

Commonwealth of Virginia
Department of Rail and Public Transportation
Section 5339 State Management Plan
For
Rural and Small Urban Areas
Public Transportation

Revised May 2017

Table of Contents

Introduction.....	4
Purpose of the State Management Plan.....	4
A. Program Goals and Objectives.....	4
B. Roles and Responsibilities.....	5
C. Coordination.....	7
D. Eligible Subrecipients.....	7
E. Eligible Services and Service Areas.....	8
F. Eligible Assistance Categories.....	8
1. Operating Expenses.....	8
2. Administrative Expenses.....	8
3. Capital Expenses.....	8
4. Planning Expenses.....	8
G. Local Share and Local Funding Requirements.....	8
H. Project Selection Criteria and Method of Distributing Funds.....	8
1. First Priority.....	8
2. Second Priority.....	8
3. Third Priority.....	8
I. Annual Program of Projects Development and Approval Process.....	9
J. Fund Transfers.....	10
K. Civil Rights.....	11
L. Construction or Renovation of Facilities.....	11
M. Charter Rule.....	12
N. Section 504 and ADA Reporting.....	12
O. NTD Reporting.....	12
P. Other Provisions.....	12
Q. On-Site Visits.....	13

R. State Program Management.....13

S. Incidental Use of FTA Funded Property.....15

Introduction

The Bus and Bus Facilities Program is authorized under the provisions set forth in the Moving Ahead for Progress in the 21st Century Act (MAP-21), Section 5339 of Title 49, United States Code, signed into law on July 6, 2012. The Virginia Department of Rail and Public Transportation (DRPT) receives Section 5339 from the FTA to provide grants to eligible sub recipients within the applicable urbanized area or rural areas of Virginia to assist in financing capital projects to construct or rehabilitate bus-related facilities.

FTA Section 5339 Program Guidance Circular (Circular 5100.1) was issued by the Federal Transit Administration (FTA) on May 18, 2015. This circular incorporates the current statutory and programmatic requirements and changes as outlined in MAP-21. The Governor has designated The Department of Rail and Public Transportation (DRPT) as the agency responsible for administering the Section 5339 program in Virginia.

Purpose of the State Management Plan

The Section 5339 State Management Plan is intended to facilitate both state management and FTA oversight by documenting the state's procedures and policies for administering the Section 5339 program in a single reference. The State Management Plan is a document, which is useful to the state as well as to sub recipients and FTA. Its primary purposes are to serve as the basis for FTA's review of the state's program, and to provide public information on the state's administration of the Section 5339 program.

a. Program Goals and Objectives

The goal of the Commonwealth of Virginia's Section 5339 Program is to support Rural and Small Urban transit agencies in the continuation and expansion of public transportation in Virginia. This is accomplished by assisting eligible recipients in the financing of capital projects that construct or rehabilitate bus-related facilities. Such projects may not be feasible in other funding programs due to budget demands.

The great need for bus-related facility funding in Virginia, compared with the relatively small amount of 5339 funding available to the state each year may result in insufficient funding to address annual capital needs. Therefore, to make the 5339 program more responsive, and reduce the administrative burden, DRPT may elect to combine more than one year of available 5339 funding into one grant. Additionally, DRPT has opted to use all available 5339 funding solely for bus-related facilities. The need may arise in the future, however, for DRPT to use 5339 funds for buses or bus-related equipment.

Through the administration of the Section 5339 program, it is the objective of DRPT to:

1. Provide resources to rural or small urban transit systems for bus-related facility improvements or construction of new bus-related facilities.
2. Promote safety, efficiency and expansion of rural or small urban transit services in the state.

3. Improve service quality and encourage the public's use of rural or small urban transit services in Virginia.
4. Ensure a fair and equitable distribution of program funds to eligible recipients.
5. When necessary, assist rural and small urban public areas with vehicle replacement or rehabilitation to maintain service levels and/or increase the capacity and frequency of transit services where appropriate.

b. Roles and Responsibilities

In the 1992 Session of the Virginia General Assembly, the Code of Virginia was amended to add Section 33.1-391, which established DRPT. The Department was given the following responsibilities:

1. Determine present and future needs for, and economic feasibility of, providing, public transportation facilities and services and the retention, improvement, and addition of passenger and freight rail transportation in the Commonwealth;
2. Formulate and implement plans and programs for the establishment, improvement, development, and coordination of public transportation facilities and the retention and improvement of passenger and freight rail transportation services and corridors in the Commonwealth, and the coordination of transportation demand initiatives with the Department of Transportation.
3. Coordinate with the Department of Transportation in the conduct of research, policy analysis, and planning for the rail and public transportation modes as may be appropriate to ensure the provision of effective, safe, and efficient public transportation and passenger and freight rail services in the Commonwealth;
4. Develop uniform financial and operating data on and criteria for evaluating all public transportation activities in the Commonwealth, develop specific methodologies for the collection of such data by public transit operators, regularly and systematically verify such data by means of financial audits and periodic field reviews of operation data collection methodologies, and develop such other information as may be required to evaluate the performance and improve the economy or efficiency of public transit or passenger and freight rail operations in the Commonwealth;
5. Provide training and other technical support services to transportation operators and ridesharing coordinators as may be appropriate to improve public transportation and passenger and freight rail services;
6. Maintain liaison with state, local, district, and federal agencies, or other entities, both private and public, having responsibilities for passenger and freight rail and public transportation programs;

7. Administer grants from the Federal Transit Administration (formerly the Urban Mass Transit Administration), the Federal Railroad Administration, and other agencies of the United States government for public transportation, passenger and freight rail transportation, and ridesharing purposes with approval of the Commonwealth Transportation Board and to comply with all conditions attendant thereto;
8. Administer state grants for public transportation, rail transportation, ridesharing, and transportation demand management purposes with approval of the Board.
9. To promote the use of public transportation and passenger and freight rail services to improve the mobility of Virginia's citizens and the transportation of goods;
10. Represent the Commonwealth on local, regional, and national agencies, industry associations, committees, task forces, and other entities, both public and private, having responsibility for passenger and freight rail and public transportation;
11. Represent the Commonwealth's interests in passenger and freight rail and public transportation and coordinate with the Department of Transportation in the planning, location, design, construction, implementation, monitoring, evaluation, purchase, and rehabilitation of facilities and services that affect or are used by passenger and freight rail or public transportation;
12. Coordinate with the State Corporation Commission on all matters dealing with rail safety inspections and rail regulations, which fall within their purview;
13. Prepare and review state legislation and Commonwealth recommendations on federal legislation and regulations as directed by the Secretary of Transportation;
14. Promote public transportation and passenger and freight rail safety.

According to the Code of Virginia, as quoted above, the Governor has designated DRPT to administer the Section 5339 program. DRPT will follow both the prescribed procedures published by the U.S. Department of Transportation (CFR Title 23, Subchapter 1, Part 825) and the existing federal and state regulations pertaining to the administration of federal grants in Virginia.

DRPT has increased staff in both the Public Transportation Division and the Fiscal Division to provide better program management and oversight of the Section 5339 program. Public Transportation has five Transit Project Managers to provide technical assistance, ensure regulatory compliance, new service development, application review, procurement oversight, facility development and construction oversight, transit management development, driver training, and analyze present and future needs for rural transit providers. Transit Project Managers will be available to grantees on a daily basis to provide on-going support and to ensure that they meet FTA and DRPT requirements.

The Fiscal Division will be responsible for maintaining the Online Grant Administration (OLGA) and Symphony systems, financial programming, contract development, asset management and inventory system, and financial auditing of FTA Section 5339 sub recipients.

DRPT shall make Section 5339 funds available to provide capital assistance to public transportation projects in small urban and rural areas. Most Section 5339 eligible sub recipients are local units of government or non-profit organizations. In all cases DRPT will work collaboratively with sub recipients to ensure that local needs are met while providing technical assistance to improve the efficiency and effectiveness of service delivery.

DRPT has developed a Public Transportation and Transportation Demand Management Grant Program Application Guidance Manual (Issued December 2016) to provide grant application guidance to transit providers and local governments.

c. Coordination

DRPT works with public transit systems, local units of government, non-profit organizations, as well as private providers to foster transportation coordination. DRPT has undertaken a number of initiatives relative to coordination and has published a Virginia Coordinated Human Services Mobility Plan for each Planning District Commission.

The coordination plans were developed through a process that included representatives of public private and non-profit transportation and human services providers and participation by members of the public. The coordination plans include an assessment of available services that identify current transportation providers, and an assessment of the transportation needs for individuals with disabilities, older adults and people with low incomes.

The regional coordination plans include a comprehensive assessment of stakeholder issues, a survey of existing best practices and an action plan on a regional level, including detailed demographic descriptions and localized needs assessments.

d. Eligible Subrecipients

All areas with populations under 200,000 in Virginia are eligible to participate in the 5339 program. Rural areas with populations below 50,000, and Small Urban Districts operating in small urban areas in the Governor's Apportionment (those cities with populations between 50,000 and 199,999) are eligible.

e. Eligible Services and Services Areas

The Commonwealth of Virginia adheres to the FTA Section 5339 program regulations and does not impose any additional limitations to the program.

f. Eligible Assistance Categories

Eligible activities include but are not limited to:

- New construction of bus-related facilities.
- Rehabilitation of existing bus-related facilities.

At the present time, DRPT is utilizing all available 5339 funds for new and existing bus-related facilities for rural or small urban areas in Virginia. The need may arise in the future, however, for DRPT to use 5339 funds for the purchase of buses or bus-related equipment, or other capital needs as permitted in FTA Circular C5100.1.

g. Local Share and Local Funding Requirements

Sub recipients typically fund 20% of the local share for capital equipment projects. The Commonwealth of Virginia may participate in the local share depending upon the availability of funds. DRPT follows the guidance in FTA Circular C 5100.1, Chapter 3, Sections 8 - 13.

h. Project Selection Criteria and Method of Distributing Funds

The procedures for distributing FTA Section 5339 funds shall be as follows:

1. **First Priority.** The first priority for funding is for capital assistance for bus-related facilities of existing rural and small urban public transit systems.
2. **Second Priority.** The second priority for funding is to bring existing rural or small urban bus-related facilities into the FTA's definition of the state of good repair to meet asset management requirements.
3. **Third Priority.** The third priority is the funding for capital assistance for bus-related facilities of new rural or small urban public transit systems.

DRPT retains sole discretion in determining the level of funding for all Section 5339 projects.

Appeals Process - An applicant whose application was not approved by the Commonwealth Transportation Board may file a protest and request a review of their application within 60 days following action by the Commonwealth Transportation Board (normally in late June). An applicant that files a protest must send a letter to the Director of DRPT explaining the reason for the protest. The protest letter and supporting documentation should be sent to the following address:

Chief of Public Transportation
Virginia Department of Rail and Public Transportation
600 E. Main Street, Suite 2102 Richmond, Virginia 23219

The Chief of Public Transportation will officially respond to the FTA Section 5339 protest within 30 days.

i. Annual Program of Projects Development and Approval Process

The solicitation of applications is accomplished through a statewide public notice on DRPT's web page and in newspapers throughout the Commonwealth. Applications for Capital funding are due to DRPT on February 1st of each year. Applications are submitted to DRPT through the On-Line Grant Administration (OLGA) system. All applications must be submitted through the OLGA system.

Annual Performance Data and an Asset Inventory showing all FTA funded equipment must also be submitted through the OLGA system on at least an annual basis. Applicants for Capital funding also must provide DRPT with the following annual submissions as part of their annual application for funding:

- **Appendix A – Federal FY200_ Certifications and Assurances for FTA Assistance**
- **Section 13(c) Labor Protection Warranty**
- **Title VI Information Update**
- **Current Insurance Declaration Page showing that all FTA funded capital is protected**

The review process begins upon DRPT's receipt of the Capital applications on February 1st. Under emergency situations DRPT will accept applications past the February 1st application deadline. However, funding of late applications is dependent upon the availability of Section 5339 funding for the particular program year. Each Capital application is evaluated to ensure that the applicant complies with the requirements of the Capital program application guidance in OLGA.

Those applications that meet the basic eligibility requirements are then reviewed by the Public Transportation Program Administrator who makes a determination on which projects will be included in the Draft FTA Section 5339 Program of Projects.

The selection of projects is based on a determination of need, a prioritization of needs, the evaluation criteria listed in the Program Application Guidance, and a fair and equitable distribution of funds. The number of projects selected and/or the amounts recommended is determined based on the availability of funds. This initial review is completed by the Transit Project Mangers by the end of February. The draft recommendations are then presented to the Public Transportation Program Administrator for review. A Draft FTA 5339 Program of Projects is presented to the Director by the end of March. Upon approval by the Director, the Director presents the Final Draft FTA Section 5339 Program of Projects to the Secretary of Transportation by mid-May. Upon the review and approval of the Final Draft by the Secretary of Transportation, the FTA Section 5339 Program of Projects is then presented to the Commonwealth Transportation Board in May for their review and released to the public for public comment.

Commonwealth Transportation Board approves the Final FTA Section 5339 Program of Projects in late June. The Commonwealth's FTA Section 5339 Annual Program of Projects is included as part of the Virginia Department of Transportation's Statewide Transportation Improvement Program (STIP). Prior to FTA application submission and as part of the STIP development, the Commonwealth Transportation Board conducts both preliminary and final STIP public hearings.

The Annual Program of Projects is included in the Commonwealth's FTA Section 5339 Application, which is submitted to FTA by September 20th of each year in TrAMS. Following approval by FTA and execution of the FTA Section 5339 Agreement in TrAMS, contracts are prepared and executed with each sub recipient, normally by October 31st.

Revisions to the Approved Program of Projects are normally requested by sub recipients in consultation with the Transit Project Managers in accordance with the provisions outlined in FTA Circular 5100.1. Budget revisions are reviewed and approved by the Transit Program Managers and the Public Transportation Program Administrator. Written contract amendments developed for increases in funding above those approved in the annual program of projects are signed and executed by the Director and sub recipient designee.

Project Grant Closeout Procedures begin when a sub-recipient does not use all of their FTA Section 5339 funds that have been awarded to them. Once all funds have been expended and have been drawn down in TrAMS, the Transit Project Managers will complete a final Milestone Report in TrAMS and will notify the DRPT Financial Programming Team so that they may complete a final Federal Financial Report and begin close out of the Grant Project in TrAMS.

j. Transfer of Funds

Eligible recipients of Section 5339 include Small Urban transit providers (which also receive Section 5307 funds directly from FTA), and Rural transit providers (which also receive Section 5339 funds from DRPT). As decisions are made about awarding funds for capital, DRPT considers the available funds and their eligible uses and ensures that all are used appropriately. Section 5339 funds will be awarded to Small Urban and Rural transit providers for capital projects as determined by DRPT's evaluation process.

k. Civil Rights

DRPT will monitor each sub recipient to ensure compliance with FTA civil rights regulations. Program Managers will review civil rights compliance during quarterly reviews and the triennial review. The Capital application requires each sub recipient to report any current or pending civil rights complaints. When and if complaints arise alleging a civil rights violation, then in consultation with the Virginia Department of

Transportation Equal Opportunity Division, DRPT will initiate appropriate actions to deal with the compliant.

Disadvantaged Business Enterprise DRPT will assist and encourage all Section 5339 sub recipients to utilize Disadvantaged Business Enterprises (DBE) throughout their procurement process. All 5339 sub recipients will report their contracting opportunities and utilization of certified DBE vendors to DRPT semi-annually. Rural Transit Program Administrators will review all sub-recipient contract procurements for DBE “good faith efforts”. Sub-recipients receiving FTA Section 5339 funds for construction projects will be required to set a separate DBE goal for the project. Rural Transit Program Administrators will be responsible for monitoring the sub-recipients progress toward meeting the goal.

Satisfactory Continuing Control All Section 5339 sub-recipients are required to maintain adequate insurance coverage in an amount and form satisfactory to DRPT and in accordance with the laws of the Commonwealth of Virginia and submit a copy of their insurance policy declarations to DRPT annually.

Debarment and Suspension Grantees awarded grants exceeding \$25,000, must obtain a certification from contractors awarded contracts in excess of the federal small purchase threshold stating that they are not suspended or debarred from receiving federally assisted contracts. Grantees must provide immediate written notice to DRPT for reporting to FTA if they learn that their certification or the certification of any contractors is no longer valid.

The Government Services Administration publishes the *List of Parties Excluded from Federal Procurement and Non Procurement Programs*. Grantees can search the list on the Internet at System for Award Management (SAM) <http://www.sam.gov>.

I. Construction or Renovation of Facilities

When a sub recipient uses 5339 funds for renovation or construction of transit facilities, DRPT will oversee each step of the project in accordance with state procurement guidelines and FTA regulations regarding construction projects. The FTA Transit Program Administrator will play an active role in overseeing and providing technical assistance for all construction projects supported with FTA Section 5339 capital funds.

m. Charter Rule

DRPT will monitor each sub recipient to ensure compliance with the charter service regulations. All sub recipients who are considering charter service are responsible for complying with the notification process specified in the charter rules. When complaints alleging unfair competition from private charter operators arise, DRPT will investigate and take appropriate action to ensure that the sub recipient is in full compliance with the charter rules. Currently, no Section 5339 sub recipients in the Commonwealth of Virginia

are providing or offering charter service to the public. DRPT will report findings in TrAMS.

n. Section 504 and ADA Reporting

DRPT will monitor each sub recipient to ensure compliance with Section 504 and ADA regulations. The Section 5339 application requires each sub recipient to report any current or pending ADA complaints. When and if complaints arise alleging a civil rights violation, then DRPT will initiate appropriate actions to deal with the compliant.

o. NTD Reporting

DRPT will begin the NTD data collection process in November of each year following receipt of directions from FTA. DRPT staff will notify all FTA sub recipients of NTD data reporting requirements in November of each year and require that all NTD data be submitted by December 31st of each year. DRPT staff will review the data to ensure that all sub recipients have submitted the data and then enter the NTD data into the NTD system by the March 30 due date.

p. Other Provisions

Each sub recipient is required by February 1st of each year to submit to DRPT a signed “Federal FY201_ Certifications and Assurances for FTA Assistance”. This certification must be signed by an Authorized Representative of the applicant. Each sub recipient completes this Certification as per the Notice issued in the Federal Register. The following Certifications are required of each sub recipient:

- A Total Operating Expense Certification for the prior Fiscal Year;
- A Title VI Civil Rights Information Update;
- Insurance Policy verification for all FTA funded facilities and equipment;
- An Independent Financial Audit;
- An updated FTA Facility and Equipment Inventory;
- Section 13c Labor Protection Warranty Assurance is required annually by all Section 5339 applicants. DRPT submits a Section 5339 Program of Projects to the U.S. Department of Labor for their review in as appropriate when applying for a Capital grant project in TrAMS.

q. On-Site Visits

It is the goal of DRPT staff to conduct quarterly meetings with each sub recipient (not all the quarterly meetings are done on-site). Objectives of the site reviews are to ensure compliance of federal and state requirements, encourage progress, and identify training and technical needs.

r. **State Program Management**

General Procedures DRPT has the responsibility for the Commonwealth's FTA Section 539 Program. The Public Transportation Section of the Department has been assigned this responsibility. Within the Section, the Transit Project Managers are assigned the responsibility for the day-to-day administration of the Section 5339 program.

The Commonwealth's Section 5339 Program is managed in accordance with FTA Circular 5100.1 - Bus and Bus Facilities Formula Program.

The following paragraphs describe how DRPT administers the major program management responsibilities:

1. **Procurement** All procurement made within the Section 5339 program will be in accordance with the Common Rule (state procurement procedures) or FTA Circular 4220.1F, "Third Party Contracting Guidelines" in regards to private non-profit agencies. Additionally, every purchase order or contract will include all clauses required by federal statutes and executive orders and their implementing regulations as identified in grant contract documents and FTA Circular 4220.1F. All procurement is also made in accordance with FTA Circular 5100.1 Grant Management Requirements where appropriate. DRPT reserves the right to make exceptions to these criteria if circumstances warrant.

a. *Purchase of equipment* DRPT will ensure that all equipment purchased with Section 5339 funds will be in conformance with federal and state procurement procedures.

b. *Construction of new or renovation of transit facilities* DRPT will oversee each step of any renovation or construction of transit facilities in accordance with federal and state procurement guidelines and FTA regulations regarding construction projects.

c. *Disadvantaged Business Enterprise* DRPT will assist and encourage all Section 5339 sub recipients to utilize Disadvantaged Business Enterprises (DBE) throughout their procurement process. All 5339 sub recipients will report their contracting opportunities and utilization of certified DBE vendors to DRPT semi-annually. Rural Transit Program Administrators will review all sub-recipient contract procurements for DBE "good faith efforts". Sub-recipients receiving FTA Section 5339 funds for construction projects will be required to set a separate DBE goal for the project. Rural Transit Program Administrators will be responsible for monitoring the sub-recipients progress toward meeting the goal.

d. *Satisfactory Continuing Control* All Section 5339 sub-recipients are required to maintain adequate insurance coverage in an amount and form satisfactory to DRPT and in accordance with the laws of the Commonwealth of Virginia and submit a copy of their insurance policy declarations to DRPT annually.

e. *Debarment and Suspension* Grantees awarded grants exceeding \$25,000, must obtain a certification from contractors awarded contracts in excess of the federal small purchase threshold stating that they are not suspended or debarred from receiving federally assisted contracts. Grantees must provide immediate written notice to DRPT for reporting to FTA if they learn that their certification or the certification of any contractors is no longer valid. The Government Services Administration publishes the *List of Parties Excluded from Federal Procurement and Non Procurement Programs*. Grantees can search the list on the Internet at System for Award Management (SAM) <http://www.sam.gov>.

2. **Financial Management** The Commonwealth receives FTA Section 5339 reimbursement from FTA through the ECHO invoicing program for actual cash outlays paid to sub recipients. DRPT is responsible for maintaining detailed financial records on individual projects within the program of projects of each FTA Section 5339 grant. Supporting documentation such as budget revisions, contract amendment justifications and related contract correspondence are also maintained by DRPT. FTA Section 5339 recipients are instructed in the proper maintenance and retention of contract and program documentation.

All records pertinent to each FTA grant and the sub recipients' program of projects are retained and are available to authorized representatives of the U.S. DOT and Comptroller General of the United States for three years following the date of forwarding of the final financial status report (SF-269)(through the TEAM system) and request for project closeout. The financial records present adequate documentation of the computation of the federal share and the provision of the required local share.

DRPT shall submit to FTA an annual program status report (through the TEAM system) for the program of projects for each active grant. These reports cover the 12-month period ending September 30th and will be sent (through TEAM) to the FTA Region III office within 30 days after the end of the reporting period. Reports will consist of:

- a. An updated Program of Projects and revised budget for each active project reflecting revised project descriptions, changes in projects from one category to another and adjustments within budget categories.
- b. Revised FTA grant project budget.
- c. An updated Federal Financial Report.
- d. An updated Milestone Report.

3. **Property Management** All sub recipients receiving FTA Section 5339 capital assistance will receive an on-site inspection of equipment and facilities and a review of their Asset Management Plan.

4. **State Reporting Requirements** DRPT requires all FTA Section 5339 recipients to annually submit to DRPT the following reports:

a. Semi-annual Disadvantaged Business Enterprise Report indicating the recipients progress in meeting DBE Goals; revised DBE goals will be submitted every three years.

b. Annual Performance Evaluation Report;

c. Final Fiscal Year Operating Expenses/Revenues Data Summary; and

d. An Annual Financial Audit.

e. An Annual NTD report

f. An Annual FTA Drug & Alcohol Testing MIS Report

g. An Annual Facility and Equipment Inventory Report in Asset Management

h. Monthly passenger reporting

i. Certification of Insurance for facilities

j. Title VI update.

s. **Incidental Use of FTA Funded Property**

DRPT will submit to FTA for approval any incidental use of FTA funded property. Any incidental use must be compatible with the original grant purpose of the property.