly, intercity bus service is functionally like commuter bus service in that the service is relatively infrequent and the distance between stops is great. Like commuter service, intercity bus service does not truly serve the entire corridor along which it passes.

Vehicles acquired for use in intercity service may be required to be accessible.

F. Federal Match

The federal match for intercity projects is the same as the Section 5311 program as a whole (See Financial Management Report).

G. Regulation of Intercity Services

The operator of intercity bus routes in interstate and/or intrastate service may be required to obtain an operating certificate from the Federal Motor Carrier Safety Administration. More information may be obtained by contacting the Federal Motor Carrier Safety Administration. Providers must have the requisite operating authority and insurance for services assisted under Section 5311(f), as determined by Federal and/or State regulatory authorities.

H. Program of Projects

A statewide program of projects is developed by SDDOT based on the following procedures:

1. Applicants are notified of availability of funds.

2. Applications are accepted and reviewed by SDDOT, Office of Air, Rail and Transit staff. The following criteria is used to develop the Program of Projects:
 - a. Total number of miles driven during the last operating year on regularly scheduled, fixed routes, open to the general public and operated by the grant applicant within South Dakota's state boundaries. No charter or tour mileages will be included;
 - b. Annual operating losses on regularly scheduled, fixed route intercity bus services within South Dakota as documented by a complete description of intercity services provided and as documented by an independent certified public accountant's verification of the grant applicant's most recent financial statement;
 - c. Total number of passengers served on regularly scheduled, fixed routes within South Dakota during the last operating year;
 - d. Applicable federal guidelines and regulations issued by FTA to implement 49 U.S.C.S. Appendix § 1614(i), as in effect June 1, 1993; and
 - e. The department may award funds to Rural Public Transit projects which expanded intercity bus service to currently unserved areas of South Dakota or which support intercity bus services routes in immediate danger of abandonment.
3. The program of projects is submitted to the Secretary's Office, SDDOT, for review and approval.
4. Following SDDOT approval, applicants are informed of their application approval or disapproval and contracts are signed between SDDOT and subgrantees.

I. Labor Protections

Agreement in writing to the terms and conditions of the standard Section 13(c) warranty for the Section 5311 program, or substitute arrangements approved by the Department of Labor, is required for all Section 5311 operating projects, including intercity bus projects.

J. Commercial Driver's License and Drug Testing

All drivers of vehicles designed to transport more than 16 persons (including the driver) must have a Commercial Driver's License (CDL). Mechanics that drive these vehicles must have a CDL. All CDL drivers and agency mechanics are subject to the federal and alcohol testing requirements.

All Section 5311 subgrantees are required to submit to SDDOT, an annual drug and alcohol regulation certification report. Also the annual MIS forms will be reviewed to see that they are complying with drug and alcohol rules.

**FTA CAPITAL GRANTS PROGRAM
South Dakota Criteria for
Evaluation and Selection of Projects**

Organization _____
 Location _____
 Vehicle Type _____

<u>Criteria</u>	<u>Factor Weight</u>	X	<u>Evaluation Rating</u>	=	<u>Weighted Score or Rank</u>
1. Vehicle is intended to:					
a) Replace existing high mileage or aged vehicle:	20		at or over 150,000 miles -		3
			over 100,000 miles -		2
			at or over 50,000 miles -		1
			under 50,000 miles -		0
			no mileage listed -		0 _____
b) Replace aged vehicle:	10		over 10 years -		3
			at or over 5 years -		2
			under 5 years -		1
			no age mentioned -		0 _____
c) Start new services:	20		only transit provider in new service area -		3
			less than 3 other transit providers in service area -		2
			at or over 3 other transit providers in service area -		1 _____
d) Provide improved support equipment or communications	20		proposed new system will reduce operating costs -		3
			replace current radio equipment -		2 _____
e) Expand existing services for:	10		3 or more organizations -		3
			2 organizations -		2
			1 organization -		1 _____

<u>Criteria</u>	<u>Factor Weight</u>	X	<u>Evaluation Rating</u>	=	<u>Weighted Score or Rank</u>
2. The proposal shows good potential for providing required:					
a) capital matching funds:	10		on hand -		3
			written commitment from source of match funds -		2
			yet to be raised -		1
			no mention of capital funds -		0 _____
b) funds to operate the vehicle:	10		on hand -		3
			written commitments from funding sources -		2
			yet to be raised -		1
			no mention of operating funds -		0 _____
3. The proposal was prepared in cooperation with local organizations and proposed services were coordinated with existing transit and paratransit operators, both public and private:					
a) Number of organizations to be served which currently do not operate transit vehicles:	10		3 or more -		3
			2 organizations -		2
			1 organization -		1 _____
b) Number of other transit agencies which operate transit and coordinate with:	10		3 or more -		3
			2 organizations -		2
			1 organization -		1 _____
c) No other transit agencies in the service area:	10				2 _____

For 2(a) and/or (b) above, list name of organization per grant application:

<u>Criteria</u>	<u>Factor Weight</u>	<u>X</u>	<u>Evaluation Rating</u>	<u>=</u>	<u>Weighted Score or Rank</u>
4. The applicant organization has personnel and operating policies:					
a) Personnel & driver training policies:	10				_____
b) Vehicle operating & maintenance policies:	10				_____
5. Vehicle will be fully utilized by existing clientele or through proposed service expansions:	10		6-7 day service - 5 days service - less than 5 days service - no mention of service operation -		3 2 1 0_____
6. Applicant has, or will be acquiring, a wheelchair ramp or lift equipped vehicle. (First vehicle in a new service area must be ramp or lift equipped):	15		bus or mini-bus w/lift - van w/on-board ramp - wheelchair lift - communication equipment - mini-bus or medium bus - station wagon - van -		3 2.5 2.5 2.5 2.5 2 2_____
7. Is applicant a current rural transportation provider?	5		yes no		1 0_____
8. Does applicant have existing vehicles?	5		no yes: 1 vehicle yes: 2-5 vehicles yes: 6 or more vehicles		5 3 2 1_____
9. Did applicant have an increase in ridership over the last year?	5		yes: 0-.99% yes: 1-2% yes: 3-5% yes: 6% or more decrease:		1 2 3 4 0_____

10. Did service area grow for applicant?	5	yes: 3 communities added yes: 2 communities added yes: 1 community added	3 2 1 _____
11. How many communities are currently served by applicant?	3	yes: 1-5 communities yes: 6-10 communities yes: 11-15 communities yes: 16 or more communities	1 2 3 4 _____
12. Does applicant have a community developed transportation coordination plan?	5	yes no	5 0 _____
13. How many <i>other</i> agencies are served by applicant?	3	coordination with 0 agencies coordination with 1-2 agencies coordination with 3-5 agencies coordination with 6-9 agencies coordination with 10+ agencies	0 1 2 3 4 _____
14. Application has special or unique conditions which warrant additional points based on SDDOT staff review:	Up to 20	N/A	0 _____

Special or Unique Conditions: _____

Grand Total or Rank _____

Charter and School Bus Operation Certification

In connection with equipment and funding provided for this transportation project, the subgrantee agrees to meet the latest federal charter requirements.

In connection with equipment and funding provided for this project, the subgrantee will not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators. Vehicles must remain open to the public at all times and be clearly marked for public use.

Date _____

Signature _____

Company Name _____

Title _____

SAMPLE

COPY

**LISTS OF STATUTES, REGULATIONS, EXECUTIVE ORDERS,
AND ADMINISTRATIVE REQUIREMENTS
APPLICABLE TO SECTION 5311 PROGRAM**

STATUTES

18 U.S.C. 1001

Which provides criminal sanctions for those who knowingly and willfully provide false information to the Federal Government.

Section 3(d) of the UMT Act, 49 U.S.C. 1602(d)

Which requires, among other things, the recipient to provide a certification in the case of the capital project that it:

- A. has afforded an adequate opportunity for public hearings pursuant to adequate prior notice, and held such hearings unless no one with a significant economic, social, or environmental interest in the matter request a hearing;
- B. has considered the economic and social effects of the project and its impact on the environment, and
- C. has found that the project is consistent with official plans for the comprehensive development of the urban area.

Section 3(e) of the UMT Act, 49 U.S.C. 1602(e)

Which requires, among other things, the recipient to provide to the maximum extent feasible for the participation of private mass transportation companies.

Section 3(f) of the UMT Act, 49 U.S.C. 1602(f)

Which requires, among other things, the recipient to enter into an agreement with the FTA not to provide charter service that will foreclose private operators.

Section 3(g) of the UMT Act, 49 U.S.C. 1602(g)

Which requires, among other things, the recipient to enter into an agreement with the FTA not to provide exclusive school bus operations.

Section 12(c) of the UMT Act, 49 U.S.C. 1608(c)

Which provides definitions applicable to the use of grant funds.

Section 13 of the UMT Act, 49 U.S.C. 1609

Which requires, among other things, the recipient to comply with applicable labor requirements.

Section 18 of the UMT Act of 1964, as amended, 49 U.S.C. 1614

Which, among other things, provides assistance for public transportation projects in rural areas.

Section 19 of the UMT Act, 49 U.S.C. 1615

Which, among other things, prohibits discrimination on the basis of race, color, creed, national origin, sex or age.

Section 16 of the UMT Act, 49 U.S.C. 1612

Which provides, among other things, for the planning and design of mass transportation facilities to meet the special needs of the elderly and handicapped.

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

Which, among other things, prohibits discrimination on the basis of race, color or national origin by recipients of Federal financial assistance.

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

Which, among other things, prohibits discrimination in employment.

Section 504 of the Rehabilitation Act of 1993, 29 U.S.C. 794

Which, among other things, prohibits discrimination on the basis of handicap by recipients of Federal financial assistance.

“Hatch Act”, 5 U.S.C. 1501, et seq.

Which, among other things, imposes certain restrictions on political activities of recipients of Federal financial assistance.

“Buy America Requirement”, Section 165 of the Surface Transportation Assistance Act of 1982, P.L. 97-424

Which, among other things, requires that steel and manufactured products procured under FTA-funded contracts of a certain size be of domestic manufacture of origin (with four exceptions).

Davis-Bacon Act, as amended, 40 U.S.C. 276a, et seq.

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 often 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, 40 U.S.C. 874

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, 40 U.S.C. 327-332

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, 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, 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 as a result of federally assisted projects.

Archeological and Historic Preservation Act of 1966, 16 U.S.C. 469a-1 et seq.

Which provides protection for historically valuable property.

National Historic Preservation Act of 1966, 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

Which, among other things, authorizes development and implementation of State energy conservation plans.

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 Protections Act of 1973, 42 U.S.C. 4012a ,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.

Single Audit Act of 1984, P.L. 98-502

Which establishes audit requirements for State and local governments that receive Federal aid.

REGULATIONS

49 C.F.R. Part 600, et seq.

Regulations promulgated by FTA.

49 C.F.R. Parts 18, 21, 23, 25, 27, 29, 31, 604, 605, 609, 613, 622, 623, 630 and 661

Regulations promulgated by the Department of Transportation governing Title VI of the Civil Rights Act of 1964, Minority Business Enterprise, Relocation and Land Acquisition, Nondiscrimination on the Basis of Handicap, cooperative Agreements, Debarments, Program Fraud, charter Services, School Bus Operations, Transportation for Elderly and Handicapped, Planning, Environmental, Procedures, Accounting and Buy America, respectively.

36 C.F.R. Part 800

Regulations promulgated by the Advisory Council on Historic Preservation

46 C.F.R. part 381

Regulations promulgated by the Maritime Administration governing cargo preference requirements.

31 C.F.R. Part 205

Regulations promulgated by the Department of Treasury governing letter of credit.

40 C.F.R. Parts 5 and 15

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.

EXECUTIVE ORDERS

E.O. 11246

Which establishes requirements in construction activities for contracts over \$2,000.

E.O. 11988

Which establishes certain specific requirements related to flood protection and control.

E.O. 12372

Which rescinds OMB Circular A-95 and establishes new procedures for State review of Federally funded projects.

ADMINISTRATIVE REQUIREMENTS

OMB Circular A-21

Which establishes cost principles for determining costs applicable to grants, contacts, and other agreements with educational institutions.

OMB Circular A-87

Which establishes cost principles applicable to grants and contracts with State and local governments.

OMB Circular A-102

Which provides uniform requirements for assistance to State and local governments.

OMB Circular A-110

Which prescribes uniform administrative requirements for grants and other agreements with institutions of higher education, hospitals, and other nonprofit organizations.

OMB Circular A-122

Which establishes principles for determining costs of grants, contracts, and other agreements with nonprofit organizations.

OMB Circular A-128

Which applies to audits of State and local governments.

OMB Circular A-129

Which applies to the management of Federal credit programs.

I am an officer of _____ and am authorized to make this verification on its behalf. I hereby verify that I have read, understand, and assure compliance with the laws and administrative requirements for Section 5311 Management Plan.

Signature

Date

Name (Printed)

Title (Printed)