

## Chapter 15

### General Operations

This chapter identifies topics pertaining to general operations that have not been addressed elsewhere in the handbook. Topics are listed in alphabetical order.

#### Tracking Federal Regulations

There are many federal regulations that relate to Federal Transit Administration (FTA) programs. Transit managers should become familiar with The Federal Register (FR) [http://www.archives.gov/federal\\_register](http://www.archives.gov/federal_register) and The Code of Federal Regulations <http://www.gpoaccess.gov/cfr/index.html> (CFR). The Federal Register is a daily publication that provides a uniform system for publishing presidential and federal agency documents. The CFR is revised annually and incorporates changes published in the Federal Register as of the date noted on the cover. FTA's regulations are in Title 49, Chapter VI. Regulations in the CFR are cited by title, part and section number. 49 CFR 604.11 refers to title 49, part 604, section 11. (<http://www.fta.dot.gov/library/legal/charterservice/cfr604.11.html>)

Changes to the CFR are published in the FR as codified regulations. However, not all documents published in the FR are codified in the CFR. New regulations or amendments to existing regulations that are under consideration are published in the Federal Register as notices of proposed rulemaking (NPRM) to give interested parties the opportunity to comment before the regulation becomes a final rule. The FTA web site lists Federal Register notices of interest to transit.

([http://www.fta.dot.gov/legal/regulations/511\\_ENG\\_HTML.htm](http://www.fta.dot.gov/legal/regulations/511_ENG_HTML.htm))

FTA maintains a [checklist of current federal regulations](#) relating to FTA programs. Since regulations change frequently, transit managers should monitor the Federal Register. OPT will communicate any regulation it becomes aware of that may affect transit systems in the Transit Updates.

#### Audits

Transit systems are required to have an annual audit conforming to the requirements of [OMB Circular A-133](#), including the applicable portion of Appendix B, Part 4.

(<http://www.whitehouse.gov/omb/circulars/a133/a133.html>) All sources and amounts of funding that contribute to public transit should be identified. Two copies of the completed audit report should be submitted to OPT as soon as it is available, but in no case later than twelve months after the end of the fiscal year.

#### Charter

Charter service is defined as service provided to a specific group under a single agreement, where there is a single group charge rather than individual fares, and where the group, rather than the transit system, sets the itinerary. Charter trips are considered "incidental service" and the miles do not count toward replacement of a vehicle.

Transit systems are prohibited from using equipment funded by FTA or the Federal Highway Administration (FHWA) to provide charter services, except to the extent allowed [49 CFR Part 604](#). Specific procedures must be followed. Violations can affect a transit system's, or even the state's, eligibility to receive FTA funding.

Even those charters that are allowed under the FTA regulations are defined as incidental services to your public transit program. As such they:

- cannot be subsidized with or count toward FTA or STA operating assistance funds;
- cannot (along with all other incidental uses) exceed 20% of the use of any vehicle; and
- cannot interfere with public transit services, including the use of vehicles for public transit services.

The FTA regulations allow charter service under six basic provisions. The first two may be used by any transit system. The next three provisions require that the transit system follows an annual process to identify all "willing and able" private charter providers in the area. The final provision is a case-by-case arrangement involving formal FTA action.

1. Transit systems are allowed to provide charter services to certain governmental or charitable not-for-profit organizations, if the organization certifies, for each charter, that the charter is consistent with the function and purpose of the organization, and will be arranged and operated consistent in compliance with [Title VI of the Civil Rights Act of 1964](#), as amended, and that one of the following situations applies.
  - the requested trip will include a significant number of persons with disabilities;
  - the requested trip will originate outside of any urbanized area and more than 50% of passengers will be elderly;
  - the requesting entity is a direct or indirect recipient of funds from the United States Department of Health and Human Services; or
  - the requesting entity is a direct or indirect recipient of public welfare assistance from a state or local governmental body, and the state has requested and received FTA permission for public transit systems to contract directly for charter services with that organization.

Transit systems operating charter services under this provision must have on file a signed certification of eligibility for each charter trip provided. The transit system must be able to show that fully-allocated costs were charged and that the service did not interfere with public transit operations. For a copy of the certification go to [http://www.iatransit.com/admin/handbook/docs/ch15\\_cert.doc](http://www.iatransit.com/admin/handbook/docs/ch15_cert.doc).

2. Transit systems may provide vehicles to be operated by private charter operators, or operate charter service as a subcontractor to private charter operators, if either of the following apply:
  - the private charter operator does not have sufficient capacity to provide the charter without using the public transit system vehicles; or

- the private charter operator does not have ADA accessible equipment needed to provide the charter.

Under this option, the transit system is under contract to the private carrier, who handles all contact with the charter customer, and is given control of the transit system vehicles. The transit system must have a written contract with the private carrier covering each charter trip provided under this provision and must be able to show that fully-allocated cost have been charged and that the service did not interfere with public transit operations. The transit system should also have on file a certification by the private carrier that they contracted with the transit system because, either they did not have equipment available at the time of the charter, or their available equipment could not provide the access by disabled persons which was required for the charter trip. For a copy of the certification go to [http://www.iatransit.com/admin/handbook/docs/ch15\\_cert2.doc](http://www.iatransit.com/admin/handbook/docs/ch15_cert2.doc).

3. If the transit system followed the annual public notice process to announce its interest in providing specified charter services to the public, tried to identify private operators who may be "willing and able" to provide such services, and no such private providers came forward, the transit system may provide the specified services directly to the public for a one-year period. Click [here](#) for a sample public notice for charter service.
4. If the transit system followed the annual notice process and one or more "willing and able" private charter providers were identified, the transit system may be allowed to provide certain types of charters, or may be allowed to provide charters that all "willing and able" providers have declined to provide, if each of the following occur:
  - the transit system can reach an agreement with all identified "willing and able" providers;
  - the transit system has a signed agreement with all providers; and
  - the charters fit within the terms of the agreement and the specified scope of charters in the transit system's annual notice.
5. If the transit system is based outside an urbanized area, followed the annual notice process and one or more "willing and able" private charter providers were identified, and received FTA approval of a petition for an exception on the grounds that the private providers' minimum charges (based on time or mileage) or the deadhead from the private providers base of operations to the origin of the local charters, are so high as to present a hardship for local charter customers, the transit system may be allowed to provide the charter.
6. If the transit system received FTA approval of a petition for an exception for a special event, to the extent that private charter operators are not capable of providing the service, the transit system may be allowed to provide the charter.

Any charter service provided under any of these exceptions must still be proven to be incidental in nature. All fuel used in the allowed charter is subject to Iowa motor fuel taxation. No vehicle may be purchased with FTA funding for the purpose of providing charter service.

A log should be kept of all charter trips. The documentation should include under which exception each charter was allowed and the number of miles driven. This log should be supported by transit system files containing the signed certification of eligibility or FTA-approved petition for each trip.

**Annual Notice Process** – In order to identify any private operators who may be willing and able to provide charter services that the transit system is interested in providing, the transit system must publish a notice of its interest, specifying what charters the transit system wishes to offer directly, beyond those already allowed under the first exception above. Click [here](#) for a sample public notice for charter service.

The notice must be published at least 60 days before the transit system wishes to begin providing the specified services. (In subsequent years, then notice must be published at least 60 days prior to the expiration of the one-year limitation on provision of such services.) It must be published in a newspaper of general circulation covering the area in which the transit system is proposing to provide charter services. A copy of the notice must be sent to all private charter operators in the area and all private operators who have expressed interest in receiving such notifications. It must also be sent to the American Bus Association and to the United Motorcoach Association. (OPT's Private Sector Clearinghouse function can satisfy all but the newspaper publication requirement. See information later in this chapter.)

The published notice must include:

- the transit system's name and address to submit responses;
- a description of the charter services that the transit system wishes to provide directly, including the days, times-of-day, geographic area, and category of vehicle (bus or van). FTA allows only two categories of vehicle to be specified: bus, which includes medium or heavy-duty buses (including trolley replicas); or van, which includes vans, mini-vans, and light-duty (body-on-van-chassis) buses.;
- the submission deadline (at least 30 days from date of notice) for private operators wishing to be identified as "willing and able" to submit evidence, which includes a statement by the private operator that it has the desire, the physical capability to provide the category of equipment listed, the legal authority to provide the proposed charter, and that it meets all necessary safety and licensing requirements established by law;
- a description of the review timeframe, which must be completed within 30 days after submission deadline, and the response timeframe, which must be completed within 60 days of the submission deadline.
- A statement that the transit system will not provide any charter service using FTA-funded equipment or facilities, except as allowed under one of the above exceptions, if even one willing and able private charter provider is identified.

Upon receipt of the submissions, the transit system must review whether the required documentation was provided. If all of the documentation was included, the

transit system must find the submitter "willing and able." After the transit system finds sufficient documentation showing that there is one "willing and able" submitter, the transit system can announce that there is at least one "willing and able" private provider. The transit system is then limited to providing only those charter services allowed under the first two exceptions identified above. The transit system can continue its review of all submitters' documentation and establish a roster of willing and able private charter providers. With a roster, the transit system is allowed to pursue an agreement as described in exception #4 or a petition as described in exceptions #5 or #6 identified above.

Systems wishing to provide charter service beyond those allowed under the first two exceptions must conduct the notice process annually. Exceptions three through six are dependent upon the transit system completing the notice process within the last 12 months.

Transit systems are encouraged to set up a local complaint process to hear the concerns of private charter operators regarding the transit system's activities. Recipients of 5310/5311 funding are encouraged to include OPT in any such discussions.

Private charter operators are not required to pursue local processes, and may file a written complaint directly with FTA. FTA allows the private operator and the transit system to voluntarily enter into a 30-day conciliation effort prior to, or possibly in place of, a formal FTA evidentiary hearing.

If the FTA Regional Administrator determines that there has been a violation of the charter rules by the transit system, the Administrator can order such remedies as are deemed appropriate. If a continuing pattern of violations is found, the transit system (or the entire state under statewide grants) can be barred from receipt of further FTA financial assistance.

**NOTE:** Fuel used in providing charter services, as well as in other nonpublic or non-passenger services, is taxable under state law and must be so identified in quarterly fuel tax reports.

### **Competition with Private Enterprise**

[Chapter 324A](#) of the Code of Iowa prohibits public agencies from competing with private enterprise. However, transit systems are allowed under the chapter to provide public transit services, as well as charter services that comply with FTA's charter regulations.

### **Compliance Reviews**

As the recipient of section 5310, 5311, statewide 5309 and JARC FTA funds, OPT is responsible for ensuring that all subrecipients follow federal regulations. OPT conducts compliance reviews with 5310 and 5311 transit systems at least every three years to help transit systems understand the federal regulations and identify where transit systems need to improve. Compliance reviews involve an on-site visit by OPT staff. A listing of the approximately 250 questions used in the compliance reviews (along with documentation of the federal requirements addressed) can be previewed in the "resources" section of OPT's website at [http://www.iatransit.com/resources/compliance\\_resources.asp](http://www.iatransit.com/resources/compliance_resources.asp).

### **Coordination (324A)**

The State of Iowa is considered a leader in the coordination of publicly funded transportation primarily because the Iowa legislature adopted transportation coordination provisions in [Chapter 324A](#) of the Code of Iowa. [324A.4\(1\)](#) states:

*"...Any organization, state agency, political subdivision, and public transit system, except public school transportation, receiving federal, state or local aid to provide or contract for public transit services or transportation to the general public and specific client groups, must coordinate and consolidate funding and resulting service, to the maximum extent possible, with the urban or regional transit system."*

[324A.4\(2\)](#) designates the Iowa DOT as the responsible agency to verify that all organizations, agencies, subdivisions and transit systems are in compliance with this mandate, while [324A.5](#) requires all other units of state and local government in Iowa to assist the department in this effort. Sanctions to induce compliance are established in [324A.5](#).

**Coordination of State and Federal Transit Funds** – Transit systems are encouraged to combine state and federal transit funds with those available from other agencies. Transit funds must be used to provide a comprehensive passenger transportation program for both social service clients and the general public. Portions of the service may be designed around the specific transportation needs of a particular user group, allowing that group to share in the benefits of the federal and state transit programs. However, all services using federal or state operating funds or vehicles purchased with funds administered by OPT must be open to the general public at all times.

Agencies that contract to purchase transit service from a transit system should share in the benefits from the federal and state transit operating funds. The actual cost of providing the service needs to be presented to the agency, along with the amount they will be charged when federal and state transit funds help subsidize the service. OPT encourages the transit system to distribute the transit funds equitably. The agency can determine the percent of subsidy based on the factors they feel appropriate (i.e. rides, miles, hours). The allocation of state and federal assistance across a transit system's contracts/services shall be public information.

**Coordination of Other State and Federal Funds** – Other sources of funding may be available for transportation. Agencies contracting with public transit systems may use these funds to pay for the service they receive from the transit system. The following is a listing of some of these programs in which transportation is an eligible expense:

[Administration on Aging Title III-B](#)

[Alcohol, Drug Abuse and Mental Health Services Block Grant](#)

[Community Development Block Grant](#)

[Community Health Center](#)

[Community Services Block Grant](#)

[Head Start](#)

[Job Training Partnership Act](#)

[Medicaid](#)

[Temporary Aid to Needy Families \(TANF\)](#)

[Title V Grants for Community Services Employment for Older Americans](#)

**Service Coordination** – Service coordination is the integration of resources that promote economic efficiency and service productivity. Vehicles may be shared by more than one agency or by more than one specific user group. Personnel and operational activities, such as routing and scheduling, may be shared by more than one organization.

Services may be either directly provided by transit systems or contracted from other agencies. It may be appropriate to contract with another agency to provide transportation when the agency is willing to operate the service open to the general public. However, direct service by the transit system is preferred since it provides greater assurances that the services will be open to the general public and that other federal requirements will be followed.

**Vehicle Coordination** – An important aspect of coordination is vehicle coordination. Any agency that owns publicly-funded vehicles is encouraged to coordinate with the public transit system to fully utilize all vehicles. The transit system may subcontract the operation of vehicles by an agency that is willing to provide public transit service if that is the most efficient way of providing the services. However, OPT discourages such subcontracts since vehicles operated by subcontract, may be under-utilized and not as available to non-clients of the subprovider.

The transit system needs to retain control of any vehicles that are operated by other agencies. Vehicles owned by the transit system must follow state and federal guidelines. It is important that agencies realize that all publicly-funded vehicles owned by a transit system must accumulate 10,000 miles per year and must ultimately reach a designated mileage threshold before rehabilitation, transfer, or disposition. It may be necessary for the transit system to rotate vehicles to meet these threshold requirements. The transit system also needs to make certain that proper maintenance is provided and appropriate insurance is carried. The vehicle use agreement must allow for vehicles to be rotated and state who is responsible for maintenance and insurance.

Sometimes a client agency may provide the local funds necessary to match the federal funds used to purchase transit vehicles. However, this presents a problem in that the agency perceives they should own and control the vehicle. To eliminate this, transit systems are encouraged to collect a vehicle replacement fee as part of the cost of providing transit service. This allows the transit system to build up a capital match fund that can be used to provide the local match for vehicles. This eliminates the need for a client agency to provide matching funds for a specific vehicle. Coordination of transit service is enhanced when the transit system can utilize the vehicles wherever it is most appropriate.

### **Federal Motor Carrier Safety Regulations**

All transit systems, and agencies or organizations providing transit services under contract, which are not units of state or local government, are subject to the Federal Motor Carrier Safety Regulations. These regulations require drivers to pass biennial medical examinations (49 CFR Part 391), and also place limitations on drivers' hours of service (49 CFR Part 395). Although units of state and local government are exempted from the regulation, it is recommended that governmental entities operating public transit services implement similar safety standards.

OPT is currently investigating the extent to which the Federal Motor Carrier Safety Regulations apply to public transit operators.

### **Labor Protection**

As a condition of using federal transit assistance, transit systems must protect transit employees against any worsening of their situations as a result of any federal transit assistance project. The requirement, found in 49 USC 5333(b) (formerly section 13(c) of the Urban Mass Transportation Act of 1964, as amended) requires that an "arrangement," approved by the Secretary of Labor, be in place before FTA can issue any grant under FTA's 5307, 5309, 5310, 5311, or JARC programs. JARC is also included, since Congress required the JARC program to follow the rules for 5307 grants.

Section 5333(b) requires that each agreement must include provisions addressing the following issues:

1. the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise;
2. the continuation of collective bargaining rights;
3. the protection of individual employees against a worsening of their positions related to employment;
4. assurances of employment to employees of acquired mass transportation systems;
5. assurances of priority of reemployment of employees whose employment is ended or who are laid off; and
6. paid training or retraining programs.

FTA and the US Department of Labor established a standard labor warrantee in which all 5311 subrecipients agree to in order to meet this requirement. Each joint participation agreement issued under a 5311 grant binds the subrecipient transit system to the terms of this warrantee.

For other grants, an arrangement /agreement must typically be negotiated with the unions representing the transit employees of the project recipients and/or subrecipients. Each large urban transit system, as well as each small urban or regional system that receives direct FTA funding, must enter into its own agreement reaffirmed for each new grant. The Iowa DOT, as the recipient of the statewide 5309 grants, is required to reach an agreement with the Amalgamated Transit Union, negotiating on behalf of all the transit unions. The agreement is binding on all subrecipients of the statewide 5309 grants that do not have their own individual agreement. Each joint participation agreement issued under a statewide 5309 grant binds the subrecipient transit system either to its own individual agreement or to the terms of the statewide agreement.

### **Lobbying**

Federal regulations prohibit use of federal funds to influence federal officials concerning specific projects. The regulations do not affect lobbying for or against issues or policies - only lobbying for specific projects such as a grant, loan or contract. The regulations also require the reporting of any lobbying by paid outside parties or new staff, even if funded with nonfederal dollars. Activities of long-term existing staff need not be reported. The requirement affects all subrecipients,

contractors and subcontractors at all levels, if they receive at least \$100,000 in federal funding from a project.

OPT, as the recipient of the Sections 5310, 5311, and statewide 5309 funds is required to obtain an annual certification from each system receiving funds ([http://www.iatransit.com/admin/handbook\\_forms/020096.pdf](http://www.iatransit.com/admin/handbook_forms/020096.pdf)). Any system that receives funding in excess of \$100,000 must also provide a report of any existing activity. (<http://www.whitehouse.gov/omb/grants/sfill.pdf>). Certificates and reports (if necessary) are submitted as part of the consolidated grant application.

### **Open Meetings**

Meetings of members of a governmental body where there is deliberation or action on any matter within the scope of the governmental body's policy-making duties must be open to the public. Requirements on open meetings are found in Chapter 21 of the Code of Iowa. Section 21.3 states "meetings of governmental bodies shall be preceded by public notice and shall be held in open session unless closed sessions are expressly permitted by law." Closed sessions may be permitted in the following situations:

- to discuss strategy with counsel in matters involving litigation; ;
- to evaluate the professional competency of an individual whose appointment, hiring, performance or discharge is being considered; or
- to discuss the purchase of particular real estate only when premature disclosure could increase the price the governmental body would have to pay for the property.

See Section 21.5 of the Code of Iowa for more detail and the complete listing of reasons a public body may hold a closed session. (<http://www.legis.state.ia.us/cgi-bin/IACODE/Code2001SUPPLEMENT.pl>)

OPT requires public transit systems that are private-not-for-profit corporations to conform to the open meeting requirements as if they are a public agency.

### **Political Involvement (Hatch Act)**

All transit systems receive federal funding and are subject to the provisions of the Hatch Act, which regulates political activities of employees of agencies that receive federal funds. Regulations are found at Title 5 CFR Part 151.

<http://www.osc.gov/hatchact.htm>

An individual principally employed by a state or local executive agency in connection with a program financed in whole or in part by federal grants may:

- be a candidate for public office in a nonpartisan election;
- campaign for and hold elective office in political clubs and organizations;
- actively campaign for candidates for public office in partisan and nonpartisan elections; or
- contribute money to political organization or attend political fundraising functions.

An individual principally employed by a state or local executive agency in connection with a program financed in whole or in part by federal grants may not:

- be a candidate for public office in a partisan election.
- use official authority or influence for the purpose of interfering with or affecting the results of an election or a nomination for office.
- directly or indirectly coerce contributions from subordinates in support of a political party or candidate.

For more information or to report violations of the Hatch Act contact:

Office of the Special Counsel  
United States Merit Systems Protection Board  
1730 M Street NW, Suite 201  
Washington, D.C. 20036-4505  
800-854-2824

### **Private Sector Participation in Public Transit**

FTA's Private Sector Participation Policy encourages local officials to involve private-for-profit bus operators in the planning process for public transit and to consider whether private operators could provide any existing or new public transit services. Specifically, FTA recommends that:

- existing transit services should be reviewed periodically to determine if they can be provided more efficiently by the private sector;
- when new transit services are being developed, or major restructuring of services is being considered, the option of operation by a private-for-profit carrier should be considered; or
- private-for-profit enterprises should be given a fair opportunity to bid for operation of any transit services or other aspect of the transit program.

The inclusion of private transportation operators in the planning process was addressed in Chapter 4, but it should be noted that, to the extent that service planning takes place within the transit system organization as well as through the planning agency, both the transit system and the planning agency are impacted by FTA's policy on involving the private sector in planning of transit services.

Involvement of the private sector in the provision of public transit services can relate to aspects of operations, maintenance, or administration.

**Operational opportunities** – It is possible for the transit system to specify route structure, frequency, fares, on-time performance standards, etc. and bid out the actual operation to private providers. The transit system remains financially responsible for the cost of the service and receives credit for all the passenger revenues. Provisions can also be made to give the operator incentives for increased revenues.

Demand-responsive services can also be contracted out, with the transit system specifying the number of vehicles to be available at different times of day, the fares, and on-time performance standards. Because the productivity of demand-responsive service can vary tremendously, in large part based on the dispatch function, the transit system contracting such service out often either includes productivity incentives in the contract or keeps control of the dispatch function themselves.

Two types of operation that are fairly common contracting opportunities at transit properties around the country are after-hours taxi services and express commuter routes.

**Maintenance opportunities** – Many small properties lack the resources to have their own maintenance facility or staff, and therefore use private sector contracting for maintenance services. Larger transit systems often contract out major maintenance or specialized jobs. Grounds maintenance and janitorial functions are also potential areas that might be considered for private sector contracting.

**Administrative opportunities** – Some public transit systems privatize virtually the entire administrative function by contracting with a private transit management firm. Other systems have contracts with private companies for functions such as legal services, accounting, payroll, labor negotiations, or marketing.

**Public Hearing Notice** – OPT requires that all transit systems notify private transit providers of the public hearings held for state and federal transit assistance administered by OPT. This is in addition to the requirement to publish a notice in a newspaper. More information on public hearing requirements is included Chapter 5, Funding Applications, and in the Private Sector Clearinghouse section in this chapter.

**Private Sector Protest/Appeal Procedures** – FTA requires each public transit system using FTA funding to have a private sector protest procedure established. Iowa's small urban and regional transit systems are required to include in their private sector protest procedure the opportunity for an appeal to OPT, and ultimately to FTA. Appendix 15-F presents a model private sector protest/appeal procedure.

**Private Sector Clearinghouse** – Transit systems receiving federal funds administered by the Iowa DOT are requested to use the private sector notification clearinghouse service provided by OPT to make individual notices to private providers. Items sent to OPT labeled "For Private Sector Clearinghouse" are sent out once a week to all private providers having authority to operate in Iowa, the American Bus Association, The United Motorcoach Association, and other out-of-state carriers who have requested notices. Transit systems should allow extra processing time when setting comment deadlines and verify the mailing date before closing comments. Direct FTA recipients may use this process at their discretion.

### **Radio Licenses**

The Federal Communications Commission (FCC) has specific rules and guidelines for the operation of radio systems. Radio frequencies and towers must be licensed. The license expires every ten years. Beginning December 3, 2001, a mandatory FCC Registration Number (FRN) is required for all agencies who file applications with the Universal Licensing System (ULS) or to register towers via Antenna Structure Registration (ASR). FCC Public Notice DA 01-2452 describes the new process. Additional information and contact information can be obtained from the FCC website at <http://www.fcc.gov>.

Licensing and renewal is now done through the (ULS) on the internet at <http://wireless.fcc.gov/uls>. The FCC Technical Support Hotline, 202-414-1250, can answer questions about computer access to ULS, identification (TIN) registration, uploading files, or submitting attachments in ULS.

The ULS Licensing Support and Forms information, 1-888-225-5322, option #2, can help with questions about which application purpose is appropriate for a particular filing, what information is being requested on a ULS form, or any other ULS-related licensing matter.

### **Records Retention**

The transit system must have a filing and record retention system to maintain and retrieve information that is required to be retained by local, state or federal governments. The length of time that records should be retained depends on funding requirements, government regulations, insurance, liability, tax considerations, and historical considerations. Records relevant to foreseeable or pending judicial or administrative investigations or proceedings must be preserved until the actions are concluded.

FTA requires transit systems to retain all records applicable to a project for three years after the grant has been closed out.

Capital project files should include copies of bid notices, bid packages, proposals, communications with vendors, bid analysis and invoices. Concurrence letters from OPT approving the various stages of procurement should also be a part of the file.

Section 5311 operating contract files should contain financial information showing that the operating assistance was not more than 50 percent of the operating deficit.

JARC or Intercity Bus Assistance agreement files need to contain documentation showing the costs of the project. Documentation will depend on the scope of the project but may include time sheets, invoices, bus trip sheets, schedules or other information.

Section 5310 and 5311 systems that operate any allowable charters must keep the Certification of Eligibility for Public Charter Service three years after the Section 5311 operating contract that was in place during the time of the charter is closed out.

Specific record retention requirements apply under FTA drug and alcohol testing requirements as noted in Chapter 14.

### **Right to Know**

Under the United States Hazardous Chemicals Risks Right-to-Know Act, employers must implement a hazard communication program covering the three parts of the law:

- employees right-to-know;
- community right-to-know; and
- emergency response right-to-know.

**Employees right-to-know** – The law specifies that employees must be made aware of the provisions of the law and must receive training about material safety data sheets (MSDS), container labels and product hazards. Training must be provided at the time of an employee's initial assignment to a new work place and whenever a new hazardous product is introduced into the workplace.

**Community right-to-know** – The transit system is required to provide information about products used to anyone from the public who requests it.

**Emergency Response right-to-know** – The transit system must also notify local fire departments or emergency response teams of products used and stored at worksites.

### **School Transportation Restrictions**

FTA funds may not be used for the purchase of yellow school buses or non-yellow buses with other features such as stop arms, school flashers or permanent signs indicating school usage. FTA does not allow exclusive school transportation on any FTA-funded vehicles. Therefore, FTA does not allow any features on the vehicle that make it appear to be providing exclusive school service.

Iowa law reserves the "school bus yellow" coloration, stop arms and flashing white strobe lights to vehicles designed primarily for school bus usage. Since such use is not allowed for FTA-funded vehicles, vehicles purchased with funds administered by OPT may not incorporate these features although they may be "school-type vehicles." Iowa law prohibits non-school vehicles from having this equipment even if not purchased with FTA funds.

### **Taxes Available to Transit**

**General Fund Levy** – Cities and counties can levy property tax for support of their general fund. This is a primary source of funding for many Iowa transit systems. The general fund levy is limited by state law. [Chapter 384.1 of the Code of Iowa](#) states these limits.

**Hotel and Motel Tax** - A city or county may impose a hotel and motel tax at a rate not to exceed seven percent. Chapter 422A explains the hotel and motel tax. <http://www.legis.state.ia.us/IACODE/2001SUPPLEMENT/422A/1.html>

**Local Option Taxes** - A local option tax may be imposed after a majority of those voting approve the tax. Chapter 422B explains the local option taxes.

**Transit Levy** - A city may levy a tax for the operation and maintenance of an urban transit system up to 95 cents per \$1,000 of assessed value each year. This is stated in [Chapter 384.12\[10\]](#) of the Code of Iowa. These funds are over and above any general funds spent on transit and are not included in the state-imposed caps on general fund levies.

**Trust and Agency Fund**– A trust and agency fund can be established by a city to provide employee benefits. An urban transit system, with the city's approval, may use these funds as outlined in [Chapter 384.6](#) of the Code of Iowa. As with the transit levy, the trust and agency fund levy is not covered by controls on general fund levies.

### **Tax Exemptions**

**Fuel Tax** – Transit systems are exempt from fuel tax as explained in [Chapter 11](#) under fuel regulations.

**Sales and Use Tax** – A sales tax or use tax are the same type of tax. They are a tax imposed on the sale or exchange of goods or services. The use tax is imposed on the sale of motor vehicles. In Iowa, the proceeds from the general sales tax and deposited in the state's General Fund, and the proceeds from the use tax are ultimately deposited in the Road Use Tax Fund.

Chapter [422.45](#) of the Code of Iowa exempts public agencies and regional transit systems from paying use or sales tax. The transit manager should have a tax exempt number for the transit system to use.

## **Travel Authority**

**In-state Authority** – [Chapter 325](#) of the *Code of Iowa* exempts urban transit systems from the requirement to apply for travel authority from Iowa DOT's Office of Motor Carrier Services for public transit services provided in their own urban area and adjacent communities, and to-and-from communities no more than ten miles away. The Code requires that transit systems apply for a "regular route certificate" if serving communities beyond the ten-mile limit.

The exemption from travel authority which once existed for regional transit systems in Chapter 325 has now been broadened to cover all carriers 'providing primarily passenger service for persons who are elderly, persons with disabilities, and other transportation-disadvantaged persons' if they satisfy all of the following requirements:

- the motor carrier is not a corporation organized for profit under the laws of Iowa or any other state or the motor carrier is a governmental organization;
- the motor carrier received or receives operating funds from federal, state, or local government sources; and
- the motor carrier does not duplicate a transportation service provided by a motor carrier issued a regular-route passenger certificate.

It is unclear whether this broader exemption could also apply to urban transit systems, since most would meet all the criteria.

Carpool and vanpool programs are also separately exempted from the travel authority requirements.

**Interstate authority** – All public transit systems crossing state lines are required to register with the Federal Motor Carrier Safety Administration (FMCSA) of USDOT. Registration is free for public agencies. For "quasi-public" (private not-for-profit) corporations there is a \$300/year fee, but there are also provisions allowing the fee to be waived or reduced on a case-by-case basis, if it is shown to be in the public interest. Registered carriers are assigned a carrier number, which must be displayed on all vehicles. Transit systems using FTA funding need not comply with the insurance requirements applied to other interstate carriers, but are required to meet the highest public transit insurance requirements of the states in which they operate.

## **28E Agreements**

[Chapter 28E](#) of the Iowa Code permits state and local governments in Iowa to make

efficient use of their powers by enabling them to provide joint services and facilities with other agencies and to cooperate in other ways of mutual advantage.

This provision has been used to create some of Iowa's regional transit systems. The counties in these regions have entered into an agreement that establishes a separate legal entity that provides transit service. This entity has all the powers, privileges and authority of a public agency. The following regional transit systems are organized under a 28E agreement.

Region 2	Region 7	Region 12
Region 5	Region 10	Region 13
Region 6	Region 11	Region 15

A 28E agreement may also be made between one or more cities and other public agencies. The following urban transit systems are organized under a 28E agreement:

Ames Transit Agency  
Des Moines Metropolitan Transit Authority  
Metropolitan Transit Authority of Black Hawk County (Waterloo)

A 28E agreement can also allow multiple transit systems to act jointly on a project. Such an agreement can include transit systems organized as private not-for-profit or non-profit corporations under [Chapter 504](#) or [504A](#) of the Code of Iowa.

28E organizations are subject to the same rules as their member governments. This includes open meeting requirements, ethanol use, etc.

### **Fare and Service Changes - Public Comment**

FTA requires that each large urban transit operator have a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transit service. OPT has a similar requirement for small urban and regional transit systems.

The transit system is expected to have a written policy that describes the public comment process on increases in the basic fare structure and on major service reductions. The policy should provide an opportunity for a public hearing or public meeting for any fare increase or major service reduction, should describe how such meetings will be conducted, and how the results of such meetings will be considered in the process of changing fares and service. A public meeting is not mandatory; however, an opportunity for a public meeting in order to solicit comments must be given.

While the requirement is limited to fare increases and major service reductions, it is good public policy to receive public input for any significant fare or service changes.

### **Fares Charged Elderly and Persons with Disabilities During Non-peak Hours**

The U.S. Code, [49 U.S.C. Section 5307](#)(d)(1)(D), requires large urban transit systems to offer "half-fares" for elderly persons and persons with disabilities during,

at least, non-peak hours for fixed-route transportation using facilities and equipment financed with Federal assistance from FTA. The requirement is that these fares " not exceed one-half of the rates generally applicable to other persons at peak hours, whether the operation is by the transit system itself or by another entity under lease or otherwise." This half-fare rate must also be available to any person presenting a Medicare card issued to that person pursuant to Title II or Title XVIII of the Social Security Act (42 U.S.C. 401 et seq., 1395 et seq.). OPT has chosen not to impose a similar requirement on Iowa's small urban and regional transit systems. Several small urban transit systems do offer reduced fares for senior citizens. Most regions offer services for elderly persons on a contribution basis under contracts with their local AREA Agency on Aging funded with Older Americans Act funds.

**FTA list of regulations with links:**

[http://www.fta.dot.gov/legal/regulations/511\\_ENG\\_HTML.htm](http://www.fta.dot.gov/legal/regulations/511_ENG_HTML.htm)