



COLORADO
Department of Transportation

**DIVISION OF
TRANSIT AND RAIL**

**STATE
MANAGEMENT
PLAN**

August 2019



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- Section 5310
- Section 5311
- Section 5339
- Section 5307
- Section 5304
- Section 5312

Appendix B: Non-Federal Transit Funds

- Funding Advancement for Surface Transportation and Economic Recovery Act (FASTER)
- Senate Bill 267
- Settlement Funds
- Senate Bill 1

Appendix C: COTRAMS Community **User's Manual and Instructions**

Appendix D: Reference Documents

- FTA Circular 5010.1E
- FTA Master Agreement

Acronyms and Abbreviations

3C	continuing, comprehensive, and cooperative
A&E	Architecture and Engineering
ADA	Americans with Disabilities Act
ADAAG	Americans with Disabilities Act Accessibility Guidelines
ALI	Activity line item
APC	automatic passenger counters
AVL	automatic vehicle location
CAD	computer aided dispatch
CAP	Cost Allocation Plan
CASTA	Colorado Association of Transit Agencies
CatEx	Categorical Exclusion
CDOT	Colorado Department of Transportation
CDPHE	Colorado Department of Public Health & Environment
CE	Chief Engineer
CEO	Colorado Energy Office
CFR	Code of Federal Regulations
CMAQ	Congestion Mitigation and Air Quality
CNG	compressed natural gas
COG	Council of Governments
COSO	Committee of Sponsoring Organizations of the Treadway Commission
COTRAMS	Colorado Transit & Rail Awards Management System
CRBRC	Civil Rights and Business Resource Center
C.R.S.	Colorado Revised Statutes
DA	Disposition Authorization
DAF	Division of Accounting and Finance
DAMIS	Drug & Alcohol Testing Management Information System
DBE	Disadvantaged Business Enterprise
DBELO	Disadvantaged Business Enterprise Liaison Officer
DCR	Disposition Concurrence Request
DOT	Department of Transportation
DOR	Colorado Department of Revenue
DTD	Division of Transportation Development
DTR	Division of Transit and Rail
DUNS	Data Universal Numbering System
ECHO	Electronic Clearinghouse
EEO	Equal Employment Opportunity
FAST Act	Fixing America's Surface Transportation Act
FASTER	Funding Advancement for Surface Transportation and Economic Recovery Act
FFATA	Federal Funding Accountability and Transparency Act
FFR	Federal Financial Report

FSRS	Federal Subaward Reporting System
FTA	Federal Transit Administration
FTC	Federal Trade Commission
FY	Fiscal Year
GCL	Grant Closeout Liquidation form
HOT	High-Occupancy Toll
HOV	High-Occupancy Vehicle
HPTE	High Performance Transportation Enterprise
HSTP	Human Services Transportation Plan
HUTF	Highway Users Tax Fund
HVAC	heating, ventilation, and air conditioning
ICB	Intercity Bus
ICE	Independent Cost Estimate
ICRP	Indirect Cost Rate Proposal
IFB	Invitation for Bid
ITS	Intelligent Transportation Systems
LEP	Limited English Proficiency
MAP-21	Moving Ahead for Progress in the 21st Century Act
MOU	Memorandum of Agreement
MPO	Metropolitan Planning Organization
MPR	Monthly Progress Report
NA	Notice of Acceptance and Vehicle Checklist
NAICS	North American Industry Classification System
NEPA	National Environmental Policy Act
ND	Notice of Disposition
NOFA	Notice of Funding Availability
NTD	National Transit Database
OFMB	Office of Financial Management and Budget
OMB	Office of Management and Budget
OPGR	Office of Policy and Government Relations
PA	Purchase Authorization
PD	Procedural Directive
PO	Purchase Order
PMP	Program Management Plan
PCR	Procurement Concurrence Request
POP	Program of Projects
PROWAG	Right of Way Accessibility Guidelines
Q&A	Question and Answer
RACQ	Regional Air Quality Council
RFP	Request for Proposal
RFQ	Request for Quotation
RPC	Regional Planning Commissions

RR	Reimbursement Request
RRIF	Railroad Rehabilitation & Improvement Financing
RTAP	Rural Transit Assistance Program
RTD	Regional Transportation District
RTP	Regional Transportation Plan
SA	Security Agreement
SB	Senate Bill
SBEs	Small Business Enterprises
SF-SAC	Standard Form-Single Audit Collection
SAM	System for Award Management
SAP	Systems Applications and Products (CDOT's Financial System)
SC	Shopping Cart
SES	Service Entry Sheet
SGR	State of Good Repair
SIR	Subrecipient Information Request
SMP	State Management Plan
SMS	Safety Management Systems
SOW	Statement of Work
STAC	State Transportation Advisory Committee
STIP	Statewide Transportation Improvement Program
STP	Surface Treatment Program
SUSS	Supplier Self Service
SWP	Statewide Transportation Plan
SWTP	Statewide Transit Plan
TAM	Transportation Asset Management
TDC	Transportation Development Credit
TDM	Transportation Demand Management
TDP	Transit Development Program
TIFIA	Transportation Infrastructure Finance and Innovation Act
TIP	Transportation Improvement Program
TPR	Transportation Planning Region
TRAC	Transit and Rail Advisory Committee
TrAMS	Transit Award Management System (FTA)
TVM	Transit Vehicle Manufacturer
UPWP	Unified Planning Work Program
U.S.C.	United States Code
U.S.DOT	United States Department of Transportation
UZA	Urbanized Area
VIN	Vehicle Identification Number
WBS	Work Breakdown Structure

EXECUTIVE SUMMARY

The Colorado Department of Transportation (CDOT) is required to have an FTA-approved State Management Plan (SMP) on file with the FTA Region 8 office that describes **the state's policies and procedures for administering FTA's Title 49 USC Sections 5310, 5311, and 5339** programs. **CDOT's Division of Transit and Rail (DTR) is responsible for maintaining the document and submitting an updated SMP to the FTA every three years.** This document is an update to **CDOT's SMP that was submitted in 2015.**

This current revision is a comprehensive description of how CDOT administers federal and **state transit funds to subrecipients across Colorado.** It includes FTA's requirements for an SMP; and is expanded to include process descriptions, flow charts, and checklists to serve as a procedural guidebook with **resources and references for CDOT's** external stakeholders (local transit agencies/ subrecipients) and internal CDOT staff who are part of the project administration process.

The SMP document is organized as follows:

- **Chapter 1** is an overview of the SMP and describes the roles and responsibilities of CDOT groups that administer program funds.
 - Contact: DTR Director
- **Chapter 2** describes CDOT's statewide planning processes related to transit.
 - Contact: DTR Transit Planning Unit Manager
- **Chapter 3** outlines how FTA and CDOT allocate and award federal and state transit and rail funds, as well as financial management and reporting.
 - Contact: DTR Transit Programming Unit Manager and DTR Bus Operations Manager
- **Chapter 4** describes how CDOT oversees subrecipients and projects to ensure compliance with FTA and State requirements.
 - Contact: Project Coordination Unit Manager
- **Chapter 5** describes how CDOT develops and oversees CDOT and subrecipient civil rights programs.
 - Contact: Civil Rights and Business Resource Center DTR Liaison
- **Chapter 6** outlines how CDOT administers FTA programs and assets.
 - Contact: Project Coordination Unit Manager
- **Appendix A** includes CDOT's processes for overseeing FTA transit programs (Sections 5310, 5311, 5339, 5307, 5304, and 5312).

- **Appendix B** includes CDOT’s processes for overseeing state transit funds (FASTER; Senate Bills 1, 228, and 267; and Settlement Funds).
- **Appendix C** is the user manual for DTR’s Colorado Transit and Rail Award Management System (COTRAMS)—an online tool used by CDOT and subrecipients to manage the full life-cycle of an award.
- **Appendix D** includes documents referenced throughout the SMP—FTA Circular 5010.1E and the FTA Master Agreement.



COLORADO
Department of Transportation

**DIVISION OF
TRANSIT AND RAIL
STATE MANAGEMENT PLAN**

CHAPTER 1
Overview

Outline

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1 OVERVIEW

1.1 Introduction

1.1.1 Purpose of State Management Plan

The Federal Transit Administration (FTA) provides financial assistance to states and designated recipients through a number of programs to develop new transit systems and improve, maintain, and operate existing systems. The State Management Plan (SMP), **developed by a state, describes the state's policies and procedures for administering FTA's** Title 49 USC Sections 5310, 5311, and 5339 programs; Sections 5304, 5307, and 5312 programs; and the state programs that fund transit projects.

A state or a designated recipient in a large urban area is required to have an approved SMP on file with the appropriate FTA regional office and to update it regularly to incorporate any changes in program management or new requirements. The recipient must provide an opportunity for review by stakeholders when it develops a new plan or significantly revises an existing plan. **An urban area's plan is called a Program Management Plan (PMP).** Certain contents of the SMP, such as project selection criteria, must be coordinated with the Statewide Transportation Plan.

This document is the SMP adopted by the Colorado Department of Transportation (CDOT). It **includes CDOT's policies and procedures for administering FTA programs and several state** programs. The processes are described in Chapters 1 through 6 of this document. SMP Appendix A contains detail about the FTA programs; SMP Appendix B contains detail about the non-federal programs.

The CDOT Division of Transit and Rail (DTR) manages the programs described in this document.

This SMP is intended to conform and implement applicable laws and regulations. In the event any provision herein conflicts with such laws or regulations, the terms of such laws or regulations shall apply, but only to the extent as is needed to remedy such conflict. This plan constitutes guidance, contains statements that are for information purposes only, and does not constitute a law or regulation.

1.1.2 Applicability of State Management Plan

This SMP outlines CDOT's management processes and procedures related to federal and state programs. The plan serves as a guide for applicants and subrecipients and provides the **information to the general public about CDOT's role in implementing transit across the state.**

1.1.3 Authority

CDOT is the designated recipient for FTA rural and small urban transit funding under authority of the Governor of Colorado and administers FTA programs for rural and small urban systems under this designation. In addition, CDOT is the designated recipient of funds for the Denver/Aurora Urbanized Area (UZA) for Section 5310 funds.

DTR was created by state legislation in 2009. Per Colorado Statute (CRS 43-1-117.5), **“the Transit & Rail Division shall be responsible for the planning, development, operation, and integration of transit and rail into the statewide transportation system; [and] shall in coordination with other transit and rail providers, plan, promote, and implement investments in transit and rail services statewide.” DTR administers the FTA program funds as a pass-through entity and administers state transit funds.**

1.2 State Management Plan Development

CDOT’s prior SMP was updated in August 2017. The current update addresses changes to FTA program requirements and changes to CDOT’s policies and procedures since then. It was revised based on FTA comments on prior SMPs, CDOT Rules and Regulations for the administration of FTA funds, and policies related to the administration of state programs.

1.2.1 Public Review

A public review and comment period was conducted with this update given the extent of the revisions. DTR advertised the update to this document and conducted a public comment process that included:

- Review of a draft outline and approach presented at Transit Town Halls held at several locations throughout Colorado for transit agencies.
- Review of drafts by an External Stakeholder Committee.
- Direct notification and distribution of the plan to affected parties through shared Google drives, emails, monthly calls with subrecipients, posts in COTRAMS, and sessions at the Colorado Association of Transit Agencies and CDOT conferences.

DTR receives input and guidance on this document from the Transit and Rail Advisory **Committee (TRAC) and the Transportation Commission’s Transit and Intermodal Committee** (see Section 1.5 Organization). Any policy changes that require Transportation Commission approval must receive that approval prior to inclusion in the SMP.

The SMP is submitted to FTA for review and approval. Once approved by FTA, the current version of the document supersedes previous versions.

The CDOT Transportation Commission, before adoption, must authorize modifications to Funding Advancement for Surface Transportation and Economic Recovery Act (FASTER) elements within the St SMP that are policy related.

1.2.2 Future Updates

The main body of the SMP is updated approximately every three years. Updates to the appendices that include the requirements and administration of specific programs are made more often so that the document remains a current reference for the public and subrecipient agencies.

1.3 CDOT's Vision and Mission

CDOT's Vision is: To enhance the quality of life and the environment of the citizens of Colorado by creating an integrated transportation system that focuses on safely moving people and goods by offering convenient linkages among modal choices.

CDOT's Mission is: To provide the best multimodal transportation system for Colorado that most effectively and safely moves people, goods, and information.

<https://www.codot.gov/about/mission-and-vision.html>

1.3.1 Division of Transit and Rail

DTR supports CDOT's Mission through planning and support of transit agencies across Colorado. DTR finalized a Statewide Transit Plan (SWTP) in 2015 that identified local, interregional, and statewide transit and passenger rail needs and priorities. An update to the SWTP is underway in 2019 through 2020.

A Vision for Colorado's public transit system was set during development of the SWTP:

“Colorado's public transit system will enhance mobility for residents and visitors in an effective, safe, efficient, and sustainable manner; will offer meaningful transportation choices to all segments of the state's population; and will improve access to and connectivity among transportation modes.”

Supporting goals and objectives developed for the SWTP include:

- System Preservation and Expansion
- Mobility/Accessibility
- Transit System Development and Partnerships
- Environmental Stewardship
- Economic Vitality
- Safety and Security

CDOT and DTR follow the statewide transit vision and goals to guide investment in transit to meet identified needs around the state.

1.4 Transit Programs Overview

CDOT administers both FTA and state transit funds. FTA funds are divided into different **programs or “sections”, named for the sections of the U.S. Code of Federal Regulations**, as presented in Table 1-1 and Table 1-2. Some FTA funding is allocated to CDOT and large transit providers in urban areas by formula, while other funds are made available through discretionary and competitive awards. Additional state and other dedicated funding programs support transit investments, as presented in Table 1-3. The DTR Five-Year Financial Plan for Public Transit in Colorado (CY 2019-2023) forecasts public transit revenues and how they are distributed (see attachment in Chapter 3). DTR allocates funds from these programs to meet the goals of the SWTP and oversees the projects. **Typical timelines for CDOT’s funding application cycles** are included in Chapter 3.

Table 1-1. FTA Programs Administered by CDOT

5304 Statewide Planning

This formula program provides funding in metropolitan areas and statewide for planning, technical studies, and training. Federal funds are apportioned to CDOT and then passed-through to Metropolitan Planning Organizations (MPO) by formula.

5307 Urbanized Area Formula Program

This formula program provides funding to small and large urbanized areas for public transportation capital, planning, and operating expenses in certain circumstances. Most funds are apportioned directly to transit providers in Colorado.

5310 Enhanced Mobility for Seniors and Individuals with Disabilities

This formula program provides financial assistance to private nonprofit organizations, states or local government authorities, and operators of public transportation to meet the transportation needs of **the elderly and persons with disabilities. Funds are apportioned based on each state’s** share of population for these groups.

5311 Rural Area Formula Program

This formula program provides funding for public transportation programs in non-urbanized (rural) areas. Funds may be used for planning, capital, operating, or administrative expenses; and, acquisition of transportation services. Previous Job Access and Reverse Commute (5316) and New Freedom (5317) services are eligible under this program. This section includes the following sub-programs:

- 5311(b)(3) Rural Transportation Assistance Program: This discretionary and formula program provides funding for technical assistance, training, and research and support activities in rural areas.
 - Section 5311(f) Intercity Bus: This section requires states to expend at least 15 percent of annual Section 5311 apportionment to carry out programs to develop and support intercity bus transportation.
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Table 1-1. FTA Programs Administered by CDOT

5312 Research, Development, Demonstration, and Deployment Projects

This discretionary program supports research activities that improve the safety, reliability, efficiency, and sustainability of public transportation, including development, testing, and deployment of innovative technologies, materials, and processes; and, deployment of low-emission vehicles.

5339 Bus and Bus Facilities Formula Program

This formula program provides capital funding to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities. Urbanized areas receive a direct formula award. For rural areas, a formula award is provided to CDOT that then conducts a competitive process.

5339(b) Bus and Bus Facilities Discretionary Program

Same as 5339—but a discretionary program, rather than a formula program.

5339(c) Low or No Emission Vehicle Program

The program provides funding to state and local governmental authorities for the purchase or lease of zero-emission and low-emission transit buses as well as acquisition, construction, and leasing of required supporting facilities.

Table 1-2. Additional FTA Programs

5303 Metropolitan Planning

This formula program funds transportation planning processes at MPOs in Colorado. The program requires MPOs to adopt performance-based planning processes. FHWA and FTA funds support this program with a local match requirement.

5305 State Planning and Research Program

This formula program provides financial assistance for statewide transportation planning and other technical assistance activities.

5309 Fixed Guideway Capital Investment Program

This discretionary program provides capital investment funds for new and expanded rail and bus rapid transit systems in key corridors. The program also streamlines the New Starts and Small Starts processes.

5311(c)(1) Public Transportation on Indian Reservations

This discretionary and formula program funds capital, operating, planning, and administrative expenses for transit projects in tribal communities.

5314 Technical Assistance & Standards Development

This discretionary program provides technical assistance to the public transportation industry to more effectively and efficiently provide transit service.

5326 Transit Asset Management

This section establishes new requirements for transit asset management, including development of asset management plans and reporting requirements to promote accountability. No funding is provided under this section, but technical assistance is available.

5329 State Safety Oversight

This formula program provides funding to develop and carry out state safety oversight programs, developing transit agency safety plans, and providing safety certification training.

Table 1-2. Additional FTA Programs

5337 State of Good Repair Program

This formula program funds repairs and upgrades to rail transit systems and bus systems that use high-occupancy vehicle lanes, including bus rapid transit. The program includes two set-aside allocations for High Intensity Fixed Guideway and High Intensity Motorbus systems.

5340 Growing States and High Density States Distribution

This section distributes formula funding to states given certain conditions. FTA apportions Growing States funds by formula based on state population forecasts and distributes funds between urbanized and rural areas within Colorado. High Density funds are apportioned only to urbanized areas within states with high population densities. These funds supplement Section 5307 and 5311 programs

20005(b) Transit-Oriented Development Planning Pilot Program

This discretionary program provides funding to advance planning efforts that support transit-oriented developments associated with new fixed-guideway and core-capacity improvement projects.

Table 1-3. Non-federal Transit Funding Programs

Senate Bill 09-228 (SB 228)

SB 228 governs State of Colorado General Fund transfers. Funding made available to CDOT is designated by the Transportation Commission for use exclusively for projects of statewide significance. Local projects are not eligible for these funds. Approximately 10% of this is allocated to transit projects. DTR uses these funds for the capital needs of the interregional and regional network, park-n-rides, and other capital projects of statewide significance. All projects are reviewed by the Transportation and Intermodal Committee of the Transportation Commission.

Funding Advancements for Surface Transportation and Economic Recovery Act of 2009 (FASTER)

The FASTER legislation provides \$15 million per year for transit purposes. This competitive program provides funds for statewide and local transit projects. Eligible projects include bus stops, bike parking, transit maintenance facilities, vehicle replacements, multimodal transportation centers, and other planning and capital projects. FASTER transit funds are split between local transit projects and statewide and regionally significant projects.

Senate Bill 17-267 (SB 267) Concerning the Sustainability of Rural Colorado

SB 267 authorizes the execution of lease-purchase agreements on state facilities totaling \$2 billion, to be issued in equal amounts over four years, beginning in State Fiscal Year (FY) 2018-19. CDOT is the steward of \$1.88 billion of those proceeds, of which 10% must go to transit (\$188 million) and a minimum of 25% to counties with a population of less than 50,000 as of July 2015.

Alternative Fuel Settlement Program

The State of Colorado's Beneficiary Mitigation Plan for the \$68.7 million received as a settlement from Volkswagen is administered by the Colorado Department of Health and Environment (CDPHE). Under an intergovernmental agreement with CDPHE, DTR will implement the Transit Bus Replacement Program. Approximately \$18 million, or 26% of its initial allocation of trust funds (2019-2011), will be used to replace Class 4-8 transit buses with alternative fuel (e.g., compressed natural gas [CNG], propane, hybrid) or electric vehicles and to install charging infrastructure associated with **new electric transit buses. These funds are distributed through DTR's Consolidated Call for Capital** Projects (described in Chapter 3). DTR uses a combination of existing funds and settlement funds to incentivize the purchase of electric, CNG, and other alternative fueled vehicles.

Table 1-3. Non-federal Transit Funding Programs

Senate Bill 18-001 (SB 1)

SB 1, passed by the Colorado General Assembly in May 2018, includes a variety of possible funding scenarios dependent upon different external factors. In 2018, it authorized two years of General Fund transfers (\$495.0 million) to the state (70%), local governments (15%), and a new Multimodal Fund (15%). The local money is split evenly between cities and counties and will be distributed via the local government Highway Users Tax Fund distribution formula. All the multimodal funding is administered through CDOT. Local governments receive 85% of it and CDOT receives 15% for statewide multimodal projects. The multimodal funds may be used for bicycle, pedestrian, ride sharing, transit projects, or capital or operating projects.

1.5 Organization

1.5.1 CDOT

The parts of CDOT's organization that are involved in the administration of FTA and state transit funds are listed below. Roles and responsibilities are described in Section 1.6.

- Transportation Commission
- **Executive Director's Office**
- Office of Policy and Governmental Relations
- Division of Accounting and Finance
 - Office of Financial Management and Budget
 - Accounting
 - Business Office
 - Procurement and Contract Services
- Office of Communications
- Chief Engineer
- Division of Transportation Development
- Civil Rights and Business Resource Center
- CDOT Regions

DTR's direct access to the CDOT Executive Director to perform duties and functions under CDOT and the Executive Director is established in state law CRS 24-1-127.7(3)(e), CRS 24-1-103 through 105, and CRS 43-1-117.5.

Federal law, 49 CFR 26.25, **requires that CDOT's Disadvantaged Business Enterprise (DBE) Liaison Officer has direct, independent access to the Chief Executive Officer concerning DBE**

program matters. CDOT meets this requirement under a notice of Assurance of Direct and Independent Access executed January 2016 by CDOT’s Executive Director.

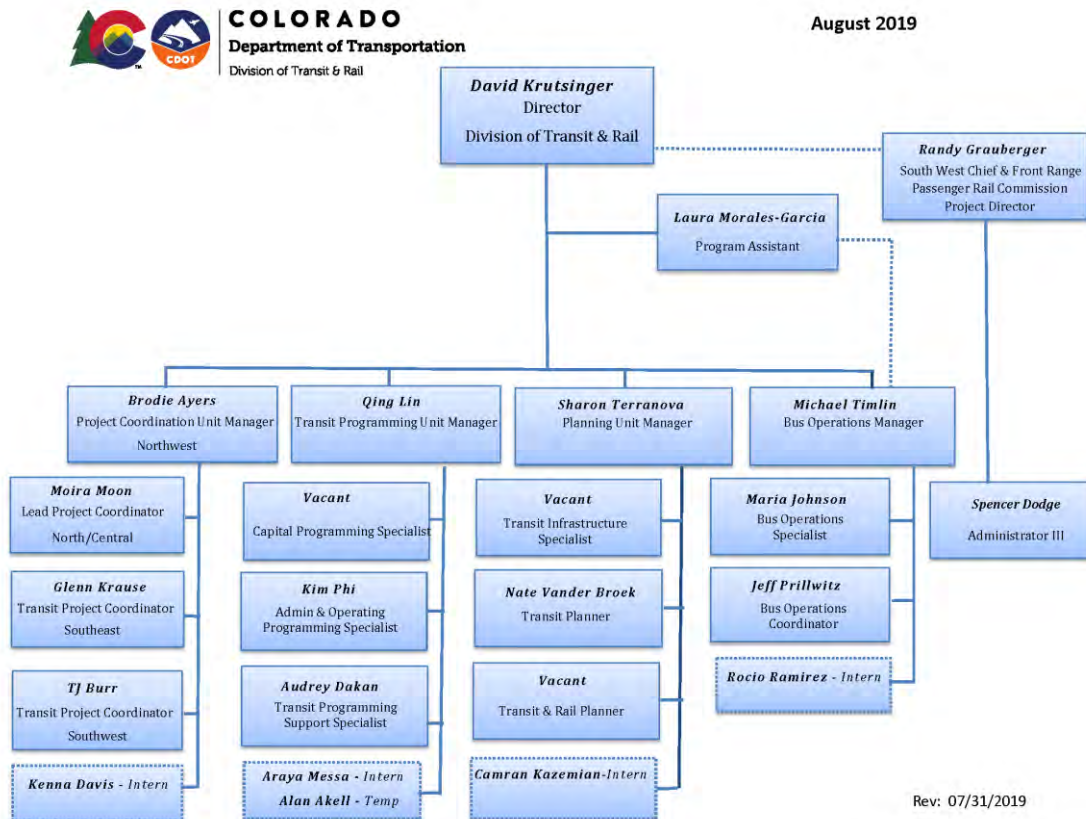
1.5.2 Division of Transit and Rail

The DTR organization is shown in Figure 1-1 *DTR Organizational Chart*.

Individual units within DTR have the following general responsibilities:

- **Planning Unit:** This group oversees the statewide planning process related to transit and passenger rail, and oversees distribution of federal and transit funds.
- **Programming Unit:** This group conducts and oversees the application process, award of projects, development and execution of the subaward agreement, and budgeting of federal and state funds.
- **Project Coordination Unit:** This group provides oversight and technical assistance to subrecipient agencies during the project and oversees the project close-out process.

Figure 1-1. DTR Organizational Chart



1.5.3 Advisory Committees

There are several advisory committees that participate in CDOT's transit and rail planning processes, as described in the following sections. Recipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar bodies, the membership of which is selected by the recipient, must provide a table depicting the membership of those committees broken down by race, and a description of efforts made to encourage the participation of minorities on such committees. CDOT maintains a table of the membership of advisory committees broken down by race. The table is included in the 2016 *Division of Transit and Rail Title VI Program* document, which is included as an attachment to Chapter 5.

1.1.1.1 Transportation Commission and the Transit and Intermodal Committee

The state's transportation system is managed by CDOT under the direction of the Transportation Commission. The commission comprising 11 commissioners who represent specific districts. Each commissioner is appointed by the Governor, confirmed by the Colorado Senate, and serves a 4-year term. To provide continuity, the commissioners' term expiration dates are staggered every two years. Under state law, the powers and duties of the Transportation Commission include:

- Formulating general policy with respect to the management, construction, and maintenance of public highways and other transportation systems in the state.
- Advising and making recommendations to the Governor and the General Assembly relative to transportation policy; and promulgating and adopting CDOT's budgets and programs, including construction priorities and approval of extensions or abandonments of the state highway system. The General Assembly appropriates the administrative budget for CDOT.

The Transit and Intermodal Committee is one of three Standing Committees created by the Transportation Commission, as set forth in 2CCR 601-11, Rules Governing Practice and Procedures of the Transportation Commission of Colorado (<https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=6937&fileName=2%20CCR%20601-11>). The Chairman of the Transportation Commission, with consent of the full Commission, appoints at least three but no more than five members of the Commission who meet periodically with executive management and the DTR Director to review transit and rail policies and practices.

1.1.1.2 Statewide Transportation Advisory Committee

The Statewide Transportation Advisory Committee (STAC) advises CDOT and the Transportation Commission on the needs of the transportation system in Colorado and reviews and comments on all Regional Transportation Plans and the Statewide Transportation Plan. STAC membership includes Colorado's 15 urban and rural Transportation Planning Regions (TPR) and 2 Indian Tribes. Voting representatives are selected by the 5 Metropolitan Planning Organizations (MPO), 10 rural Regional Planning Commissions (RPC), plus the Southern Ute

and the Ute Mountain Ute Indian Tribes in southwest Colorado.

<https://www.codot.gov/programs/planning/planning-partners/stac.html>

1.1.1.3 DTR's Transit and Rail Advisory Committee

The Transit and Rail Advisory Committee (TRAC) works with DTR to develop and promote the **DTR's vision, policies, and priorities for transit and rail services in Colorado**. The committee's 18 members are representatives from public and private transit providers, Class I and Shortline railroads, interest groups, CDOT Transportation Planning Regions, counties, cities, and the general public. TRAC subcommittees are formed as needed to address specific issues—for example, FTA Sections 5310/5311 distribution, performance asset management, Bustang/Rural Regional Bus, and the SWTP implementation.

<https://www.codot.gov/about/committees/trac>

1.1.1.4 Southwest Chief & Front Range Passenger Rail Commission

The Southwest Chief & Front Range Passenger Rail Commission was created by Senate Bill 17-153 in May 2017. It has 11 voting members (MPOs, freight railroads, Regional Transportation District, passenger rail advocacy, local leaders, and others) and 3 non-voting members (Amtrak, Cheyenne Chamber of Commerce, and CDOT). It has two purposes: (1) to preserve and improve the existing Amtrak Southwest Chief service through track maintenance and other improvements, and (2) to facilitate the development of a passenger rail service along the greater I-25 corridor. Information about this Commission is located at

<https://www.codot.gov/about/southwest-chief-commission-front-range-passenger-rail>.

1.6 Roles and Responsibilities

1.6.1 FTA

FTA Region 8, located in Denver, provides overall policy and program guidance for all FTA-funded programs in Colorado and across a six-state area. The Operations and Program Management Office has the following responsibilities:

- Oversee implementation of federally funded programs, including the annual Program of Projects.
- Develop and implement project financial management procedures.
- **Review and approve CDOT's SMP every 3 years.**
- Obligate funds annually.
- Review and approve applications.
- Monitor and close awards.
- Receive state certifications.

- Provide technical assistance, advice, and guidance to CDOT, as needed for program support.

1.6.2 CDOT and State Agencies

Table 1-4 outlines the functional responsibilities of the various groups involved in the planning, budgeting, application, and project execution related to federal and state funds.

Table 1-4. Functional Responsibilities of Various Entities

Organization	Responsibilities at Each Stage of Process			
	Program and Project Planning	Budgeting	Application/Award	Project Implementation
Colorado Attorney General	Advise DTR on legal matters and policy changes, e.g., subaward protest process Review State Management Plan			Review and certify certifications and assurances
CDOT Executive Director's Office		Review/approve FTA award amendments, if required Review/approve transfer of funds between programs	Review award appeals, if required	
State Transportation Commission (supported by Transit & Intermodal Committee)	Approve high-level policy criteria and transit metrics by which transit funds are allocated. Adopt State Management Plan Adopt Statewide Transit Plan Approve State Freight & Passenger Rail Plan Approve FASTER criteria for project selection	Approve DTR Annual Budget Allocate funding for FASTER Adopt STIP	Approve DTR recommended list of awards (projects).	
CDOT DTD (supported by Transit and Rail Advisory Committee)	Conduct statewide planning process Coordinate with MPOs and TPRs	Review TIPs and STIP and inform DTR of transit projects		

Table 1-4. Functional Responsibilities of Various Entities

Organization	Responsibilities at Each Stage of Process			
	Program and Project Planning	Budgeting	Application/Award	Project Implementation
Statewide Transportation Advisory Committee (STAC)	Review and comment on Regional Transportation Plans, Statewide Transportation Plan, and Statewide Transit Plan			
CDOT Office of Financial Management & Budget (OFMB)	Set CDOT budget structure	Verify fiscal constraint of STIP Approve STIP requests/project budgets and amend STIP annually Submit 4-year STIP to FTA Prepare DTR Annual Budget Approve FTA/FASTER pool funds		
CDOT Division of Accounting & Finance Accounting	Set CDOT accounting procedures	Manage drawdown of federal funds Upload FFATA report	Approve/reject project budgets in SAP Approve project setups and project budgets	Analyze and report on budgets, available balances, and outstanding apportionments monthly Reconcile FTA award final expenses and disbursements Submit FFR reports to FTA Submit final reimbursement request to FTA

Table 1-4. Functional Responsibilities of Various Entities

Organization	Responsibilities at Each Stage of Process			
	Program and Project Planning	Budgeting	Application/Award	Project Implementation
<p>CDOT Division of Accounting & Finance Business Office</p>		<p>Update FTA/FASTER pool funds (STIP)</p> <p>Enter transit projects into STIP</p> <p>Build STIP awards, projects, and budgets</p> <p>Update COTRAMS when awards are budgeted in SAP</p>	<p>Modify projects and/or budgets in SAP, if needed</p> <p>Build SAP projects and budgets</p>	<p>Approve/reject shopping carts</p> <p>Report on outstanding apportionments monthly</p> <p>Review/approve/reject reimbursement requests for compliance with scope of work budget, state & federal requirements</p> <p>Review and approve FTA voucher for reimbursement</p> <p>Analyze and report on budgets, available balances, and outstanding apportionments monthly</p> <p>Review/approve final reimbursement request to FTA</p>
<p>CDOT Civil Rights and Business Resource Center (CRBRC)</p>	<p>Develop and set CDOT’s DBE goal and DTR’s transit-specific DBE goal</p> <p>Develop and monitor CDOT DBE, EEO, and ADA programs</p> <p>Develop DTR’s LEP and Title VI Program and LEP Plan</p> <p>Develop DTR ADA policies</p>		<p>Review application for compliance with civil rights policies, regulations, and laws</p> <p>Provide guidance on the integration of FTA civil rights requirements in subrecipient and DTR transit planning processes</p>	<p>Review FTA certifications & assurances annually</p> <p>Prepare triennial DBE Report for FTA</p> <p>Collect and file copies of MPO Title VI, DBE, and EEO programs</p> <p>Conduct DBE survey of subrecipients</p>

Table 1-4. Functional Responsibilities of Various Entities

Organization	Responsibilities at Each Stage of Process			
	Program and Project Planning	Budgeting	Application/Award	Project Implementation
	Provide guidance on the integration of FTA civil rights requirements into transit planning			<p>Oversee subrecipients' oversight for compliance with FTA civil rights requirements and nondiscrimination laws.</p> <p>Provide civil rights technical assistance to DTR and subrecipients</p> <p>Provide guidance on the integration of FTA civil rights requirements into project execution</p>
CDOT Procurement & Contract Services	<p>Set and monitor CDOT procurement policies</p> <p>Develop contracts subaward agreements with required federal clauses</p> <p>Assist CRBRC in communicating contracting opportunities to transit contractors, including DBEs and SBEs.</p>		<p>Review DTR and subrecipient procurement processes for compliance with federal requirements</p> <p>Review contract submittals for compliance</p> <p>Finalize contract with subrecipient and state signatures</p> <p>Conduct CDOT personal services procurements (architecture and engineering services)</p>	<p>Review/approve FTA Echo draws</p> <p>Review FTA certifications and assurances annually</p> <p>Review project amendments</p> <p>Close out contract with subrecipient at end of project</p> <p>Close out project (SAP) and liquidate remaining funds</p>

Table 1-4. Functional Responsibilities of Various Entities

Organization	Responsibilities at Each Stage of Process			
	Program and Project Planning	Budgeting	Application/Award	Project Implementation
CDOT Division of Audit		Approve subrecipient’s cost allocation plan or indirect cost rate	Review application for approved indirect cost rate	Maintain annual approvals of indirect cost rates Review Single Audit Certification Form or Single Audit Reports
CDOT Office of Communications	Issue public notices of public comment periods related to statewide planning process		Issue statements of project awards	
DTR Planning Unit	Conduct planning process for Statewide Transit Plan that sets 4-year priorities Assist rural TPRs with Regional Transit Plans Review MPO transit plans			Oversee the statewide fleet and facility inventory Coordinate the state’s Transit Asset Management Plan Conduct asset review of subrecipients as warranted
DTR Programming Unit	Assist in preparing DTR Five-Year Financial Plan Prepare STIP and STIP amendment requests Update FTA/FASTER Rural pool funds Prepare and submit FTA award budget revisions and amendments Prepare and submit Program of Project (POP) status report to FTA Initiate FFATA reporting process	Allocate funds within programs Identify old money Submit STIP requests to Business Office for FTA-funded projects Request transfer of funds to Regions for FASTER projects Apply for FTA award pool funds annually	Submit STIP amendments Enter FTA application and execute award in TrAMS Prepare and release “Call for Projects” or Notice of Funding Availability (NOFA) Determine applicant eligibility	Reconcile expenditures against budgets Generate FTA and state funds project status reports and revenue reports Submit FTA award amendments and adjust budgets Close out awards with FTA (TrAMS)

Table 1-4. Functional Responsibilities of Various Entities

Organization	Responsibilities at Each Stage of Process			
	Program and Project Planning	Budgeting	Application/Award	Project Implementation
	Manage COTRAMS development	Budget project budgets in COTRAMS Submit budget adjustments Send forms to Business Office to set up FTA budgets in SAP	Evaluate applications Check SAM.gov Determine appropriate program for project (pool projects) Transfer FASTER funds to Regions Award project funds Review application for completeness Confirm eligible in-kind services Approve shopping cart for project	
DTR Project Coordination Unit	Advise potential applicants on optimizing eligibility for projects Assist applicants in determining best avenue for obtaining project funds Review New Applicant questionnaires Coordinate with MPOs	Approve project budgets in COTRAMS	Assign Project Coordinators Provide input on past performance and complete risk assessment Evaluate applications Finalize scope of work and budget Build shopping cart	Review certifications & assurances annually Review/approve reimbursement requests Review/revise project amendments Monitor subrecipient performance Conduct SIR and Site Review process Provide technical assistance

Table 1-4. Functional Responsibilities of Various Entities

Organization	Responsibilities at Each Stage of Process			
	Program and Project Planning	Budgeting	Application/Award	Project Implementation
				Report monthly to DTR Director Oversee subrecipient third-party procurements Collect quarterly reports from 5310 and 5311 subrecipients Prepare Milestone Progress Reports and Final Program Measure Reports (TrAMS) Report quarterly to FTA Close out project with subrecipient
DTR Bus Operations	Conduct regional service planning Develop business plan for interregional services	Prepare STIP requests for interregional pool projects	Support subrecipient procurement of contracted services	Monitor subrecipient's oversight of contracted service providers
CDOT Regions	Conduct 4P (planning process) Submit STIP requests and requests for amendments Develop Regional ITS Plans and Regional ITS Architectures Develop mobility plans		Participate in application evaluation process, as requested	Oversee transit construction projects
Transit Agency/ Subrecipient	Participate in development of Regional Transit Plans and Statewide Transit Plan	Submit project budgets to CDOT	Respond to Calls for Projects through	Execute project according to subaward agreement

Table 1-4. Functional Responsibilities of Various Entities

Organization	Responsibilities at Each Stage of Process			
	Program and Project Planning	Budgeting	Application/Award	Project Implementation
		Region for STIP or MPO for TIP	application with required documentation Submit applications to FTA for discretionary awards Execute subaward agreement with CDOT	Participate in Subrecipient Information Request (SIR) and Site Review process Comply with reporting requirements Conduct third-party procurements according to FTA and state regulations Report to National Transit Database
TPR	Prepare Regional Transportation Plan and Regional Transit Plan Conduct public involvement process Set priorities	Participate in STIP development		
MPO	Prepare Long Range Transportation Plan with Transit Element Prepare 5310 Human Services Transportation Plan Develop ITS Architecture Integrate Title VI public involvement requirements and environmental justice considerations in the planning process Submit Title VI and DBE Programs to CRBRC as requested.	Prepare and submit transit TIP and STIP amendments to CDOT Amend Unified Planning Work Program and TIP	Review applications and award funds to local transit agencies within MPO	Oversee and monitor projects Report directly to FTA

Table 1-4. Functional Responsibilities of Various Entities

		Responsibilities at Each Stage of Process			
		Program and Project Planning	Budgeting	Application/Award	Project Implementation
<i>Acronyms and Abbreviations:</i>		FASTER	Funding Advancement for Surface Transportation and Economic Recovery Act	POP	Program of Project
ADA	Americans with Disabilities Act			SAP	Systems Applications and Products (CDOT's Financial System)
CDOT	Colorado Department of Transportation				
COTRAMS	Colorado Transit & Rail Awards Management System	FFATA	Federal Funding Accountability and Transparency Act	SBEs	Small Business Enterprises
CRBRC	Civil Rights and Business Resource Center	FFR	Federal Financial Report	SIR	Subrecipient Information Request
		FTA	Federal Transit Administration	STAC	Statewide Transportation Advisory Committee
DBE	Disadvantaged Business Enterprise	ITS	Intelligent Transportation Systems	STIP	Statewide Transportation Improvement Program
DTD	Division of Transportation Development	LEP	Limited English Proficiency		
		MPOs	Metropolitan Planning Organizations	TIPs	Transportation Improvement Programs
DTR	Division of Transit and Rail	NOFA	Notice of Funding Availability	TPRs	Transportation Planning Regions
EEO	Equal Employment Opportunity	OFMB	Office of Financial Management & Budget	TrAMs	Transit Award Management System (FTA)



COLORADO

Department of Transportation

DIVISION OF TRANSIT AND RAIL STATE MANAGEMENT PLAN

CHAPTER 2 Planning Process and Funding

Outline

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Chapter 2 Flowcharts

Flowchart 2-1. Transit or Rail Project Planning Lifecycle

2 PLANNING PROCESS AND FUNDING

2.1 Statewide Planning Process

Colorado Department of Transportation's (CDOT) statewide planning process, inclusive of transit, follows federal and state regulations and provides a direction and framework for decision-making regarding investments in Colorado's multimodal transportation system. The statewide planning process, with a documented public involvement process, supports sound investment choices that promote responsible and effective use of taxpayer dollars.

Federal Transit Administration (FTA) planning regulations (23 Code of Federal Regulations part 450) require states and Metropolitan Planning Organizations (MPO) engaged in planning activities to seek out and consider the needs and input of the general public. As states and MPOs develop and conduct their public involvement activities, this must include interested parties and those traditionally underserved by existing transportation systems, such as minority and Limited English Proficiency (LEP) persons, who may face challenges accessing employment and other services. Recipients engaged in planning and other decision-making activities at the local level must consider the principles embodied in the planning regulations, and develop and use a documented public participation plan or process that provides adequate notice of public participation activities, as well as early and continuous opportunities for public review and comment at key decision points.

In non-metropolitan areas, federal planning law (49 United States Code [U.S.C.] 5304) requires each state to cooperate with local officials to develop a long-range statewide transportation plan (SWP) and statewide transportation improvement program (STIP). These planning and programming documents are developed through a continuing, comprehensive, and cooperative (3C) process carried out on a statewide basis and coordinated with the metropolitan planning processes of the state. For nonmetropolitan areas, the SWP must be developed in cooperation with rural officials with responsibility for transportation.

2.1.1 CDOT's Transit and Rail Planning Cycle

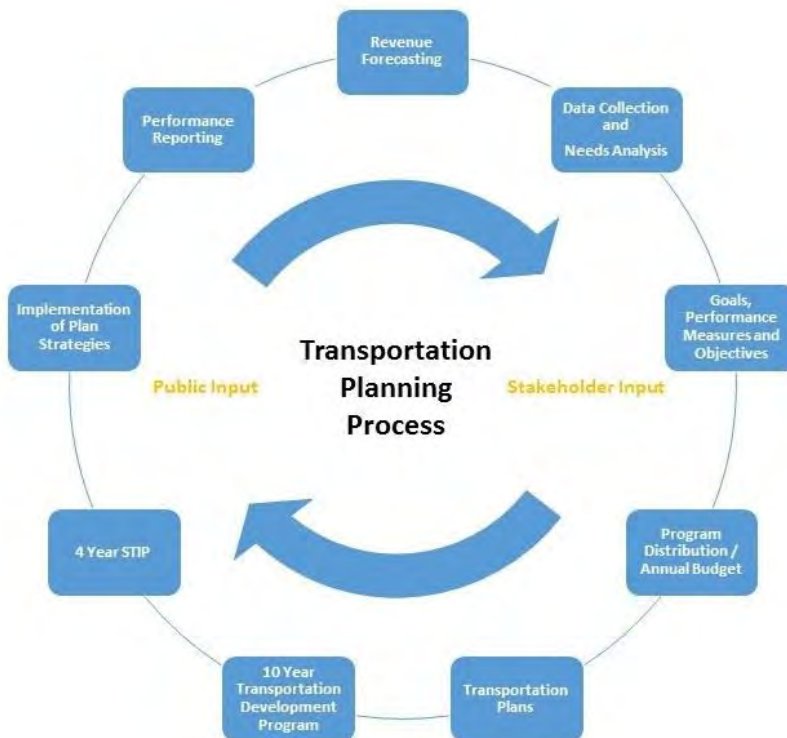
CDOT continuously examines the needs of Colorado's transit and rail systems and studies specific needs to address current and future issues. Previous planning efforts set the stage for the most current plans, providing a comprehensive look at current challenges and emerging opportunities across all transit and passenger rail modes in Colorado.

A high-level summary of how a transit or rail project is developed through the local, regional, and statewide planning processes is illustrated in Flowchart 2-1 Transit or Rail Project Planning Lifecycle.

State legislation created CDOT’s Division of Transit & Rail (DTR) in 2009. DTR is responsible for planning, developing, operating, and integrating transit and passenger rail into the statewide multimodal transportation system. DTR works in coordination with public and private transit and rail providers to plan, promote, and implement investments in transit and rail services statewide, with the goal of providing a coordinated multimodal system to meet **Colorado’s transportation challenges now and in the future. DTR’s primary functions include** administering federal and state programs; planning for transit and rail services; coordinating with agencies and stakeholders; complying with federal and state regulations; and providing transit services, **such as Bustang and Outrider. DTR and CDOT’s Division of Transportation Development (DTD) work cooperatively to integrate transit and rail needs alongside the state’s other transportation issues. CDOT’s Division of Project Support is also involved in** managing some of the infrastructure that overlaps between the divisions, such as coordinating safety improvements to railway-highway crossing infrastructure and equipment and grade-separation projects.

The statewide planning process depicted in Figure 2.1 is described in detail on CDOT’s website (<https://www.codot.gov/programs/planning>) and in CDOT’s 2017 Transportation Planning in Colorado document (<https://www.codot.gov/programs/planning/documents/planning-partners/planning-manual>).

Figure 2.1. CDOT’s Statewide Planning Process



2.2 Long-Range Plans

2.2.1 Statewide Transportation Plan

The SWP represents the people of Colorado's long-range vision for the transportation system. Prepared by CDOT's DTD, this 25-year multimodal plan integrates Transportation Commission policies with input from regional stakeholders, multimodal transportation interests, and the traveling public. Individual modal plans for transit, rail, aviation, freight, and bicycles/pedestrians are integrated within the overall state plan. Public involvement and coordination, which includes elected officials, helps ensure that all Coloradans have a voice in deciding the vision, goals, and priorities for the statewide transportation system.

As part of the planning certification review, FTA reviews state-developed documentation to determine whether a state has:

- Analyzed regional demographic data to identify transit-dependent populations within the non-urbanized areas of the state and ensure there is fairness to all persons regardless of gender, age, race, or disability status.
- Where necessary, provided local service providers and agencies with data to assist them in identifying transit-dependent populations in their service area.
- Ensured that members of transit-dependent communities, including minority populations, are provided with full opportunities to engage in the statewide transportation planning process. This includes actions to eliminate language, mobility, temporal, and other obstacles to allow these populations to participate fully in the process.
- Monitored the activities of subrecipients with regard to Title VI compliance, where the state passes funds through to subrecipients.

In addition, the SWP guides project selection and the development of STIP, which identifies projects for funding over a 4-year period and is updated annually.

Colorado's online SWP may be accessed at: <https://www.codot.gov/programs/colorado-transportation-matters/statewide-transportation-plans>.

2.2.2 Statewide Transit Plan

Every 5 years, DTR updates or completes the Statewide Transit Plan (SWTP) to establish a framework for creating an integrated statewide transit system that meets the mobility needs of Coloradans, while minimizing duplication of services and leveraging limited funds. The plan **also meets state and federal planning requirements and guides CDOT's transit investments**, project processes, and actions over the short-, mid-, and long-term. The SWTP includes needs, funding, and recommendations across the entire state. The Plan also integrates **Regional Transit Plans for each of the state's ten rural Transportation Planning Regions (TPR)**. Local transit agencies in rural areas that are not part of an MPO are encouraged to work with

the appropriate rural planning region regarding transit needs. The SWTP is located at: <https://www.codot.gov/programs/colorado-transportation-matters/other-cdot-plans/transit/transit>.

2.2.3 Transit Development Program

CDOT's Transit Development Program (TDP) bridges the gap between long-range statewide and regional plans and the 4-year STIP by involving local and regional transit stakeholders in identifying and prioritizing the major transit investment needs that cannot be funded with reasonably expected revenues. The TDP is a planning tool that supports the identification and prioritization of Colorado's transit project needs to effectively plan for and respond to future unexpected funding opportunities. The TDP inventory is derived from needs documented in planning and development studies, including Regional Transportation Plans, Regional Transit Plans, local plans, and additional input from transit agencies and transit stakeholders through their Regional Planning Commissions (RPC).

The TDP is a living planning document and is continually updated based on ongoing project development. Regional prioritization of project needs is facilitated as needed by -DTR. The most current is located at <https://www.codot.gov/programs/planning/documents/plans-projects-reports/projects/dev-prgm/transit-rail-development-programs>.

2.2.4 Regional Transit Plans

All transit agencies and transit stakeholders are encouraged to participate in local, regional, and statewide planning processes every 5 years so their needs are included in a coordinated effort of providing transit in Colorado. CDOT assists the state's 10 rural TPRs in developing their own Regional Transit Plans, which are rolled up into the SWTP. These regional plans serve as the Regional Coordinated Transit and Human Services Plans that meet CDOT and FTA requirements for funding eligibility and **planning for Colorado's transit needs**, as described in 23 CFR Part 450 and 49 CFR Part 613. **The state's 5 urban MPOs are responsible for preparing the plans for their regions. These are generally coordinated with and become an element of the organization's long-range transportation plan. These Regional Transit Plan documents can be accessed at:** <https://www.codot.gov/programs/colorado-transportation-matters/other-cdot-plans/transit/plan-documents>.

2.2.5 State Rail Plan

The State Rail Plan guides policies, planning, improvements, and investments in support of **Colorado's future vision for freight and passenger rail**. This strategic document provides a framework for future action by CDOT and its public and private partners. The State Rail Plan aims to provide a better understanding of the complexities of the rail systems that Colorado businesses, residents, and visitors rely on by:

- Defining a vision and strategic goals for rail systems.
- **Illustrating and analyzing the role of rail in Colorado's economy.**

- Assessing current conditions and identifying needs and issues.
- Examining future trends and their impact on rail service demand in Colorado.
- Documenting past and planned public and private investments.
- Identifying opportunities and priority strategies.
- Developing critical implementation actions to keep Colorado moving by rail.

The State Rail Plan sets a vision for **Colorado's rail system as a critical component of our** multimodal transportation system that enhances mobility and advances economic vitality for all Coloradans. This vision is supported by strategic goals that are aligned with the SWP, the Colorado State Highway Freight Plan, and CDOT agency goals. This plan is essential to understanding current issues and needs, connecting trends and issues to opportunities, and providing implementation pathways to act on those opportunities.

As required by the Federal Railroad Administration, this plan must be updated on a four-year cycle to reflect changing conditions, needs, and opportunities. However, the framework, strategies, key actions, and coordination opportunities identified in the plan are monitored by CDOT and its partners on a regular basis to ensure that this plan is flexible, agile, and responsive to stakeholders and the traveling public.

The last update of the State Rail Plan in 2018 was funded with FTA Section 5304 state planning funds; state Funding Advancements for Surface Transportation and Economic Recovery Act of 2009 (FASTER) funds provided the match. While CDOT may provide matching funds for passenger rail projects of regional and/or statewide significance, regional rail projects are typically funded by RTD, and intercity passenger rail is funded by Amtrak. CDOT may also provide minimal matching of state funds for passenger rail projects funded by federal discretionary programs. Freight rail projects, although identified in the State Rail Plan, are generally not eligible for federal transit funds administered by DTR.

2.2.6 Intercity and Regional Bus Network Plan

The Colorado Intercity and Regional Bus Network Plan guides the development of bus services operating in Colorado that travel between major cities and regions. The Intercity Bus Plan was first produced in 2009 and was revised in 2014. It is anticipated that this plan will undergo some form of update every five years. The Plan is part of the long-range planning process undertaken by CDOT and is integrated into the SWTP and the SWP.

2.3 Transit and Rail Five-Year Financial Plan

DTR maintains a Five-Year Financial Plan showing projected revenues from federal, state and other sources that are reasonably expected to be available for transit and rail investments. Projected revenues are distributed in the Financial Plan among state and federal transit and rail funding programs through formal planning processes, guided by CDOT and DTR policy and priorities and adopted by the Transportation Commission. These projections provide the basis for fiscal constraint in long-term plans and short-term investment for transit projects statewide. An example Five-Year Financial Plan is included in Chapter 3.

2.4 Transportation Improvement Programs

2.4.1 STIP and TIP

The SWP, which comprises all modes of transportation in Colorado, is implemented by programming projects into the STIP (Figure 2.2). Figure 2.3 presents the STIP development cycle. The STIP programs capital and non-capital highway and transit projects intended to be funded over a 4-year period. The STIP is updated annually and is fiscally constrained based on projections of reasonably anticipated revenue.

Figure 2.2. STIP Development

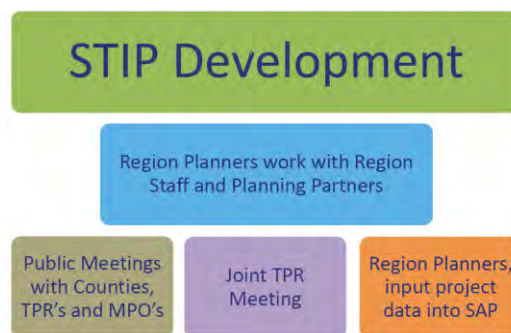


Figure 2.3. STIP Development Cycle

STIP Development/4P Schedule	
MONTH	ACTIVITY
May through September	CDOT Regions begin Project Priority Programming Process (4P)
December	CDOT Regions conclude 4P
January	CDOT Regions submit Draft STIP requests and MPOs submit draft TIP requests
February through May	CDOT distributes Draft STIP for public review and comment
March/April	MPOs and Governor approve TIPs
April	TC holds a statewide public hearing on the Draft STIP
May	TC adopts the Draft. Once adopted, the STIP is released to FHWA/FTA for their review and approval
June	FHWA and FTA approve STIP

Local agencies are responsible for making sure their projects are identified through the statewide transit planning process and the annual STIP update, as follows:

- **Local agencies within an MPO request projects be included in the MPO's** Transportation Improvement Program (TIP). The TIPs developed by MPOs are incorporated without modification into the STIP.
- Local agencies in the rural TPRs work with the CDOT Region Planners to select priority projects from their Regional Transportation Plans to include in the STIP.
<https://www.codot.gov/programs/planning/planning-process/4p.html> and
<https://www.codot.gov/programs/planning/documents/planning-process/4p-and-stip-development-guide>

Projects included in the STIP generally fall into two categories—Regionally Significant and Pool projects.

- **Regionally Significant projects** are stand-alone projects that meet specific federal criteria or are deemed significant to the entire region. Transit projects in this category might include fixed guideway transit facilities.
- **STIP Pools** are groups of projects that are generally smaller in scope. The transit pools are organized by MPO or FTA program (e.g., Section 5310, Section 5311, etc.).

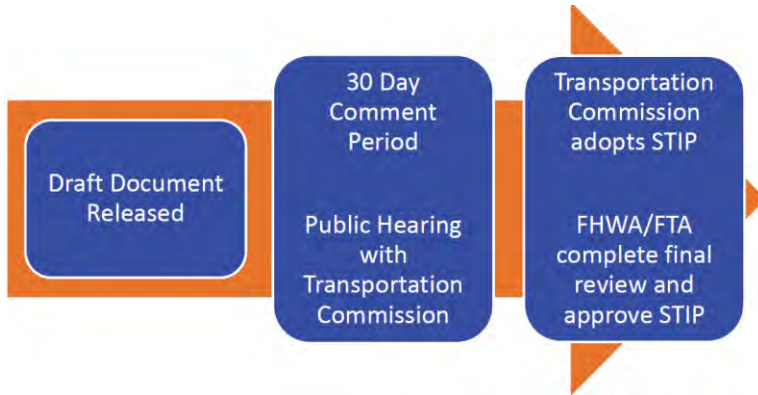
Transit projects in the STIP include federal transit projects, as well as Congestion Mitigation and Air Quality (CMAQ) or Surface Treatment Program (STP)-Metro projects that qualify to be **flexed to FTA for transit. Also included are those projects funded by Colorado's FASTER** transit dollars, SB 228, or any other state funding sources.

Most transit projects are listed in the STIP in pools (or groups) of projects—either by MPO or by FTA program (e.g., Section 5310, Section 5311, etc.). The STIP accounts for the total amount of funding for the group of projects or specific program. Individual projects are accounted for as they are ready and funded as long as the total committed funds for the pool **in one fiscal year do not exceed the pool's programmed total. When a transit project receives** funding through the application process, DTR amends the projects listed in the pools to be consistent with the current Program of Projects. These are considered Administrative Amendments that do not require a public review period and are quickly approved by **CDOT's** Office of Financial Management & Budget (OFMB).

The OFMB verifies the fiscal constraint of the draft STIP by comparing the total dollars programmed in the STIP to the amount of funding available within the fiscal year. The draft STIP includes an illustrative program as a placeholder for projects that can be funded if there is additional revenue in the fiscal year.

After fiscal constraint is verified, the Colorado Transportation Commission releases the STIP for public review and comment. The review and approval cycle is shown in Figure 2.4. The STIP takes effect at the start of a fiscal year on July 1.

Figure 2.4. STIP Review and Approval Cycle



2.5 Performance-Based Planning

The Moving Ahead for Progress in the 21st Century (MAP-21) Act of 2012 directs the U.S. Department of Transportation to establish a set of performance measures to increase the accountability and transparency of the federal highway and transit programs and improve project decision-making through performance-based planning and programming through the rulemaking process. Once national performance measures are established, state Departments of Transportation and providers of public transportation must:

- Establish performance targets that reflect the measures.
- Report on progress towards achieving those targets.
- Develop performance-based plans for safety and asset management.
- Implement a performance-based approach to planning and programming.

The Fixing America’s Surface Transportation Act (FAST Act) of 2015 continued the performance management and performance-based planning and programming requirements of MAP-21 with minor changes. CDOT, MPOs, and transit providers are responsible for performance targets in two areas related to transit:

- Transit Asset Management
- Safety and Security

CDOT manages all programs in an effort to improve the overall state of good repair of capital assets within the state. Projects are selected for funding based on FTA minimum useful life guidelines for buses and related facilities and FTA program guidance, including asset management principles. Furthermore, **CDOT’s** Policy Directive 14 puts performance goals in

place for the overall preservation of the statewide transportation system. Policy Directive 14 can be found on-line at: <http://coloradotransportationmatters.com/wp-content/uploads/2014/10/Policy-Directive-14-Development-Technical-Memorandum-with-Appendices-2015-04-07.pdf>

2.5.1 Transit Asset Management Plan

In 2016, FTA published the National Transit Asset Management (TAM) Final Rule (<https://www.govinfo.gov/content/pkg/FR-2016-07-26/pdf/2016-16883.pdf>). The rule requires recipients of FTA Chapter 53 funding for assets used to deliver or support public transportation services to develop asset management plans for all transit assets owned, operated, or managed by the agency, including vehicles, facilities, equipment, and other infrastructure. The TAM is an asset inventory and condition assessment with a prioritized list of investments.

The rule establishes a strategic and systematic process to plan for the replacement and rehabilitation of capital assets. The TAM Final Rule includes the following components:

- Defines “state of good repair.”
- Requires providers to develop a TAM Plan.
- Establishes performance measures.
- Establishes annual reporting requirements to the National Transit Database (NTD).
- Requires FTA to provide technical assistance.

Tier I agencies (recipients that own, operate, or manage either 101 or more vehicles in revenue service during peak regular service across all fixed route modes or in any one non-fixed route mode, or rail transit) (Figure 2.5), must develop and carry out their own TAM Plan. Tier II agencies (recipients that own, operate, or manage 100 or fewer vehicles in revenue service during peak regular service across all non-rail fixed route modes or in any one non-fixed route mode, subrecipients under the 5311 Rural Area Formula Program, or any American Indian tribe) have the option to develop their own agency TAM Plan or participate in a Group TAM Plan.

Figure 2.5. Tier I and Tier II Agencies

Tier I	Tier II
Operates rail	Subrecipient of 5311 funds
OR	OR
≥ 101 vehicles across all fixed route modes	American Indian Tribe
OR	OR
≥ 101 vehicles in one non-fixed route mode	≤ 100 vehicles across all fixed route modes
	OR
	≤ 100 vehicles in one non-fixed route mode

The rule requires Departments of Transportation, such as CDOT, to develop a Group TAM Plan. In October 2018, CDOT adopted the first Group TAM Plan, which covers the requisite 4-year term. Group TAM Plans must be updated no less than every 4 years. More frequent Group TAM Plan updates are made when necessary or desired. Tier II agencies are given an

opportunity to opt in or opt out of the Group TAM Plan prior to the commencement of each year's **Group TAM Plan update cycle**.

The most recent CDOT Group TAM Plan, is found at <https://www.codot.gov/programs/transitandrail/plans-studies-reports/2018-TAMplan>.

The TAM Rule necessitates additional NTD reporting obligations. FTA 5310 recipients that provide public transportation and who had not been previously required to report, are required to submit asset inventories, performance measures, and performance targets beginning with report year 2018. As the Group TAM Plan sponsor, CDOT reports State of Good Repair (SGR) measures, SGR targets, and TAM Plan narrative to the NTD on behalf of the agencies participating in the plan. Agencies that have reported directly to NTD previously submit their own asset inventory modules to the NTD, while CDOT submits asset inventories on behalf those agencies new to NTD reporting (FTA Section 5310 recipients) and those not directly reporting previously.

2.5.2 Safety and Security Plan

In 2018, FTA published the Public Transportation Agency Safety Plan Final Rule (<https://www.govinfo.gov/content/pkg/FR-2018-07-19/pdf/2018-15167.pdf>). The rule requires that certain operators of public transportation systems receiving federal funds develop safety plans that include the processes and procedures to implement Safety Management Systems (SMS). The plan must include safety performance targets and must be updated and certified by the transit agency annually.

The rule applies to all operators of public transportation systems that are recipients and subrecipients of federal financial assistance under the Urbanized Area Formula Program (49 U.S.C. § 5307). However, FTA deferred applicability of this requirement for operators that **only receive funds through FTA's** Enhanced Mobility of Seniors and Individuals with Disabilities Formula Program (Section 5310) and/or Rural Area Formula Program (Section 5311).

The FTA requires that CDOT certifies a safety plan on behalf of any public transportation provider that is located in a small urban area in the state. These agencies may alternately choose to draft their own safety plans.

2.6 National Intelligent Transportation Systems Architecture Consistency Policy

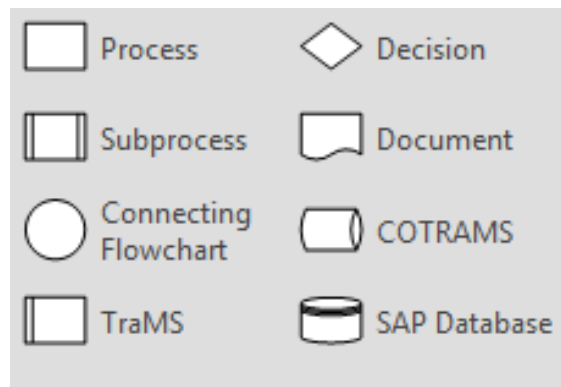
All projects with Intelligent Transportation Systems (ITS) components funded with through CDOT transit awards and subawards must support the integration of ITS from a national and regional perspective and maintain consistency with Regional and Statewide ITS Architectures. Examples of ITS projects include, but are not limited to, traveler information, automatic vehicle location and computer aided dispatch, electronic payment systems, transit signal priority, automatic passenger counters, security surveillance both within stations and on

vehicles, highway/rail intersection protection, collision warning and driver assistance, vehicle system monitoring, advanced scheduling and run-cutting, and ITS data archiving.

Transit agencies are encouraged to participate in the development of Regional ITS Architectures through public planning processes, particularly if their projects or plans include ITS, or if others in their area are planning ITS systems that will impact their operations.

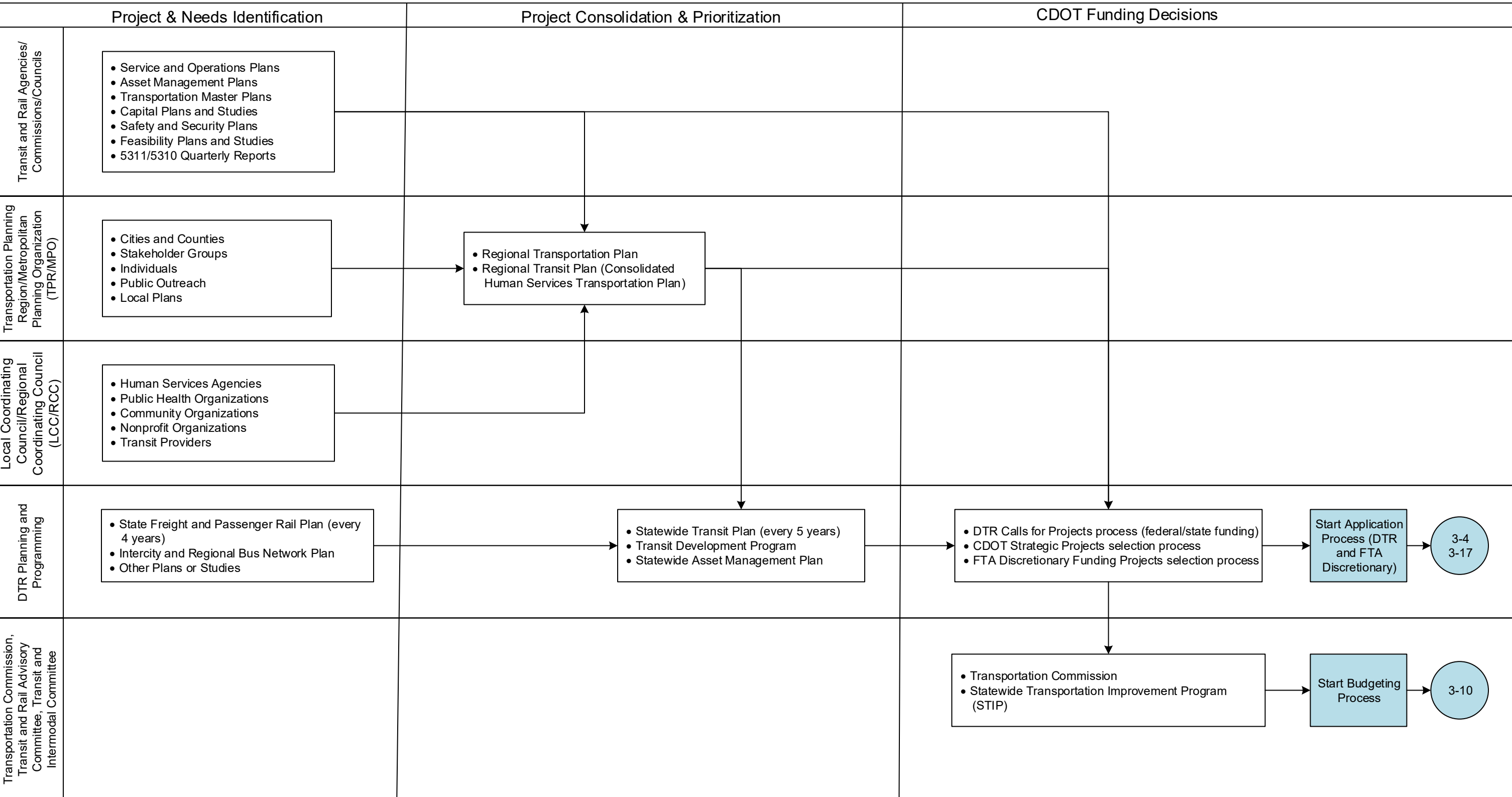
CHAPTER 2 FLOWCHART

Flowchart Shapes/Key



Flowchart 2-1. Transit or Rail Project Planning Lifecycle

2-1 Transit or Rail Project Planning Lifecycle





COLORADO
Department of Transportation

**DIVISION OF
TRANSIT AND RAIL
STATE MANAGEMENT PLAN**

CHAPTER 3
Awards Management

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3. AWARD MANAGEMENT

Colorado Department of **Transportation's** (CDOT) Division of Transit and Rail (DTR) is responsible for awarding and administering state and federal (Federal Transit Administration [FTA]) transit funds for public transit and human services transportation providers throughout Colorado. **DTR's competitive application and other funding processes support agencies** statewide in securing federal and state funds designated for transit projects.

This chapter describes how DTR meets the award management requirements outlined in the FTA 5010-1E Award Management Circular (<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/award-management-requirements-circular-50101e>), Uniform Administrative Requirements for Grants & Agreements to State & Local Governments (49 Code of Federal Regulations [CFR] Part 18) (<https://www.govinfo.gov/app/details/CFR-2009-title49-vol1/CFR-2009-title49-vol1-part18/summary>), and the FTA/CDOT Master Agreement.

Over the past five years, DTR has developed the Colorado Transit and Rail Award Management **System (COTRAMS) to streamline and automate CDOT's award management process for DTR**, subrecipients, and CDOT internal partners. The system is a versatile online interactive tool **that improves DTR's level of customer service and satisfaction, as well as** project management process efficiency and transparency. This chapter explains how COTRAMS **integrates with CDOT's award management processes to support DTR in the full life-cycle** of an award. Additional information about COTRAMS is included in Section 3.9.6.1.

This chapter is organized according to the life-cycle of an award:

- Funding and Allocation Planning
- Notice of Funding Availability (NOFA) Development and Program Eligibility
- Subrecipient Project Planning
- Application Solicitation and Project (Subaward) Selection
- Project (Subaward) Risk Assessment
- Transportation Improvement Program (TIP)/Statewide Transportation Improvement Program (STIP) Process
- Project (Subaward) Budget to Executed Subaward Agreement
- FTA Programs Award Application and Program of Projects (POP)
- Financial Management and Internal Controls
- Project (Subaward) Implementation, Monitoring, and Reporting
- FTA Award Budget Revisions and Amendments
- Project (Subaward) Closeout with Subrecipients
- FTA Award Closeout in Transit Award Management System (TrAMs)
- Financial Record Retention

3.1 CDOT Funding and Allocation Planning

DTR is responsible for managing and monitoring the flow of FTA and state funds, including annual revenue, roll forwards, transfers, and expenditures. Every three years DTR prepares a Five-Year Financial Plan to project future transit revenues and their allocation/distribution among FTA and state transit programs, determine the financial capacity of CDOT to support the programs, and to be transparent with subrecipients about longer-term funding availability. An example of the Financial Plan is included as Attachment 3-1 Sample Financial Plan.

3.2 Planning and Prioritization

The CDOT and DTR ongoing planning and prioritization activities identify transit needs statewide. This process is illustrated in Flowchart 3-1 CDOT Planning to Notice of Funding Availability. Based on the prioritized needs, DTR develops an Annual Budget for transit projects that allocates funds to available federal and state funding programs for the next year. **DTR's process for developing its Annual Budget is illustrated in** Flowchart 3-2 DTR Annual Budget.

Prior to participation in the application process, interested agencies are strongly encouraged to participate in the statewide transit planning process described in Chapter 2. The statewide planning process provides the opportunity for a subrecipient to coordinate with DTR to define projects, prepare the necessary documentation needed to apply for funds, and determine whether to apply for funds directly or to coordinate with a larger agency or Metropolitan Planning Organization (MPO) to request funds.

Planning activities for existing and new subrecipients are detailed in Flowchart 3-3 Subrecipient Planning Through Application.

3.3 NOFA Development and Program Eligibility

Once the amount of available funding is determined for the Annual Budget, DTR conducts a Call for Projects and advertises a NOFA for specific types of projects, such as capital, administrative and operating, or planning. Competitive applications are described in Section 3.4.

The NOFA includes a description of the funding opportunity and specific eligibility information (determined by the specific federal or state program), local match requirements, application preparation and submittal information, evaluation criteria (metrics), and application review information. The notification is advertised to all known and potential public and specialized transportation providers, including the organizations that represent underserved communities, as well as Area Agencies on Aging, the Colorado Municipal League, and Colorado

Counties, Inc. Application periods are typically open for 45 days. An example NOFA is included in Attachment 3-2 Example NOFA.

DTR has evaluation criteria for each type of project (detailed in Section 3.4.2). For a specific NOFA, the evaluation criteria may be weighted based on the priorities identified through **CDOT's planning process, Transportation Commission policies related to fund distribution**, program requirements, and the amount of funds available by program. The weighting of the criteria and other evaluation factors, such as geographic distribution, are explained in the NOFA.

Detailed information about the types of projects funded by each federal and state program and subrecipient eligibility requirements are contained in State Management Plan (SMP) Appendix A (FTA Programs) and SMP Appendix B (Non-Federal Transit Funds).

3.4 Application Solicitation and Project (Subaward) Selection

DTR uses a competitive application process to evaluate and award funds to applicants for several of the federal and state programs. Applications are accepted through COTRAMS, unless DTR issues an exception.

3.4.1 Applicant Minimum (Threshold) Requirements

All applicants are required to meet certain minimum (threshold) criteria to be considered for an award of funds. A new applicant must submit a New Applicant Questionnaire that includes **an overview of the agency's transit services, legal standing, financial management** and capacity, technical capacity, asset management plan, procurement procedures, and civil rights policies. A sample of the New Applicant Questionnaire is included in Attachment 3-3 Example New Applicant Questionnaire. The agency must demonstrate that it meets minimum requirements in financial and managerial capability and capacity for managing awarded funds, as well as demonstrate that it has the resources necessary to operate the project on an ongoing basis. The applicant must also be willing to follow federal and state guidelines for third-party procurements.

The New Applicant Questionnaire is not intended to exclude an organization from applying for funds, but rather to ensure it is prepared to administer a project at the time of application, to familiarize the organization with the requirements of administering a project, to familiarize DTR staff with the organization, and to arrange technical assistance, if needed, that could aid the organization in becoming eligible.

Based on the information provided on the questionnaire, the agency is set up in COTRAMS and thereafter is responsible to update its profile in COTRAMS to maintain its eligibility to apply for transit funds. Should an applicant not meet these threshold criteria, DTR is available to work with the agency to meet the criteria and become eligible to apply for funds.

State and federal funds are awarded on a reimbursement basis; that is, the award recipient must first incur costs before being reimbursed by CDOT, after submitting sufficient documentation of such costs. Therefore, the recipient must have the financial ability and cash flow to incur and pay such costs initially. Should an applicant not meet the requirements or has had difficulties managing previously awarded funds, DTR staff are available to work with the agency to maintain eligibility to apply for funds. It is especially important that financial and managerial capability is specifically addressed by applicants that have had delays or other problems implementing projects awarded funding by CDOT. These organizations must demonstrate their financial and project management capabilities and experience, as well as describe the steps taken to correct any past problems. Additional items that DTR reviews with an applicant to establish technical capacity are included in Table 3.1.

Table 3.1. Items to Establish Technical Capacity

Requirement	Description
Legal Standing	Status of suspension or debarment, false claims
Technical Capacity	Staff responsibilities, training , involvement in the most recent Regional Transportation Coordination Human Services Plan
Asset Management/ Continuing Control	Maintenance Plan, Vehicle Replacement Plan, Asset Management Plan, Asset Inventory
Procurement	Written Procurement Policy
Civil Rights	Acknowledgement of civil rights requirements, equity analysis on impacted populations regarding the transit project, when applicable

3.4.1.1 Competitive Project (Subaward) Applications

DTR has separate application cycles for the following project types:

Local capital projects. Buses, vans, train cars, gondola cabins, transit stations, parking facilities, multimodal facilities, planning studies, and technology improvements.

Local administrative, operating, and mobility management projects. Operating funds, brokerage projects, call centers, and travel training.

Planning projects. Transit feasibility studies.

Regional/interregional and Funding Advancement for Surface Transportation and Economic Recovery Act (FASTER) operating projects. Funds for operating intercity and regional bus routes throughout Colorado.

Typical timelines for the application cycles are shown in Table 3.2. This table is for illustrative purposes and may vary depending on circumstances.

Table 3.2. Typical Application Cycles

Type of Project	NOFA	Deadline	Evaluation	Award	Contracting
Local Capital	Oct	Dec	Dec-Feb	Feb-Apr	Apr-Jun (federal) Apr-July (state)
	45 days minimum		60 days	60 days	90 days (federal) 120 days (state)
Local Administrative/ Operating/ Mobility Management	March	May	May-July	July-Sep	Sep-Oct
	45 days minimum		60 days	45 days	45 days
5304 Planning	July	Sept	Sept-Nov	Nov-Dec	Dec-Jan
	45 days minimum		60 days	30 days	30 days
5311(f)/FASTER Operating	March	May	May-July	July-Sep	Sep-Oct
	45 days minimum		60 days	45 days	45 days

3.4.2 Application Evaluation

3.4.2.1 Local Capital Projects

Every year CDOT pools (or consolidates) funds from federal and state programs and conducts a single competitive application process for local capital projects to ease the burden on applicants. Table 3.3 shows the programs that are used to fund local capital projects.

Table 3.3. Funding Sources for Consolidated Capital Projects Call

FEDERAL PROGRAMS
FTA Section 5310: Seniors and Individuals with Disabilities <ul style="list-style-type: none"> • Rural (less than 50,000 population) • Small Urbanized (Boulder, Grand Junction, Greeley, Longmont, Lafayette/Louisville/Erie, and Pueblo) • Large Urbanized (Denver) (the other two large urbanized areas—Colorado Springs and Fort Collins—have chosen to administer their own 5310 funds)
FTA Section 5311 (including 5311(f): Rural Public Transit (all areas outside of urban areas)
FTA Section 5339: Bus and Bus Facilities <ul style="list-style-type: none"> • Small Urbanized (Boulder, Grand Junction, Greeley, Longmont, Lafayette/Louisville/Erie, and Pueblo) • Rural
STATE PROGRAMS
FASTER Local Competitive
FASTER Urban Area Set-Asides (Denver, Colorado Springs, Fort Collins)

Table 3.3. Funding Sources for Consolidated Capital Projects Call

Senate Bill 228
Senate Bill 267 Rural
OTHER FUNDS
Settlement Funds
Other, as identified in new state or federal legislation

Projects for these programs are evaluated based on the type of project—that is, revenue vehicles (rolling stock); facilities, design, and equipment; or studies—and whether the project is for replacement or expansion (new) vehicles. Evaluation metrics (or criteria) for each type of project are listed below.

Project selection is based on FTA minimum useful life guidelines for buses and related facilities, and FTA program guidance, including asset management principles. Furthermore, Policy Directive 14 puts performance goals in place for the overall preservation of the statewide transportation system. FTA/CDOT vehicle minimum useful life standards are included in Chapter 6 of this SMP. Policy Directive 14 is included as Attachment 3-4 Policy Directive 14.

3.4.2.2 Federal Programs and FASTER Transit Funds

For Replacement of Revenue Vehicles

Metric 1: *The vehicle’s State of Good Repair (SGR)*: Age, Mileage, Usage, Readiness, including how the vehicle’s replacement is projected and prioritized within the agency’s Asset Management Plan; higher-mileage vehicles will be scored higher than lower mileage units. Older vehicles, beyond minimum useful life standards, are scored higher than newer vehicles, with special considerations allowed for “lemons” or irreparable damage due to accident, etc.

Metric 2: Higher scoring will be awarded to applicants that can demonstrate a good SGR through effective, documented, formal preventive maintenance programs or Transit Asset Management programs, and to those that have and follow a capital replacement plan.

For Expansion of Revenue Vehicles

Metric 1: *Demonstrated Need and Readiness*: Higher scoring will be awarded to projects that clearly demonstrate the need for the expanded service in terms of documented ridership or need studies and community support, that demonstrate an effective business case, and that can demonstrate they are truly ready to implement and sustain the expansion.

Metric 2: *Special Considerations*: For vehicle requests, applicants with a lower fleet spare ratio (i.e., less than 20%), who have a capital replacement plan and follow sound asset

management practices, who can show strong institutional commitment, and who can show a strong financial commitment (higher local match ratio), will be scored more strongly.

For Facilities, Design, and Equipment

Metric 1: *Readiness and Demonstrated Timetable*: Higher priority will be given to those new projects that are shovel ready (i.e., National Environmental Policy Act [NEPA] clearance finalized, at least 30% design completed, and site location selected and purchased), and to the completion of existing projects.

Metric 2: *Project Purpose, Cost Savings, and Efficiency*: Higher priority will be given to those projects that have a high degree of local and regional support; are well-developed with a defensible business case; and support or provide significant transit operational and utilization benefits.

Metric 3: *Special Considerations*. Higher scoring in this area will be given to those projects that demonstrate they were developed in partnership with the local community. In the case of requests for the expansion of existing facilities, higher scoring will be applied if the project demonstrates the need for the facility and for growth in the program it supports. Agencies that adequately demonstrate institutional commitment, funding, financial capacity, and capability to sustain the service and project over time will be also be scored more strongly.

Civil Rights Requirements. In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the **objectives of the Act or this part.**” Title 49 CFR part 21, Appendix C, Section (3)(iv) provides, “The location of projects requiring land acquisition and the displacement of persons from their residences and businesses may not be determined on the basis of race, color, or national origin.” For purposes of this requirement, “facilities” does not include bus shelters, as these are transit amenities and are covered in Chapter IV, nor does it include transit stations, power substations, etc., as those are evaluated during project development and the NEPA process. Facilities included in this provision include, but are not limited to, storage facilities, maintenance facilities, operations centers, etc. In order to comply with the regulations.

The recipient must complete a Title VI equity analysis during the planning stage with regard to where a project is located or sited to ensure the location is selected without regard to race, color, or national origin. Recipients shall engage in outreach to persons potentially impacted by the siting of facilities. The Title VI equity analysis must compare the equity impacts of various siting alternatives, and the analysis must occur before the selection of the preferred site.

For Planning Studies

Metric 1: Project Purpose and Demonstrated Need: The project does not qualify for FTA Section 5303 or 5307 (in urbanized areas) or 5304 funding (in rural areas), it is relevant to other transit agencies in the state, it has been vetted with the local transit provider, and the study is ready to proceed upon award. In rare cases, Section 5304 rural planning funds may be awarded to urbanized areas that consider rural-to-urban services.

3.4.2.3 SB 228 and SB 267 Programs

In addition to the metrics for Facilities, Design, and Equipment (on the previous page), the following criteria are considered:

- **Project Readiness.** For facilities, the project has already undergone a significant level of planning (i.e., 30% design) and is ready to proceed in the short term and complete construction within approximately 3 years.
- **Strategic Nature.** The project is of regional or statewide significance or is part of a statewide programmatic need.
- **Planning Support.** The project is supported by relevant planning documents (Transit Development Program, Intercity Bus Plan, corridor NEPA documents, local plan documents).
- **Statewide Transit Plan Goal Areas.** The project supports statewide plan goal areas of system preservation and expansion, mobility/accessibility, transit system development and partnerships, environmental stewardship, and economic vitality.
- **Expected Life.** The project results in a facility or infrastructure asset that carries an expected life-cycle longer than the SB 267 financing term (25 years).
- **Supports Statewide System.** The project supports a statewide transportation system, with consideration of transportation needs throughout the region and the state.

3.4.2.4 Settlement Funds

Colorado's alternative fuel Settlement Funds are programmed according to the **Colorado's** Beneficiary Mitigation Plan (<https://www.colorado.gov/pacific/cdphe/VW>).

As with other replacement vehicle requests, age, mileage and condition are factors used in evaluating the merits for replacement of the vehicle. However, the key evaluation of settlement applications is **the applicant's demonstrated overall plan for implementation** of alternative fuel fleets, including their capacity to operate and sustain alternative fuel vehicles, particularly if it is for electric vehicles. Applicants are asked to describe their long-term alternative fuel vehicle plans and timeline for implementation; operational considerations and mitigations; the plan for power delivery; and the **agency's related** financial plan. It is important for those proposing to use electric vehicles for the first time to

address Demand Charges—that is, the elevated utility rates charged during the peak times that many transit operators would plan to recharge the bulk of their vehicles. Due to air quality requirements of the Beneficiary Management Plan, vehicles being replaced must be destroyed; a diesel or regular engine bus cannot remain in operation.

3.4.2.5 Local Transit Operating, Administrative, and Mobility Management; and Statewide Operating

Every year CDOT pools (consolidates) funds from several programs and conducts a competitive application process for local transit administrative, operating, mobility management, and statewide operating projects, i.e., operating assistance for general public transit, operating assistance for specialized transit, mobility managers, travel training, etc.

Table 3.4 presents the programs used to fund operating, administrative, and mobility management projects; and statewide operating projects.

Table 3.4. Funding Sources for Consolidated Operating Projects Call

FEDERAL PROGRAMS
FTA Section 5310: Seniors and Individuals with Disabilities
◆ Rural (less than 50,000 population)
◆ Small Urbanized (Boulder, Grand Junction, Greeley, Longmont, Lafayette/Louisville/Erie, and Pueblo)
◆ Large Urbanized (Denver) (the other two large urbanized areas—Colorado Springs and Fort Collins—have chosen to administer their own 5310 funds)
FTA Section 5311(including 5311(f): Rural Public Transit (all areas outside of urban areas)
STATE PROGRAMS
FASTER Statewide Operating (Regional/Interregional Operating)
Senate Bill 1

CDOT evaluates applications for these projects based on criteria for the specific type of project.

3.4.2.5.1 Specialized Transit Operating and Mobility Management (Section 5310)

Prioritization and weighting is conducted as follows:

Financial need (30% of score), based upon:

- Lack of funding sources available to the applicant.
- Good faith efforts to obtain funds for the project from non-FTA sources.
- Economic condition **of the applicant’s service area.**
- Level and amount of local commitment to transit.
- Reasonableness of costs to operate and administer the project.

- Amount of available revenue, including contract and earmarked funds.
- Portion of costs covered by local fund.

Service need and applicant performance (30% of score), based upon:

- Lack of appropriate public transportation alternatives.
- **Transit dependency of the population in the applicant's service area, particularly the extent to which the proposed project serves elderly or disabled persons, persons without a car, or low-income persons.**
- Extent to which the applicant provides service to other organizations; the numbers of riders and types of trips provided.
- Size of an applicant's service area.
- Other relevant factors, including congestion mitigation and air quality improvement.

Coordination (40% of score), based upon:

- Extent to which coordination reduces operating expenses, number of vehicles used and lead time for passenger scheduling.
- Extent to which the applicant works with community organizations (e.g., Chambers of Commerce, human services agencies) to promote the service and make it more efficient.
- Lack of duplication or overlap with transit services provided by others.
- **An applicant's good faith efforts** to coordinate with private-for-profit operators.
- The performance measure(s) listed for each activity demonstrates its ability to improve **clients' quality of life and can also indicate the quality of change that was produced by** the activity.

3.4.2.5.2 General Public Transit Operating and Administrative (Section 5311)

The criteria for these projects are based on a formula that categorizes agencies into groups of peer agencies. The amount of the award is based on the size of the operating budget.

3.4.2.6 Planning Projects

At least every two years CDOT conducts a competitive application process for planning projects that use FTA Section 5304 funds. These funds can be used for transit-related support activities, such as technical assistance, route planning, research, and demonstration projects.

The criteria for evaluation of planning projects include:

- Need (service, coordination, facility, etc.).

- **Subrecipient’s** statement of work readiness and clarity.
- **Subrecipient’s funding readiness.**
- Consistency with **CDOT’s** Statewide Transit Plan (SWTP) and/or Coordinated Human Service Transportation Plan for that region of the state.

3.4.3 Project (Subaward) Selection

The application process for transit projects is illustrated in Flowchart 3-4 Transit Project Application Evaluation and Award.

3.4.3.1 Evaluation Committees

For all projects, an evaluation committee made up of CDOT staff (DTR, Division of Transportation Development, the Policy and Government Relations Office, Civil Rights & Business Resource Center) evaluates and scores applications. In selecting projects for funding, consideration is given to geographic distribution.

The evaluation committee has two to three weeks to review applications and prioritize projects. The committee compiles scores and puts together a recommended prioritized award list.

After the committee evaluates the project according to the criteria included in the NOFA, each project is ranked according to its project type and score. Because of limited available funding, CDOT continues to put an emphasis on a fix-it-first approach—that is, giving higher priority to the replacement and refurbishment of buses, facilities, and equipment, rather than on new or expansion capital or planning projects. This does not mean, however, that expansion or planning projects are not funded—only that an applicant seeking funding for expansion projects must make a very strong case, with documented justification and evidence of sustainability, in order for the project to be considered.

3.4.3.2 Project (Subaward) List

DTR reviews the committee’s list of ranked projects and pools the highest-ranked projects to the programs best suited for the project (FTA or state). Awarded amounts are determined based on available funding in each of the programs, prioritization and scoring criteria, demonstrated need, and a fair and equitable distribution of funds statewide. DTR may also solicit **input from CDOT’s Region Planners regarding infrastructure, planning, and large capital purchase projects.**

The recommended list is presented to the DTR Director for approval. The DTR Director may discuss the selections with the executive director of the Colorado Association of Transit Agencies, for transparency purposes and to receive feedback. The DTR Director has final approval of the award list.

The outcome of this process is a list of recommended projects by funding program that identifies the successful applicants, the project, and the anticipated budget.

3.4.3.3 Project (Subaward) Award Letter and Public Notice

COTRAMS generates an award letter to successful applicants that includes the project name, award amount, and any contingencies; method of selection; and DTR contact information. Once the successful subrecipients have accepted the terms of the award detailed in the award letter, CDOT issues a public notification of the awards via email and the CDOT website. The announcement includes all of the applicants, the types of projects, CDOT Regions where projects are located, the requested amounts, and the award amounts by program.

3.4.3.4 Application Protest Process

Both successful and unsuccessful **applicants are notified of DTR's** project awards. They are provided a list of projects that were selected and, for transparency purposes, comments indicating the primary reasons an application or project may have received an insufficient score. Applicants not awarded funding may reapply for projects that were denied.

CDOT's policy regarding the application protest process is as follows:

The Department, recognizing the substantial financial impact its programs can have on organizations and individual applications, will provide applicants with the right to protest an award denial or award amount decision of DTR. This right is provided in order to ensure the proper administration of **DTR's programming**, encourage thorough review of applications and denials, promote a transparent exchange of information, and provide an opportunity to applicants to avail themselves of the Department. The Department fully recognizes the important **implications of its funding decisions, and it is the Department's firm belief that** applicants whose requests are denied or whose award amounts are reduced should have the opportunity for further review and consideration by the Department.

For this reason, the Department hereby provides all applicants who have had an application denied or reduced the opportunity for further consideration and review, followed by a final agency decision. To exercise this opportunity, applicants must, within 30 days after receipt of the formal award notification:

- Send a protest letter to the Director of the Division of Transit and Rail at the following address: 2829 W. Howard Ave., Denver, CO 80204.
- State in the subject line of the letter that it is a protest of a decision requiring a response within 45 days. (This ensures Department staff are aware of the immediacy of the letter.)

- Clearly state in the letter the application to which it applies and the grounds for protest.

While the Department does not want to unnecessarily burden applicants with what to include in their protest letter, these requirements and procedures ensure the Department timely receives the protest and has sufficient information to meaningfully evaluate the decision. The Department shall have no obligation to respond to any letter which fails to conform to the above requirements.

Upon receipt of the protest letter, the Director of the DTR may contact the applicant to discuss the matter further. If the Director of the DTR and the applicant are unable to resolve the issue upon contact, the Director of the DTR will refer the protest to the Chief of the Office of Innovative Mobility. The Chief of the Office of Innovative Mobility will consult with appropriate executive management on the matter and will, thereafter, issue a letter containing the final decision of the agency on the issue. Unless extended by agreement of the Department and the applicant, **The Chief of the Office of Innovative Mobility shall issue a final agency decision no later than 45 days after the Department's receipt of the protest letter.**

Applicants are encouraged to continue applying for any projects for which they may be eligible in the meantime.

This process is illustrated in Flowchart 3-5 Subaward Protest Process.

3.5 Project (Subaward) Risk Assessment

3.5.1 Risk Assessment

2 CFR 200 requires that CDOT perform a risk assessment of each award an agency receives for federal funds. CDOT also conducts risk assessments of agencies receiving FASTER and other state funds.

The risk assessment happens after an award is built in COTRAMS. The subrecipient provides **information in COTRAMS for DTR's review in the Risk Assessment module.**

The Subrecipient completes the Self-Assessment Scoring portions in COTRAMS first, and then DTR completes its assessment according to the following:

- Subrecipient Details
- Experience
- Monitoring/Audit
- Operation
- Financial

- Internal Controls
- Conflict of Interest/Violation of Federal Laws
- Program Management

The DTR Project Coordinator evaluates the following items to assess the risk level of an applicant:

- Financial stability.
- Quality of management systems and ability to meet project management standards.
- History of performance in managing federal awards, including timeliness of compliance with applicable reporting requirements, conformance to the terms and conditions of previous federal awards, and if applicable, the extent to which any previously awarded amounts will be expended prior to future awards.
- Reports and findings from audits performed on previous federal awards or the reports and findings of any other available audits.
- Ability to effectively implement statutory, regulatory, or other requirements imposed on non-federal entities.
- Compliance with guidelines on suspension and debarment set forth in 2 CFR Part 180.

Each CDOT question is scored from 1 to 5. A score of 0 is used when there is no risk; scores from 1 to 5 indicate more risk. The Project Coordinator can add narrative comments for further explanations and clarifications about the scoring.

- 5 = indicates a high risk response
- 4 = indicates medium/high risk response
- 3 = indicates a medium/low risk response
- 2 = indicates a low risk response
- 1 = indicates a very low risk response
- 0 = indicates literally no risk

After the initial scoring, DTR holds an internal peer-review with those who completed the CDOT assessments, as well as other DTR staff. This peer-review checks for consistency and outliers in scoring, and is a forum for discussion and accountability. The final risk assessment score (from 1 to 200) is displayed within the COTRAMS Awards page.

The evaluation of the risk assessment determines the level of compliance oversight that DTR applies to the subrecipient once a subaward agreement is in place (low, medium, or high). Chapter 4 contains additional information about compliance oversight.

As part of the risk assessment, DTR reviews the **agency’s Single Audit certification**. The Single Audit requirements are in Section 3.9.5.1; the process is illustrated in Flowchart 3-6 Single Audit.

3.6 TIP/STIP Process

After final selection of projects, DTR notifies the agencies of the award. If it is an MPO project, the MPO enters the project into its TIP. If a project is in an area outside an MPO, it is included in a STIP pool. DTR updates the STIP according to the TIP. The TIP and STIP processes are **described in Chapter 2. DTR’s processes for updating the TIP and STIP** are outlined in Flowchart 3-7 Transit STIP Process.

3.7 Project (Subaward) Budget to Executed Subaward Agreement

CDOT’s internal processes for budgeting awards in COTRAMS and Systems Applications and Products (SAP) (**CDOT’s financial management system**) are shown in and Flowchart 3-8 Budgeting of FTA Funds and Flowchart 3-9 Budgeting of Non-federal Funds.

Once the awards are built in COTRAMS, DTR works with the subrecipient and internal CDOT partners to execute the subaward agreement (or contract). This process is shown in Flowchart 3-10 Budget to Executed Subaward Agreement.

There is a different subaward agreement process for a transit construction project that is managed by a CDOT Region. **DTR’s process for transferring a construction project to the CDOT Region** is shown in Flowchart 3-11 Transfer Construction Project to Region.

3.8 FTA Programs Award Application and Program of Projects

From the final list of subawards, DTR develops a Program of Projects (POP) for each FTA program. The POP includes a brief description of the projects; identifies each subrecipient and indicates whether it is a governmental authority or a private nonprofit agency; and lists total project costs and federal share of each project. The POP summarizes the available and applied funds for the program and the sources of funding for each parent award and project within the parent award (FTA, local match, local in-kind match). Additional detail on each project includes specific information about the agency, award status, civil rights compliance status, and contract identifiers in the CDOT accounting system.

DTR then assembles an award application in the FTA Award Management System—known as TrAMS—based on the POP. The award application must include the following minimum information:

- Fiscal year of funding and whether program requirements are met
- Period of performance

- STIP/TIP/Unified Planning Work Program (UPWP)
- Project locations
- Activity line item (ALI) and budget line information, federal and local match ratio
- Local match sources
- Vehicle useful life, fuel type and quantities
- Local Transportation Human Service Coordination Plan for 5310 projects
- Milestones
- NEPA requirements

FTA reviews the POP and application for compliance, then approves and releases the funds to CDOT.

This process is illustrated in Flowchart 3-12 FTA Award Application.

3.8.1 NEPA Class of Action Determination

Award applicants must provide sufficient project information for FTA to make a NEPA class of action determination. Most of the projects funded through DTR-administered FTA funds qualify as a Categorical Exclusion (CatEx), including many of the construction projects. For **construction projects, the FTA requires completion and approval of FTA Region 8's Categorical Exclusion Worksheet (CatEx worksheet)**. FTA and the CDOT Region environmental staff review the CatEx worksheet to determine whether the project qualifies as a CatEx and if compliance with other environmental laws or environmental permits is required. Additional compliance might be required under Section 106 of the National Historic Preservation Act, Section 4(f) of the US Department of Transportation Act of 1966, Section 404 of the Clean Water Act, or Section 7 of the Endangered Species Act.

FTA makes the final determination whether the construction project falls within the CatEx, Environmental Assessment, or Environmental Impact Statement category (i.e., the action meets all conditions listed in the regulations), whether the action is impermissibly segmented from a larger project, and whether there are unusual circumstances (e.g., substantial controversy on environmental grounds, significant impact to properties protected by Section 4[f] or Section 106) that would make a CatEx determination inappropriate. The CatEx category is selected and approved directly in TrAMS and no further documentation is required.

For non-construction projects, a description of the project in the application is sufficient for FTA approval.

Additional information about the NEPA requirements for FTA-funded projects is included in **CDOT's NEPA Manual** (<https://www.codot.gov/programs/environmental/nepa-program/nepa-manual>). It should be noted, however, that FTA does not delegate authority for NEPA in the

same manner as FHWA. FTA must be contacted to confirm the appropriate course of action is taken.

3.9 Financial Management and Internal Controls

3.9.1 Local Match Requirements

Federal and state programs require some form and percentage of local match, which is determined by the type of project. CDOT follows the matching funds guidelines set forth in the FTA Circulars for each federal program and generally applies these guidelines to its state **funding programs. Details about each program's federal and local share matches are included** in SMP Appendix A (FTA Programs) and SMP Appendix B (Non-Federal Transit Funds). Federal aid guidance regarding non-federal matching requirements can be found at:

<https://www.law.cornell.edu/cfr/text/2/200.306>

The matching funds ratios as set forth in the FTA Circulars are:

- Administrative expenses are reimbursed at 80% federal with a 20% local match required.
- Operating expenses are reimbursed at 50% of the net operating deficit with a 50% local match required.
- Capital project expenses and planning studies are reimbursed at 80% federal with a 20% local match required. CDOTs policy for all capital programs is to limit the share of state and federal participation to 80% of the total project cost.

CDOT uses discretion for match ratios on FTA discretionary awards.

The local match can be made up of the following monetary contributions or a combination of these and in-kind (non-monetary) contributions:

- State or local appropriations.
- Other non-DOT federal funds.
- Dedicated tax revenues.
- Private donations.
- Revenue from human service contracts.
- Transportation Development Toll credits.
- Net income generated from advertising and concessions.

DTR specifically defines the local match requirements for a project (including the percentage of allowed in-kind contributions) in the NOFA. Applicants are required to provide the amount of local match funds being used for the project. After award, the project budget in the executed subaward agreement defines the local share amount and percentage, as well as any restrictions on the type of funds that may be used for the match. Throughout the project, the

agency is responsible for documenting eligible local match funds through reimbursement requests and progress reporting.

3.9.1.1 In-Kind Contributions

DTR requires that local entities have a financial stake in their project and therefore limits the amount of in-kind contributions that can be used as local match. In-kind contributions can be used for up to 50% of the local match for some programs. This includes operating assistance under Sections 5310 and 5311 programs. Capital equipment purchases, such as buses, require a cash match; in-kind contributions are not allowed. In-kind contributions must be approved in advance by DTR and must be aligned with the purpose of the project, meaning there must be a logical relationship between the match claimed and the project.

In-kind match represents a third party's non-cash contribution to a federally funded project or activity. In-kind match differs from cash/direct match in that the basis of valuation is founded upon an estimated value rather than the actual cost or calculated proportional cost as is found in a cost allocation plan or indirect cost rate. The Uniform Guidance at 2 CFR part 200.306 offers criteria defining the use of in-kind contributions. For third-party in-kind contributions, the fair market value of goods and services must be documented.

In-kind contributions can be:

- Donated services.
- Donated time.
- Donated equipment.
- Donated office space.
- Greyhound in-kind match for 5311(f) projects.

3.9.2 Program Income

Per 2 CFR § 200.77- 80, with prior approval of the federal awarding agency, program income may be used to meet the cost sharing or matching requirement of the federal award. The amount of the federal award remains the same. DTR recognizes program income to be gross income minus the cost of generated program income earned by the subrecipient that is directly generated by a supported activity, or earned only as a result of the federal award during the period of performance.

Transit-related program income includes, but is not limited to, the following:

- Fees for services performed, including farebox revenue.
- **Donations made by users of a subrecipient's services intended to reduce the cost of the subrecipient for the service provided.**
- The use or rental of real or personal property acquired under its award.

- Advertising/concessions specifically required by the federal award, and pertaining to specific activities or accomplishments which result from performance of the federal award.

Interest earned on advances of federal assistance is NOT program income. Except as otherwise provided in federal statutes, regulations, or the terms and conditions of the federal award, program income does not include rebates, credits, discounts, taxes, special assessments, levies, and fines raised by a recipient and subrecipient, and interest earned on any of them.

Farebox revenue may not be used as non-**federal share for any of FTA's programs**. Farebox **revenue is used to determine "net project cost" for operating assistance** funds only. Farebox revenue is not considered program income for capital assistance funds.

3.9.3 Bonds

State and local governments have the option to borrow money from the private sector to undertake large capital projects, including transit facilities. Debt-financed capital projects can be cost-effective if the costs of waiting to build the project exceed the interest rate. In addition, debt-financed capital assets can promote tax burden equity as the asset is being paid for over the entire time during which the benefits of the asset are being enjoyed, and not all-at-once by taxpayers in one given year. Options for debt financing for transit projects include general obligation bonds, revenue anticipation notes, or certificates of participation.

General Obligation Bonds: Local governments in Colorado can issue general obligation bonds with voter approval to build transit improvements, such as mobility hubs, bus rapid transit, or passenger rail. These bonds are repaid from property taxes, or in some cases can be repaid from sales and use taxes. CDOT is sometimes asked to use state or federal funds as part of local projects that are financed with general obligation bonds.

Tax or Revenue Anticipation Notes: Tax or revenue anticipation notes represent money borrowed by a government on the pledge that it will be repaid over time from a specified revenue source. The Treasurer's Office issues tax revenue anticipation notes that are repaid within the same fiscal year (or repayment resources are placed in escrow). **Colorado's** constitution allows multiyear fiscal obligations only with voter approval. Parts of these notes were used to pay for the joint highway expansion and light rail extension project, known as T-REX, for the I-25 corridor in south Denver.

Certificates of Participation: Certificates of Participation are a lease-financing mechanism where the government enters into an agreement to make regular lease payments for the use of an asset over some period, after which the title for the asset transfers to the government. Since the government can decide, at any time, to discontinue the lease, Certificates of Participation do not constitute a multiyear fiscal obligation and therefore can be issued

without voter approval. In 2018, after passage of SB 17-267, \$380 million in Certificates of Participation were issued to fund transportation projects throughout Colorado, including 10% or \$38 million for transit.

High Performance Transportation Enterprise (HPTE) Bonding: HPTE was formed under 43-4-806 C.R.S. to, among other things, aggressively pursue innovative means of more efficiently financing surface transportation projects, which includes transit projects, outside the Regional Transportation District (RTD). More specifically, HPTE is allowed under 43-4-**806(2)(c)(II) to “Issue or reissue revenue bonds payable from the revenues and other available money of the transportation enterprise (user fees, which could be tolls, or fare box revenue) pledged for their repayment...”** HPTE has financed managed lanes in which express bus services operate.

Prior to issuing the bonds, the HPTE does significant due diligence to determine the amount that can be reasonably borrowed from user fees. If that amount is not enough to fill the funding shortfall, CDOT or another funding source has to make up the difference. For the transportation investment market to be comfortable with the project, HPTE must perform a market survey, either through an investment grade traffic and revenue study, or an investment grade ridership and revenue study. These studies are then independently analyzed by one or two rating agencies (depends on the amount borrowed) that then assign a rating to the project. It is unlikely that the HPTE moves forward with the financing instrument if the project achieves less than an investment grade rating. Federal Railroad Rehabilitation & Improvement Financing (RRIF) or Transportation Infrastructure Finance and Innovation Act (TIFIA) loan programs, often used in combination with HPTE bonds, will not execute the loan if the project achieves a lesser rating.

3.9.4 Indirect Costs

As defined in 2 CFR part 200, Indirect Costs are costs that are:

- Incurred for a common or joint purpose benefiting more than one cost objective.
- Not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved.
- Originating in the subrecipient department as well as those incurred by other departments in supplying goods, services, and facilities to the recipient department.

Examples of indirect costs are administrative, operational, and expenses of unit heads and their immediate staff.

Subrecipients that intend to seek payment for indirect costs must prepare a Cost Allocation Plan (CAP) or an Indirect Cost Rate Proposal (ICRP). CAPs and ICRPs must be approved by FTA or another cognizant federal agency. Pursuant to 2 CFR § 200.210, a federal award must

include identification of the indirect cost rate for the federal award (including if the *de minimis* rate of 10% is charged).

Requirements for development and submission of indirect cost rate proposals and cost allocation plans are contained in [Appendix IV](#) of 2 CFR Part 200.

3.9.5 Statutory and Policy Requirements

CDOT is responsible for administering federal and state transit awards to ensure that the funds are expended and the associated programs are implemented in full accordance with U.S. statutory and public policy requirements. Specific requirements are outlined in FTA Circular 5010.1E Award Management Requirements, which is included in SMP Appendix D and available at: <https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/award-management-requirements-circular-50101e>.

CDOT communicates these requirements to subrecipients in the terms and conditions included with the subaward agreement and through communications, resources, and training available to subrecipients. DTR oversees subrecipients to monitor their compliance with these provisions as they use the funds to implement projects.

3.9.5.1 Single Audit

In accordance with 2 CFR § 200.501(a) and (b), subrecipients that expend \$750,000 or more in a year in federal assistance from all sources must have a single audit conducted, except when they elect to have a program-specific audit conducted, 2 CFR 200.501(c). The audit must be completed and the data collection form and reporting package must be submitted within the **earlier of 30 calendar days after receipt of the auditor's report(s), or 9 months of the end of the audit period**. Subrecipients are required to submit one copy of their annual single audit report to CDOT.

3.9.6 Internal Controls/Accounting Standards

Internal controls encompass processes implemented by CDOT as a direct recipient or **CDOT's** subrecipient to provide reasonable assurance regarding the achievement of objectives in the following categories:

- Effectiveness and efficiency of operations.
- Reliability of reporting for internal and external use.
- Compliance with applicable laws and regulations. The recipient must also have processes implemented that are designed to provide reasonable assurance regarding the achievement of the objectives for the subaward or cooperative agreement and that transactions are executed in compliance with federal laws, regulations, and terms of the agreements.

3.9.6.1 CDOT Internal Controls

CDOT manages funds in compliance with federal statutes, regulations, and terms and conditions. The internal controls are in compliance with guidance in “Standards for Internal Control in the Federal **Government**” issued by the Comptroller General of the United States or the “Internal Control Integrated **Framework**,” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

CDOT’s internal control procedures are outlined in CDOT Policy Directives 703 and 704, State Fiscal Rule 2 (payment disbursements, procurement), Accounting Policy Manual, and State Financial Management.

3.9.6.1.1 SAP

CDOT uses SAP, a commercial product customized to fit CDOT needs for project financial management consistent with Office of Management and Budget (OMB) procedures. SAP is maintained by the CDOT Division of Accounting & Finance. It tracks project budgets and issues reimbursements to subrecipients for funds expended.

3.9.6.1.2 COTRAMS

DTR’s COTRAMS is a web-based tool for project administration. It is the main depository for documents and information related to applications, awards, project implementation, and reporting. A more complete description of COTRAMS and its modules is included in SMP Appendix C.

Current COTRAMS modules include:

- Agency Information and Contacts
- FTA Compliance—Annual Certifications and Assurances
- Program Documents
- Online Applications
- Award Status
- Milestones Reporting
- Risk Assessment Tool
- Online Reimbursement Requests
- Online Procurement Requests
- Online Quarterly FTA Section 5310 and Section 5311 Program Measure Reports
- Online Grant Closeout Form
- Capital Inventory/Accident Reporting
- Vehicle Disposition
- Reporting Function
- Tracking and Monitoring Subrecipient Title VI and Equal Employment Opportunity (EEO) plan submissions

3.9.6.1.3 CDOT ECHO2 Drawdowns—Reimbursement Request from Electronic Clearing House

CDOT submits monthly reimbursement requests to FTA through Electronic Clearinghouse (ECHO; **FTA’s web application**).

The initial set in the monthly drawdown is a **reconciliation of the current month’s** expenditure, which is completed by the project accountant. All data is downloaded into Excel from SAP. Actual expenditures are converted into federal share; previous drawdowns plus current are compared to federal share allowable for request; and there is a check column that should only include pennies. Pennies that are not allowable to request currently are saved until the next drawdown. **The reconciliation is compared to the SAP “Billing request for resource-related billing document.” “Amt already billed” and “Amt to be billed columns” are compared to the Excel reconciliation columns “FTA Billed” and “To be billed.”** If all is correct, an accounts receivable is created and the SAP document number is recorded. The **current month’s** drawdown is reviewed by the Business Office and DTR prior to requesting from ECHO2. Confirmation from ECHO2 is the documentation for the Accounts Receivable department.

3.9.6.2 Subrecipients Internal Controls

CDOT requires subrecipients to have financial management and capacity that comply with financial tracking and reporting requirements outlined in 2 CFR Part 200, Subparts A-F. This is **evaluated as part of the applicant’s** minimum threshold requirements (also part of Program Documents) detailed in Section 3.4.1 **that establish an agency’s eligibility for receiving funds.** Additionally, CDOT conducts a pre-award review a new applicant that includes a discussion of the adequacy of the **agency’s financial systems.**

DTR requires that each subrecipient organization have:

- Written financial policies and procedures.
- An agency organizational structure that defines, assigns, and delegates authority.
- A financial plan that projects revenues and expenses for the next three years (or longer), including the assumptions and notes to the financial plan.
- An annual budget to actual reconciliation reports for the most current year.

After award, DTR monitors the agency’s performance related to responsible management of the awarded funds and takes prompt action when instances of noncompliance are identified through reimbursement requests, site visits, or audits. Subrecipients must be able to show documentation for financial transactions in its files and make the documentation available for audit upon request.

3.9.7 FTA Financial Reporting

3.9.7.1 Federal Financial Accountability & Transparency Act Report (FFATA)

Under the Federal Funding Accountability & Transparency Act (FFATA) of September 26, 2006, **as a “prime grant and cooperative agreement awardee” of federal funds, CDOT is required to report on awards to subrecipients equal to or greater than \$25,000.** The report is due by the end of the month following the month in which the new award is executed. Once uploaded to the Federal Subaward Reporting System (FSRS), this information is available to the public via a single, searchable website, which is www.USASpending.gov.

CDOT’s process for preparing the FFATA report is included in the Flowchart 3-13 FFATA Reporting.

3.9.7.2 Federal Financial Report

CDOT is required to report to FTA quarterly on the financial status of Section 5339 open projects and annually on other open projects. The Federal Financial Report (FFR) is used to:

- Report federal cash receipts and disbursements.
- Explain federal cash on hand.
- Report unliquidated obligations.
- Report indirect cost rates.
- Respond to FTA comments on prior FFRs.

The FFR reporting process is illustrated in Flowchart 3-14 FFR Reporting.

SAP generates the information required using the accrual basis of accounting, including unliquidated obligations. DTR reconciles project budgets, expenses, and unliquidated obligations in SAP and COTRAMS monthly. Discussions about reconciliation of SAP and COTRAMS occur in quarterly DTR staff meetings. After reconciliation, DTR provides the FFRs to Project Coordinators to use in Milestone Progress Reports (MPR) that are submitted concurrently, so the information in the FFR and MPRs is the same.

CDOT Accounting reports through TrAMS on the following schedule:

- April 30 for period January–March
- July 30 for period April–June
- October 30 for period July–September
- January 30 for period October–December

FTA reviews the FFR for these key indicators of potential problems:

- Excessive unobligated balances.

- Projects executed more than 5 years ago, without an obligation and/or have not had a disbursement of federal funds within the past 12 months; or federal funds not in use.
- Discrepancies in information or date with MPR.
- Discrepancies in indirect rates and amounts.

3.9.7.3 Program of Projects Status Report

For FTA Section 5311 and Section 5310 programs, DTR submits annual Program of Projects (POP) Status Reports to FTA by October 31 every year. A POP is updated for each approved FTA award that contains active projects. The updated POP includes revised project descriptions, changes in projects from one category to another, and adjustments within budget categories. The updated POP can be attached in the electronic status report. If revisions to the POP result in changes to the line item budget for the award, these changes are submitted as budget revisions. Significant civil rights compliance issues occurring during the year (such as Title VI, EEO, or Disadvantaged Business Enterprise [DBE] complaints against the state or subrecipients) are addressed in the annual status report. In addition, the state may report notable accomplishments or problems involving Section 5311 or Section 5310 subrecipients.

3.9.8 FTA Program Performance Reporting

3.9.8.1 Milestone Progress Reports

DTR submits Milestone Progress Reports (MPR) annually to the FTA on the status of the projects under each of the federal awards it holds. MPRs are submitted 30 days after the end of each federal fiscal year, by October 31. DTR determines current status of projects and makes adjustments to milestone dates when needed. DTR updates the narrative in the federal POP to describe the status and any changes to milestone dates.

For capital projects, six specific milestones are reported:

- Subaward agreement execution.
- Procurement Concurrence Request (Request for Proposal (RFP)/Invitation for Bid/Request for Quotation issued).
- Procurement Authorization (Purchase Order issued after vendor selection)—Contract awarded in TrAMS.
- First invoice (first vehicle/equipment delivered).
- Last invoice (final delivery).
- Project closeout—contract complete in TrAMS.
- Civil rights compliance.

For operating and administrative projects, the MPR documents that the project is ongoing and continues to draw down funds.

For planning projects, the MPR includes a copy of the planning document as evidence of the deliverable received at closeout.

3.9.8.2 National Transit Database

FTA's National Transit Database (NTD) records the financial, operating and asset condition of transit systems to track the industry and provide public information and statistics. FTA subrecipients receiving funding from Section 5307 or Section 5311 are required to report directly annually to the NTD in uniform categories. Reported items include total annual revenue; sources of revenue; total annual operating costs; total annual capital costs; fleet size and type, and related facilities; revenue vehicle miles; and ridership. As the state agency responsible for administering Section 5311 funds, CDOT is responsible for ensuring that the subrecipient data is compiled and submitted to the NTD and for reviewing the reports for accuracy.

For those agencies receiving Section 5310 funds or Section 5339 funds, CDOT reports transit asset management State of Good Repair performance measures and targets on behalf of agencies participating in the Group TAM Plan (described in Chapter 2).

For additional information, refer to the FTA website for the NTD at <https://www.transit.dot.gov/ntd>.

3.9.8.3 DBE Compliance Reports

CDOT's requirements related to DBE reporting are included in Chapter 5.

3.9.8.4 Program-Specific Reports

DTR and subrecipients are responsible for submitting the additional reports that are specific to the FTA programs. These are outlined in SMP Appendix A.

3.9.9 State Reporting Requirements

3.9.9.1 Transit Revenue Report

CDOT generates a Transit Revenue Report twice a year prior to issuing the Calls for Projects that contains:

- A detailed justification of all FASTER and FTA revenues allocated and expenditures incurred in a fiscal year.
- An estimate of the FASTER and FTA revenues (by project) that will be returned to DTR if the estimated cost exceeds the actual cost of the project.

- A reconciliation of FASTER and FTA revenues and expenditures to date.

3.9.9.2 FASTER/Senate Bill (SB) 228/SB 267

DTR submits a status report to the Transit and Intermodal Committee of the Transportation Commission quarterly for all of these programs.

3.9.9.3 Settlement Funds

Colorado's utilization of its Settlement Funds is compiled and reported to the VW Settlement Trust by the Colorado Department of Public Health & Environment (CDPHE).

3.9.9.4 SB 1 Multimodal Transportation Option Funds

DTR reports annually to the state legislature on the status of projects funded in the prior fiscal year. The report includes the expenditures by projects and types of projects.

3.10 FTA Award Budget Revisions, Amendments, and Closeout

3.10.1 Project and Award Budget Revisions and Amendments

Project Coordinators notify the DTR Programming Unit staff immediately if there are changes in project statement of work, budget, funding source, or milestone extensions. DTR Programming Unit staff work with FTA to approve budget revisions or amendments, then notify the Project Coordinators to proceed with the approved changes.

The process for submitting an amendment for an FTA award is illustrated in Flowchart 3-15 FTA Award Amendment.

3.10.2 Award Closeout in TrAMS

After all projects (subawards) are closed in a particular award, the DTR Project Coordination Unit Manager notifies the Business Office, Accounting Office, and the Procurement Office through COTRAMS that all activities in the award are complete.

The process for closing out an FTA award is illustrated in Flowchart 3-16 FTA Project and Award Closeout.

CDOT retains all financial records of activities of the project on file for a minimum of 3 years from the project closeout date.

3.11 FTA Discretionary Programs

FTA publishes NOFAs for discretionary programs under a competitive award process that are available to transit agencies directly. In some instances, DTR consolidates application requests from multiple agencies and submits one application to FTA on behalf of the

agencies. Or, the agency can decide to submit an application directly to FTA. If the agency is part of a consolidated application and award, DTR is responsible for budgeting the award in COTRAMS, submitting an FTA award application, contracting the award, and project oversight. This process is illustrated in Flowchart 3-17 FTA Discretionary Program Application and Award.

3.12 Regional/Interregional Bus Networks

3.12.1 Planning

CDOT and DTR prepare two plans that scope the needs for intercity and regional bus route needs throughout the state. Both of these plans are developed with input from transit agencies, intercity bus (ICB) providers, and the Bustang/Rural Regional Bus Subcommittee of **CDOT's Transit and Rail Advisory Committee (TRAC)**.

The **Colorado Intercity and Regional Bus Network Plan** guides the development of bus services for both intercity and regional bus routes. The plan is anticipated to be updated every 5 years. The 2014 plan:

- Identified goals for the development of the intercity and regional bus network/routes.
- Identified station and connectivity needs.
- Defined preferred routes for intercity and regional bus services.
- Identified a phased implementation plan for the intercity and regional bus routes.
- Identified policy, performance, and financing issues associated with implementing the preferred routes.

The **Statewide Transit Plan** (described in Chapter 2) establishes the framework for an integrated transit system across Colorado, which includes bus services. In addition to extensive outreach conducted every 4 years as part of the plan update process, the SWTP integrates needs and recommendations from the Regional Transit Plans prepared by each of **the state's ten rural Transportation Planning Regions (TPR)**. Bus route needs are included in the planning process.

CDOT funds the development of the identified bus network and routes through FTA Section 5311(f) and state FASTER funds.

3.12.1.1 Consultation

CDOT meets FTA's Section 5311(f) requirement for consultation to identify bus routes and bus mobility needs in the state by coordinating with the Bustang/Rural Regional Bus Subcommittee of **CDOT's TRAC**, ICB providers to the Outrider program, community service

organizations, Greyhound Lines, and the public. Additional detail about this is included in SMP Appendix A.

3.12.2 FTA Section 5311(f)

FTA requires that states commit 15% of their Section 5311 funds to develop, support, and promote a network of ICB transportation services, unless the governor certifies that intercity bus needs are being met in its state, after consultation with affected ICB providers. As part of its commitment to a fully integrated transportation network in Colorado, CDOT supports the operation of a statewide, ICB service. Presently, DTR is committing at the 15% or higher level of its funds and expects to do so into the future.

DTR awards 5311(f) funds to private, for-profit ICB providers that operate on predetermined routes under **CDOT's Bustang Outrider brand**.

DTR's program for Section 5311 funds is detailed in SMP Appendix A. This section outlines DTR's planning, application and award, and budgeting processes for Section 5311(f) funds.

3.12.2.1 Eligible Applicants

CDOT is developing the Bustang Outrider intercity transportation service to reinstate former Greyhound Line routes and provide meaningful connections between rural areas and urban centers. ICB providers receive 5311(f) funds administered by CDOT and operate under the Bustang Outrider brand. Eligible ICB operators for Section 5311(f) funds are public/nonprofit carriers and private for-profit transportation providers. The providers must operate a demand response or fixed route at least 3 days per week year-round in a rural region.

Applicants must comply with all federal and state regulations and federal drug and alcohol testing, and must submit required program documents as a condition of the award.

3.12.2.2 Application

The application and award process for Section 5311(f) funds is shown in Flowchart 3-18 Section 5311(f) Planning through Award.

Section 5311 funds are announced through the annual Local/Administrative/Operating/Mobility Management Call for Projects (Section 3.4.2.5). Carriers interested in applying for Section 5311(f) funds are encouraged to contact the DTR Bus Operations Unit. If two or more private carriers are interested in submitting an application for the same route, the DTR Bus Operations Unit may issue an RFP under a competitive bid. For public or non-profit carriers, the RFP process is waived.

All interested providers must submit an application through COTRAMS, as described in Section 3.4.

CDOT expects that new applicants will have recently completed a study that demonstrates the need for transit service and that explores alternatives for expanding service under an existing transit provider. The new applicant must provide operational plans and a multi-year budget that forecasts operational, administrative, and capital expenses, along with a long-term funding source. DTR staff are available to assist a new applicant in completing the required documentation.

3.12.2.3 Award

The Bus Operations Unit, in consultation with the TRAC subcommittee, evaluates the applications based on:

- Operating route (meaningful connection to the statewide network)
- Ridership data
- Amount of funding available
- Operating costs

Awards to public/nonprofit providers are under a 1-year subaward agreement, with an option for 4 additional years. Awards to private operators are under a 5-year subaward agreement. Subsequent renewals are based on performance. Subaward agreements specify ridership goals and that the operator must meet 20% of farebox recovery.

All Section 5311(f) contracts are subaward agreement, not operating contracts. Selected providers must have an adequate and CDOT-approved operating plan and an Americans with Disabilities plan. They must also submit selected performance results monthly.

3.12.2.4 Local Match

The Section 5311 program requires a local match of 50% of net operating costs. The operator must identify the type and amount of the in-kind match in the project budget submitted as part of its application. The in-kind match is approved by DTR as part of the subaward agreement and submitted to the FTA as part of the documentation for the FTA Award Application (Section 3.8).

There are two options available to operators that are not able to provide a local match on their own: Greyhound Lines unsubsidized miles and Transportation Development Credits.

Greyhound Lines donates unsubsidized miles to projects it approves to support the local **match. Greyhound approves an operator's request for in-kind miles based on a review of the operator's policies that must meet these requirements:**

- A 5- to 7-day per week fixed route service.
- Route provides a meaningful connection to the network.
- Operator has an interline ticket agreement and interstate operating authority.

If Greyhound does not approve the request, DTR can apply Transportation Development Credits on behalf of the operator to meet the match. This process is shown in Flowchart 3-18 Section 5311(f) Planning through Award.

3.12.2.5 Reporting Requirements

ICB providers are responsible for reporting on operation and performance measures, which DTR reports to the Transportation Commission quarterly.

For Section 5311(f), CDOT ensures it meets the connectivity objective by measuring revenue service miles, using 2014 as the base year of measurement. CDOT addresses the maintenance objective by verifying continued maintenance or improvement of existing conditions. Existing or additional mobility needs are identified by tracking Outrider demand, aligning with TRAC work and the SWTP, and encouraging TPR input. When needs are identified, more work will be done to identify new possible routes/route expansion and to track ridership.

Additional reporting requirements outlined **in the operator's** subaward agreement include Milestone Progress Reports, DBE reporting, monthly reimbursement requirements, and NTD reporting.

3.12.3 FASTER Regional Operating

CDOT provides operational funding assistance to regional bus service providers through the state's Funding Advancement for FASTER program. Guidance for the allocation of FASTER funds is provided by Policy Directive 704.0 (Governing the Efficient Use of FASTER Revenue), Policy Directive 704.1 (Financial Management of FASTER Revenues), and Procedural Directive 1608.1 (FASTER Transit Program). A detailed description of the FASTER transit program and guidance is provided in SMP Appendix B.

Transportation Commission Resolutions passed in 2014 and 2017 outline the distribution breakdown in Table 3.5. Funding is made available on July 1 of each year (the first day of **CDOT's** fiscal year).

The FASTER program allocates a total of \$15 million towards transit projects—\$10 million for statewide and regional multimodal transit (FASTER regional operating funds come from this pool), and the remaining \$5 million are used for local transit awards.

Table 3.5. FASTER Funding

Statewide	\$10M		
FASTER Regional Operating		\$2.5M (Nov 2017 resolution)	RFTA Grand Hogback \$0.2M Steamboat Craig \$0.2M Ft Collins Boulder \$0.2M Greeley Startup \$0.04M Remaining unallocated (as startup buses) \$1.86M
Bustang		\$3.5M	
RTD		\$3.0M	
DTR Administration		\$1.0M	
Statewide Total		\$10M	
Local	\$5M		
Local operating		\$4.1M capital	All except Transfort, Mountain Metropolitan Transit, RTD
Local operating		\$0.9M capital	Transfort \$0.2 M Mountain Metropolitan Transit \$0.7M
Local Total		\$5M	
FASTER Total	\$15M		

3.12.3.1 Eligible Subrecipients

Eligible subrecipients of local competitive FASTER funding assistance are local public and private nonprofit entities, as well as tribal governments, that offer open-door, public transportation, including specialized transportation (service for the elderly and disabled). **“Open door” specialized transportation is service available to any elderly and disabled person in need and not limited to a particular clientele or facility.**

Applicants must meet the minimum (threshold) requirements outlined in Section 3.4.1. Services must cross service area or TPR boundaries, and routes must be in the Colorado Intercity and Regional Bus Network Plan (<https://www.codot.gov/projects/intercityregionalbusnetworkstudy>).

3.12.3.2 Application and Award

The application and award process for FASTER funds is shown in Flowchart 3-19 FASTER Local and Regional Bus Planning through Award.

FASTER operating funds are made available to subrecipients through the Local Transit Operating, Administrative, and Mobility Management Consolidated Call for Projects described in Section 3.4.2.2. First-time applicants are required to complete the application process through COTRAMS. Evaluation criteria are described in Section 3.4.2.2.

If a project is selected for funding, DTR determines the best program to fund it—FASTER or an FTA program. This process is illustrated in Flowchart 3-4 Transit Project Application Evaluation and Award.

Agencies must meet minimum performance thresholds to continue to receive FASTER funds (outlined in SMP Appendix B). After the first year of operation, DTR contacts FASTER subrecipients to determine if they want to continue receiving funds. If yes and, provided the subrecipient is meeting the performance thresholds, the subrecipient is included in the next **year's award pool**.

3.12.3.3 Reporting Requirements

Subrecipients of FASTER operating funds must meet the same requirements as Section 5311(f) subrecipients described in Section 3.12.2.5.

CHAPTER 3 ATTACHMENTS

Attachment 3-1. Sample Financial Plan

Five-Year Financial Plan for Public Transit in Colorado

CY 2019-2023

CDOT DTR staff is providing a five-year financial plan to forecast public transit revenues and distribution for the calendar years of 2019-2023. This document primarily address state and federal funding managed by CDOT, not funds that flow directly to other designated recipients. The purpose of this plan is to comply with the present FTA regulations to determine the financial capacity of CDOT, and to be transparent with grant partners about funding opportunities.

Revenues

CDOT forecasts the available funding for the next five calendar years (2019-2023) for Colorado public transit from the federal, state and local funding sources, as follows:

- FTA Formula Funding
- FTA Discretionary Funding
- Other Federal Transit Funds
- State FASTER Transit Funds
- Senate Bill 228 Funds
- Senate Bill 267 Funds
- Local Funds

A. FTA Formula funding.

Fixing America's Surface Transportation (FAST) Act was effective in FY 2016 and was a five year (FY2016 – FY 2020) \$300 billion highway, transit, highway safety and rail bill. The FAST Act provides approximately \$61 billion over five years for Federal transit programs including \$48.9 billion in Highway Trust Fund contract authority and roughly \$12 billion in funding from the General Fund. For highway safety the bill provides \$4.7 billion for NHTSA (\$3.7 from the HTF) and \$3.2 billion for the Federal Motor Carrier Safety Administration. The FAST Act authorizes approximately \$10 billion over five years for the Federal Railroad Administration and Amtrak. For Colorado, the bill increases highway formula funding from \$516 million in 2015 to \$542 million in 2016 and grows to \$592 million in 2020. On the transit side, funding increases from \$111.5 million in 2015 to \$114.6 million in 2016 and grows to \$124.8 million in 2020, CDOT manages \$19 million FTA fund distribution. Overall this act did not provide a significant increased (only 2% increase) funds on FTA formula program over the year of FY 2016 to FY 2020.

B. FTA Discretionary Funding

CDOT will continue to pursue discretionary funding opportunities available through the FTA. For the past two years (FY2016 and 2017) CDOT has submitted a consolidated application for the Low or No Emission Vehicle and Bus and Bus Facility. CDOT was successful in CY 2017 and received a \$1.45 million grant for Low or No Emission grant. Decisions for 5339 Bus & Bus Facilities competitive grants have/have not yet been made. CDOT will watch for other discretionary opportunities and work with our subrecipients to apply for those funds.

C. Other Federal Transit Funds

- 1) It is anticipated that other federal funds for transit services, such as Title III of the Older Americans Act, will continue to flow into and be merged with CDOT and FTA funds.
- 2) The Consolidated Appropriating Act, 2017 appropriated \$500 million, available through September 30, 2020, for Transportation Investment Generating Economic Recovery (TIGER) program, a highly competitive program to fund projects that will have a significant impact on the Nation, a metropolitan area, or a region, to rebuild the infrastructure and to improve the safety of America's passengers and goods. CDOT partnered with City of La Junta and successfully received \$15 million TIGER VII grant in 2015 to continue the rehabilitation of BNSF La Junta Subdivision and to provide critical passenger transportation for the rural communities along its route in Colorado, and to Kansas, New Mexico and Garden City, to Waldo. The City of Lamar led the application for a TIGER VIII grant in 2016, which was unsuccessful. A current TIGER IX application is pending, with Colfax County NM (Raton area) as the lead agency for the application.

D. State FASTER Transit Funds

- 1) State FASTER Transit funds are written into statute at a consistent amount of \$15 million per year, despite the amount of revenue that flows in through FASTER car registration fees. It is a relatively stable source of funding. See more below on how these funds are distributed.

E. Senate Bill 228 Funds

- 1) Senate Bill 228 was created in 2009 to govern Colorado General Fund transfers as the new law requires that when personal income reaches or exceeds five percent, a five year block of

transfer is made from the General Fund to: (1) the Highway Users Tax Fund (HUTF); (2) the Capital Construction Fund; (3) and the General Fund Statutory Reserve. For transportation, the transfer is equivalent to two percent of total annual General Fund revenue.

- 2) State law directs that all SB 228 monies transferred to HUTF must be paid to CDOT via the State Highway Fund. These funds must be expended for:
 - No more than 90 percent of transfer revenue may be spent for highway purposes
 - No less than 10 percent may be used for transit purpose or transit capital improvements.
- 3) In 2014, personal income growth reached over 5.0 percent, thereby triggering SB 228 transfer the General Fund to CDOT.
- 4) CDOT received \$35.8 million in SB 228 transit funds in transit from SFY 2016 to 2018. CDOT does not anticipate any more SB 228 revenue coming in SFY 2019 and beyond. However it was listed in this report is because CDOT will continue to distribute the remaining \$15 million SB 228 funds in 2019 and 2020, especially using this funding source as a backfill source for FASTER capital fund shortfall. Please see the distribution section for details.

F. Senate Bill 17-267 “Concerning the Sustainability of Rural Colorado” Funds”

- 1) SB 17-267, enacted during the 2017 legislative session, changed many aspects of fiscal policy for the state. Beginning in FY 2018-19 and continuing through FY 2021-22, the bill directs the execution of lease- purchase agreements on existing state facilities totaling \$2 billion. These agreements function as sales of state property to private investors and require that the investors immediately lease the buildings back to the state. Leases are renewed annually for up to 20 years, after which period the state resumes ownership of the building.
- 2) Revenue from the sales will first be expended for controlled maintenance projects selected by the Capital Development Committee (\$120 million) and then spent for transportation projects selected by the Transportation Commission (\$1.88 billion), 10% to transit (\$188 million), at least 25% of transportation funds (\$470 million highway + transit, including \$47 million in transit funds) must be spent in counties with fewer than 50,000 residents as of July 2015.

G. Volkswagen Clean Air Act Settlement

- 1) Volkswagen Group of America and certain related entities (collectively Volkswagen or VW) have admitted they violated the federal Clean Air Act from 2009 to 2016 by selling 580,000 vehicles with 2.0 liter and 3.0 liter diesel engines that emit more air pollution than the clean Air Act allows and by cheating on federal emission tests to hide the excess pollution. Judicial settlements approved on October 25, 2016 and May 17, 2017 require Volkswagen to pay

more than \$2.9 Billion into an environmental mitigation trust fund , which will be administered by an independent trustee. States and tribes that elect to become beneficiaries of the trust may receive funds over a period of 3-10 years to offset the excess nitrogen oxide (NOx) pollution emitted by affected Volkswagen and Audi vehicles. In addition, the consent decrees require Volkswagen to repair, buy back, or pay for the early termination of leases of affected vehicles and to make a \$2.0 billion National Zero Emission Vehicle (ZEV) Investment. Volkswagen and some of its employees also face civil and criminal liability under a variety of consumer protection, financial, and other laws.

- 2) Colorado is designated as a trust beneficiary. Colorado's initial allocation from the trust is a combined \$68.7 million for the 2.0L and 3.0L vehicles. The Colorado Department of Public Health and Environment (CDPHE) is designated as the state's lead agency to oversee the administration of the trust. Colorado submitted a Beneficiary Mitigation Plan (BMP) and submitted funding requests, and funding requests are approved by the trustee. The timing of these events is uncertain but CDPHE anticipates funds would be available in 2018.
- 3) CDOT is expecting to receive at least \$ 18 million VW funds for transit purposes over the state fiscal year of 2019 to 2021. More funds may be available for transit after the first three years.

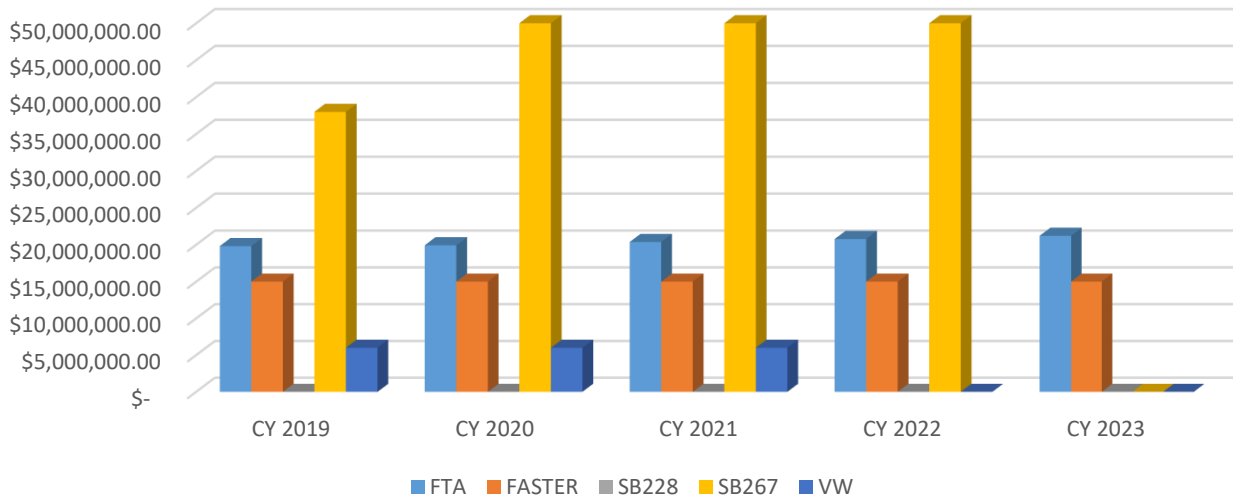
H. Local Funds

- 1) It is anticipated that local governments will continue to contribute a significant portion of the total cost of public transit in the state. However, it is anticipated that the increases will be very uneven geographically. It is anticipated that transit operators in resort communities, which receive a significant portion of their funding through local sales taxes, will continue to see growth and increased revenues from those taxes, though some will be offset by the need to increase employee wages as a result of a very competitive market for labor. Meanwhile, urbanized areas are also likely to see some revenue growth, but non-resort rural communities will likely see little or no revenue growth.
- 2) CDOT is not aware of any projects of its regular grant partners (grantees) that have been delayed or deferred due to unavailable local funds. If there are any such projects identified, CDOT would examine whether FASTER funds might assist in covering a part of the need, as set forth below, under FASTER.
CDOT is not aware of any significant changes in the levels or sources of local funding for transit, nor of any significant decreases in service levels. Most grant partners have had a good record of maintaining their base levels of service and local funding.
- 3) CDOT explores utilizing FHWA Transportation Development Credits (formerly known as Toll Credits) as a resource for local match funds. The use of FHWA toll revenue credits as match is allowable for FTA projects as codified in 23 U.S.C section 120, toll credits can be transferred to FTA projects on approval from FHWA.

Table 1 Anticipated FTA and State Transit Revenues

Program	CY 2019	CY 2020	CY 2021	CY 2022	CY 2023
FTA-5304	\$ 396,056.00	\$ 404,452.00	\$ 458,163.00	\$ 466,714.00	\$ 488,604.00
FTA-5310	\$ 4,348,812.00	\$ 4,106,788.00	\$ 4,188,924.00	\$ 4,272,702.00	\$ 4,358,156.00
FTA-5311	\$ 11,948,201.00	\$ 12,228,030.00	\$ 12,472,591.00	\$ 12,722,042.00	\$ 12,976,483.00
FTA-5339	\$ 3,128,234.00	\$ 3,190,799.00	\$ 3,254,615.00	\$ 3,319,707.00	\$ 3,386,101.00
FASTER	\$ 15,000,000.00	\$ 15,000,000.00	\$ 15,000,000.00	\$ 15,000,000.00	\$ 15,000,000.00
SB228	\$ -	\$ -	\$ -	\$ -	\$ -
SB267	\$ 38,000,000.00	\$ 50,000,000.00	\$ 50,000,000.00	\$ 50,000,000.00	\$ -
VW	\$ 6,000,000.00	\$ 6,000,000.00	\$ 6,000,000.00		
Total	\$ 76,421,303.00	\$ 88,530,069.00	\$ 88,974,293.00	\$ 89,381,165.00	\$ 39,809,344.00

Chart 1 Anticipated FTA and state Revenues for Public Transit



Distribution

As a Pass Through entity, CDOT continues to refine the fund distribution technique to maximum the benefit of using funds and to meet increased transit demands.

- FTA -5311 and 5310 Operating Funds Redistribution
- FTA-5311 (f) (Intercity Bus) Reconfiguration (Bustang Outrider)
- FASTER Transit Funds Reprogramming
- Senate Bill 267 Fund Distribution
- Volkswagen Clean Air Act Settlement Distribution

A. FTA-5311 and 5310 Operating Funds Redistribution

- 1) Since 2016, CDOT has taken actions on making modifications to the current process of distributing Federal Transit Administration Operating funds FTA-5311 and 5310 (excluding 5311 (b)3 and 5311 (f)).

The 5310 and 5311 operating assistance distribution methodology had not been evaluated or updated in over 10 years, the practice had reached its limitation over the years, such as, limited funds to accommodate new entrants who seek federal assistance and limited transparency.

- 2) During the summer of 2016, DTR organized working groups and began exploring the issues and evaluating various criteria for potential use in a distribution methodology. While the working groups provided increased understanding of the issues, their work also highlighted the need for a more formal and broad-based effort.
- 3) The current efforts are attempting to better balance size (higher productivity fixed route transit systems) with need (all rural transit, and protecting lower productivity small area and very rural systems). "Size" is currently calculated by looking at four factors: (1) ridership, (2) revenue miles, (3) revenue hours, and (4) annual budget. Need is based on the number of transportation disadvantaged (e.g., seniors, disabled) that are within the service area of the transit agencies.
- 4) In April 2017, Transportation Commission approved 5311 Operating fund distribution methodology for calendar 2018 only, while the subcommittee continues the deliberation of distribution method and reports back in the first quarter of 2018 on 2019 process and results, and any further recommendations for 2019 and beyond.

B. FTA-5311 (f) (Intercity Bus) Reconfiguration (Bustang Outrider)

- 1) CDOT, utilizing the annual 5311(f) funds as 15% of FTA-5311, currently allows public and private providers to apply by route for subsidies/funding to operate rural connection routes. The current practice has benefits, but it is not coordinated into a state network, includes amortized capital in the reimbursed operating costs, and is not branded as an integrated product.
- 2) The Intercity and Regional Bus Network Study (2014) and the Statewide Transit Plan (2015) identified the rural regional needs and began to develop a framework for a statewide rural regional system. After close evaluation of the current 5311(f) routes and stakeholder outreach, a reconfiguration of the current 5311(f) network routes was developed. The reconfiguration will better serve the rural communities, increase productivity, and remain financially constrained. As approved by TC resolution in August 2016, SB 228 funds are providing the initial capital needs, i.e. buses and Park & Rides. Smaller buses, sized to rural demand levels, are being procured for the initial rural regional routes. The plan optimizes the usage of limited operating funds by leveraging other available sources of capital funding.

C. FASTER Transit Funds Reprogramming

- 1) In January through June 2014, the Transportation Commission worked with CDOT staff to establish a policy for distributing FASTER Transit Funds, consistent with Policy Directive (PD) 14, with goals for vehicle condition asset management, transit utilization, and transit connectivity. At the time, with the exception of rural regional & interregional funds for operations (\$4 Million of \$15 Million total), the FASTER funds were reserved for capital vehicle & infrastructure projects (\$10 Million of \$15 Million), with the final \$1 Million for administration and technical assistance.
- 2) Starting in State FY2016, FASTER funds have been reallocated using a new formula. From the \$5 million local pool, CDOT sub-allocates \$200,000 to Fort Collins and \$700,000 to Colorado Springs, while the remaining \$4.1 million is made available for competitive capital projects of a local nature throughout the state. The \$10 million Statewide Pool is dedicated to projects with a statewide or regional focus. The funds are sub-allocated as follows: approximately \$1 million for DTR administration, \$3 million for operation of CDOT's interregional express bus service (Bustang), \$3 million for RTD, up to \$1 million for regional/interregional bus services, and the remainder for a statewide competitive capital pool.
- 3) CDOT DTR experienced difficulty in meeting the operating requests for the FTA 5311 funds. Rural transit systems are increasingly in need of transit operating funds in order to provide local services, meet local demands, and keep pace with inflation. Local transit providers increasingly struggle to fund their annual operations. FTA annual operating grant increases do not keep pace with inflation, thus the demand on local match funding increases over time. Rural communities are experiencing a growth in aging and disabled populations,

creating more demand for their services. The situation above will be exacerbated with the increasing minimum wage rates.

4) Two recent state legislative actions (SB 228, SB 267) have created a substantial influx of capital funds, providing an opportunity for on-going FASTER funds to be re-programmed, in part, for local transit operating needs. The periodic capital funds (SB 228, SB 267, & others like them) can be used to backfill on-going FASTER funds that would have instead been spent on vehicle needs, and fulfill the PD 14 goal for vehicle condition and asset management.

5) In 2017, CDOT proposed updates to the policy of FASTER Transit Fund distribution. With Transportation Commission's recent approval, the changes will take effect for State Fiscal Year 2019 funds, by reprogramming some funds for operating uses.

From \$5 million local pool, \$2 million will be sub-allocated to operating except Colorado Springs and Fort Collins, \$2.1 million will be available for competitive capital projects and \$0.9 million remains available for Colorado Springs and Fort Collins Capital projects.

From \$10 million statewide pool, \$1 million remains available for state administration, \$3.5 million will be allocated to Bustang operation with \$0.5 million increase, \$2.5 million for regional/interregional bus services with \$1.5 million increase, \$3 million remains available for RTD capital needs.

The new changes result in \$4 million shortfall in meeting capital needs, however CDOT expects to use funds from SB 228 and SB 267 backfill the shortage. Please see the Table 2 for details.

D. Senate Bill 267 Fund Distribution

1) CDOT is in a process of determining the method of distribution of SB 267 funds. It's undetermined how SB 267 funds will be allocated, whether by application process or other. CDOT is diligently working with all stakeholders to figure out principles of distribution.

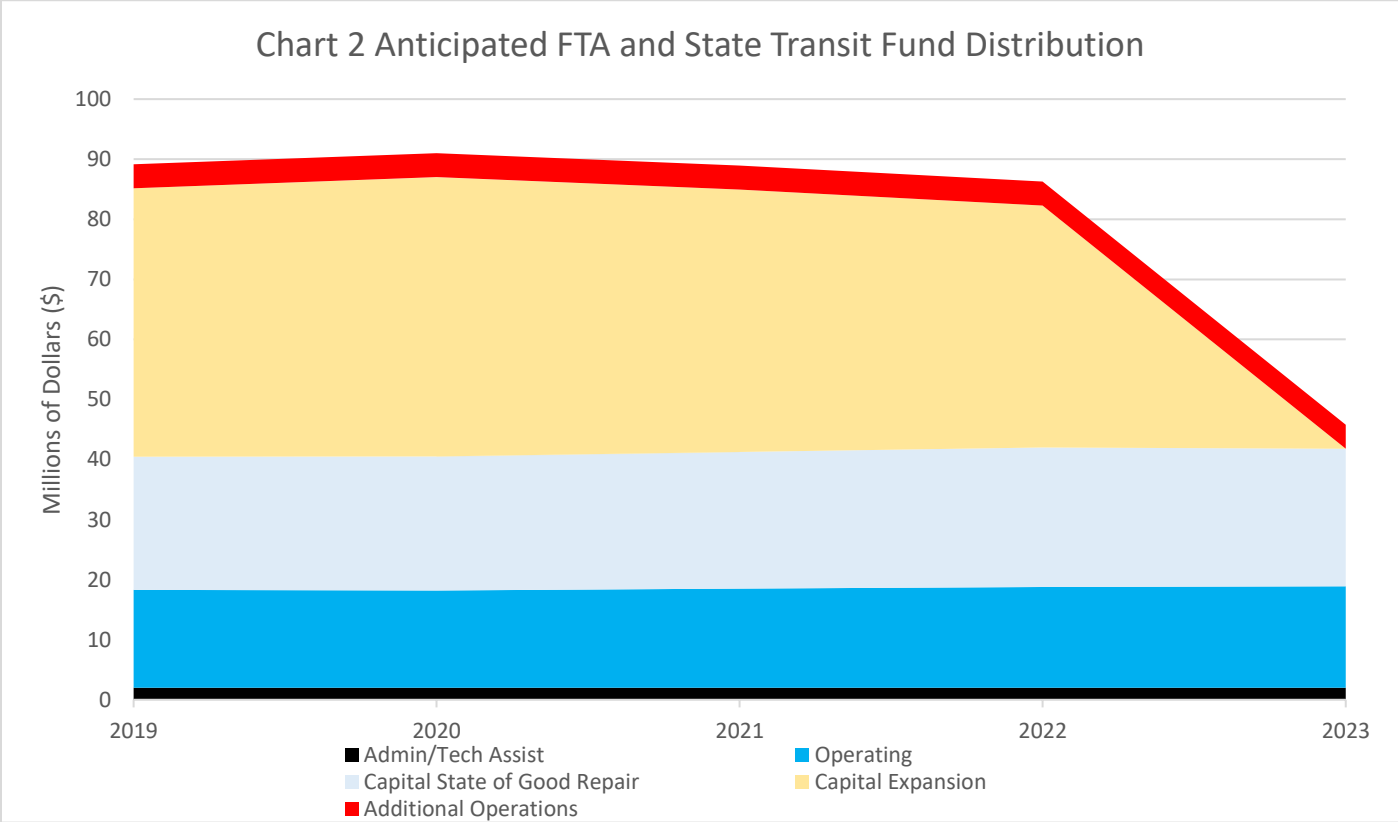
E. Volkswagen Clean Air Act Settlement Distribution

1) CDOT anticipates to distribute VW funds for capital projects through the normal "Capital Call" process, beginning with the call that will occur in fall 2018.

Table 2 Anticipated FTA and State Transit Funds Distribution

Program	Category	2019	2020	2021	2022	2023
FTA-5304	Local Planning	\$276,056	\$284,452	\$338,163	\$346,714	\$368,604
FTA-5304	Statewide Planning	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000
FTA-5304	State Administration	\$20,000	\$20,000	\$20,000	\$20,000	\$20,000
FTA-5310	Urban Operating/MM	\$1,366,180	\$1,448,658	\$1,446,604	\$1,513,114	\$1,533,910
FTA-5310	Urban Capital	\$827,260	\$863,705	\$851,161	\$867,313	\$878,180
FTA-5310	Small Urban Operating/MM	\$650,000	\$380,332	\$515,166	\$525,469	\$554,496
FTA-5310	Small Urban Capital	\$553,820	\$548,463	\$551,141	\$562,164	\$573,408
FTA-5310	Rural Operating/MM	\$435,776	\$341,436	\$295,737	\$263,931	\$279,329
FTA-5310	Rural Capital	\$315,776	\$324,195	\$329,118	\$340,711	\$338,833
FTA-5310	State Administration	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000
FTA-5311	Administration & Operating	\$8,141,742	\$8,203,967	\$8,433,246	\$8,621,096	\$8,827,127
FTA-5311	Capital	\$1,214,229	\$1,389,859	\$1,368,456	\$1,392,639	\$1,420,491
FTA-5311	Intercity Bus	\$1,792,230	\$1,834,204	\$1,870,889	\$1,908,307	\$1,928,863
FTA-5311	State Administration	\$800,000	\$800,000	\$800,000	\$800,000	\$800,000
FTA-5339	Small Urban Capital	\$1,378,234	\$1,440,799	\$1,504,615	\$1,569,707	\$1,636,101
FTA-5339	Rural Capital	\$1,750,000	\$1,750,000	\$1,750,000	\$1,750,000	\$1,750,000
FASTER	State Administration	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000	\$1,000,000
FASTER	Bustang	\$3,500,000	\$3,500,000	\$3,500,000	\$3,500,000	\$3,500,000
FASTER	Regional Bus Operating	\$2,500,000	\$2,500,000	\$2,500,000	\$2,500,000	\$2,500,000
FASTER	RTD/Urban Set -Asides	\$3,900,000	\$3,900,000	\$3,900,000	\$3,900,000	\$3,900,000
FASTER	Local Capital	\$2,100,000	\$2,100,000	\$2,100,000	\$2,100,000	\$2,100,000
FASTER	Local Operating	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000	\$2,000,000
FASTER	Statewide Capital	\$0	\$0	\$0	\$0	\$0
SB228	Bus Capital Back Fill-FASTER Local Capital Funds	\$6,500,000		\$0	\$0	\$0
SB228	Construction Projects	\$8,500,000	\$0	\$0	\$0	\$0
SB228	Construction Administration	\$0	\$0	\$0	\$0	\$0
SB267	Bus Capital Back Fill- FASTER Statewide and Local Capital Funds	\$1,000,000	\$1,000,000	\$1,000,000	\$17,000,000	\$0

	Construction Projects					
SB267		\$34,000,000	\$49,000,000	\$49,000,000	\$23,000,000	\$6,000,000
VW	Bus Capital	\$3,600,000	\$3,600,000	\$3,600,000	\$3,600,000	\$3,600,000
Total		\$88,421,303	\$88,530,070	\$88,974,296	\$86,381,165	\$45,809,342



Attachment 3-2. Example NOFA

Notice of Funding Availability

CDOT Consolidated Call for Capital Projects

Federal Transit Administration and State of Colorado Funds

October 19, 2018

PART 1 Introduction

The Colorado Department of Transportation (CDOT) Division of Transit and Rail (DTR) is issuing a Notice of Funding Availability (NOFA), requesting applications for capital projects to be initiated in 2019.

CDOT has over \$32 million available in Federal and State funds for transit capital projects. Funds may be used for items defined as capital assets by the Federal Transit Administration (see Part 6 for listing).

If selected for award, CDOT’s expectation is that applicants will begin implementing their project no more than six months after announcement of an award.

Applications are due to CDOT by **5:00 p.m. on Friday, December 7, 2018**. **Applications submitted after this deadline will not be accepted.**

Applications will be submitted through COTRAMS. Please note that it appears that there are usually fewer error messages when an applicant uses Google Chrome as their web browser. We recommend that you use Chrome when submitting your application.

Potential applicants are strongly encouraged to read the guidance provided herein, particularly given that two new funding programs are outlined.

PART 2 Funding

Grant funds are available through several federal and state transit programs administered by CDOT. The table below lists these funding sources and the estimated or anticipated amount available under each.

Funding Program	Amount Available
FEDERAL PROGRAMS	
<i>FTA Section 5310: Seniors and Individuals with Disabilities</i>	
Rural 5310 (all areas outside of urban areas)	\$370,000
Small Urban 5310 (Boulder, Grand Junction, Greeley, Longmont, Lafayette/Louisville/Erie, and Pueblo)	\$360,000



Large Urban 5310 (Denver)	\$660,000
<i>FTA Section 5311: Rural Public Transit (all areas outside of urban areas)</i>	\$1,000,000
<i>FTA Section 5339: Bus and Bus Facilities</i>	
Small Urban 5339 ((Boulder, Grand Junction, Greeley, Longmont, Lafayette/Louisville/Erie, and Pueblo)	\$1,900,000
Rural 5339 (all areas outside of urban areas)	\$5,310,000
SUBTOTAL	\$9,600,000
STATE PROGRAMS	
<i>FASTER</i>	
Local Competitive	\$4,100,000
Urban Area Set-Asides (Denver, Co Springs, Ft. Collins)	\$3,900,000
<i>Alt Fuel Settlement Program</i>	\$3,600,000
<i>Senate Bill 228</i>	\$2,000,000
Senate Bill 267	\$9,500,000
SUBTOTAL	\$23,000,000
TOTAL	\$32,700,000

*The Settlement Funds program has \$18 million immediately available, expected to be optimally awarded over a period of five years.

PART 3 Local match

Federal and state funds may be used to fund up to 80% of project costs. All awards require a minimum local match of 20%, with some notable exceptions for the Settlement and Senate Bill 267 programs, as detailed later in Part 3. The match must be in cash, except that donated or previously purchased land for a construction project can be used as match if sufficiently documented through a recent appraisal and if not originally purchased with Federal funds.

Local match can come from many sources including state (non-CDOT) or local appropriations, tax revenues, private donations, revenue from service contracts, and income generated from advertising and concessions—provided its use as match is not prohibited or disallowed by that funding source. The local match may also be derived from federal programs that are eligible to be expended for transportation, if derived from other than USDOT programs. Examples of types of programs that are potential sources of local match include employment, training, aging, medical, community services, and rehabilitation services.

State funds administered by CDOT can be used to match a federal grant, providing up to 80% of the required 20% matching funds for the federal grant, provided such funds are specifically approved by DTR. The recipient must still provide a 20% local match for its state-funded award. This means that the local agency is paying only 4% of the total project: 80% federal, 16% state (80% of 20%), and 4% local (20% of 20%). Since this type of funding arrangement rapidly draws down available grant funding and awards fewer projects, CDOT will carefully assess requests of this type. It is CDOT's intention that state funds be used as local match for federal funds only in situations where worthy projects cannot proceed without the additional financial assistance.

CDOT requires written letters of support and commitment from **partners** in a project that will need to make a commitment to the project (e.g., organizations providing some, or all, of the local match, providing land or right-of-way for a project, or agreeing to share a multimodal facility). Applicants should not submit general letters of support, however.

There are two exceptions to the 80%/20% match requirement described above. The State share for the Senate Bill 267 program can be as high as 100%, subject to negotiation between DTR and the applicant, based on the nature of the project. For example, DTR might require the applicant to maintain and plow a facility, or to pay for certain components. The Settlement program also does not require a local match and offers an incentive by awarding a portion of the local match required for State and Federal awards.

If you intend to replace conventionally-fueled (i.e., gas or diesel) vehicles with alternative fuel vehicles (i.e., CNG, electric or propane), there is a new funding option. CDOT is now administering "Settlement" funds—trust funds derived from a legal settlement by an entity alleged to have violated the Clean Air Act. CDOT expects to have approximately \$18 million available from these funds over five years, which can be used to purchase alternative fuel vehicles. More information can be found in Part 12 below.

PART 4 Application Process

CDOT offers two capital applications: one for **revenue vehicle** grant requests and a second for **other capital** project grant requests (which includes non-revenue vehicles such as service vehicles). Within those two general categories are four subcategories into which each project must fit. The categories/subcategories are as follows:

- A. Revenue Vehicles
 - 1) Conventionally-fueled vehicle replacements
 - 2) Alt fuel vehicles (Settlement program) replacements
 - 3) Expansion vehicles
- B. Other Capital Projects
 - 1) Facilities, equipment, engineering and environmental studies, vehicle rebuilds, and service vehicles and other

If an applicant plans to submit requests for multiple revenue vehicle replacement projects, the applicant may bundle those replacement projects into one single application; requests for multiple replacement and expansion projects, though, must be submitted in two separate applications--one for replacements, one for expansions. **In order to submit applications in more than one subcategory, you will need to request that additional application(s) from Qing Lin, at qing.lin@state.co.us.**

The minimum project request is \$25,000, except in cases where an applicant is requesting state funds to be used as local match for a federal program. There is no maximum request, but applicants should take into consideration the amounts available and CDOT's preference to provide some geographic equity.

Applications must be submitted electronically through COTRAMS (<https://cotrams.force.com/cdotcommunity/login>), CDOT's on-line grant management system. If you are a current and active CDOT subrecipient you should have a user ID and password for the website. If you have misplaced your user ID and password to the website, contact system administrator Qing Lin immediately (qing.lin@state.co.us) so that she can reset your login credentials. If you are a current subrecipient and have not had access to the portal, please contact Qing so that she can assist you.

If you are **not** a current subrecipient, you are asked to first complete a **pre-application questionnaire** prior to submitting an application. This questionnaire is intended to determine eligibility prior to submitting an application, as well as the agency's ability to meet DTR's threshold criteria for the grants. This questionnaire will also inform potential applicants of the requirements of DTR funding and indicate which funding programs might be the most appropriate. DTR may also arrange a phone call and possibly an on-site visit so that questions can be answered to make the application process more clear. If it is determined you are eligible and meet threshold criteria, you will be given a COTRAMS ID and user name so that you can apply in COTRAMS. You'll also be given COTRAMS training. Please contact Tom Mauser (tom.mauser@state.co.us) as soon as possible to obtain the document, since these steps will take time.

PART 5 Applicant Eligibility

In most cases, DTR staff will determine which funding source is best suited to meet your request. DTR staff will use the following applicant eligibility guidelines to make that determination. However, applicants can state their preference in the application for a certain source(s) for a particular project(s).

State funds: Eligible subrecipients of local competitive State FASTER funding assistance are local public and private nonprofit entities, as well as tribal governments, that offer open-door, public transportation, including specialized transportation (service for the elderly and disabled). "Open door" specialized transportation is service available to any elderly and disabled person in need and not limited to a particular clientele or facility. Eligibility for the Settlement and Senate Bill 267 and Senate Bill 228 programs is the same but does require open door service.

Eligible recipients of Senate Bill 267 funds include local public and private nonprofit entities and tribal governments in counties with a population of less than 50,000 as of July 2015.

Federal funds: Applicant eligibility for the FTA programs is similar to that of state funds, but is limited based on each particular program.

Private nonprofit organizations are eligible applicants for most projects funded through the Section 5310 program, though public entities are eligible if (a) the public entity has been named by the State (CDOT) as the coordinating body for specialized transportation in their area or if (b) the public entity certifies there is no available private nonprofit agency providing service. For some projects, eligible applicants also include a local government authority or an operator of public transportation.

These specialized services do not have to be open door, unlike the eligibility criteria for State FASTER funds. However, all things being equal, open door programs will receive a higher priority. Additionally, DTR will not fund “residential” vehicles that are located at housing facilities and have a very limited usage and clientele.

The FTA Section 5311 program is available to public and private nonprofit agencies, as well as tribal governments, providing public transportation in rural areas. Additionally, private intercity bus operators are eligible under the Section 5311(f) program.

The FTA Section 5339 program is available to public and private nonprofit agencies, as well as tribal governments, providing public or specialized transportation; however, applicants for Section 5339 funds in small urbanized areas are limited to the Designated Recipients for Section 5307 funding in those areas (i.e., RTD, Mesa County, and the cities of Pueblo and Greeley); Section 5339 funds for the Denver and Colorado Springs areas are administered by their designated recipients, not CDOT.

Settlement Funds are available to all agencies eligible under any of the programs outlined in Part 5 above for replacement of Class 4-8 vehicles that operate in the State of Colorado.

Applicant organizations must be prepared to be the party that takes full responsibility for carrying out the proposed project. There have been a few instances in which an organization that was awarded funds has requested that the project be transferred to a different organization. CDOT encourages parties to fully consider the most appropriate applicant organization at the beginning of the application process and **not** to assume that CDOT will approve such a significant sponsorship change.

PART 6 **Project Eligibility**

Funding may be used for any items defined as a **capital asset** by the Federal Transit Administration. However, CDOT will **not** accept requests for funding land purchases or office-related equipment, nor for operating or administrative expenses. The types of projects that are designated as capital assets by the FTA, and therefore eligible, include, but are not limited to, the following:

- Rolling stock (buses, vans, train cars, gondola cabins).

- Transit stations, transfer facilities, bus storage and/or maintenance facilities, and other transit facilities.
- Multimodal facilities, such as facilities that accommodate some combination of services of multi-regional or statewide significance, such as regional bus service, Amtrak, and Greyhound/intercity bus service.
- Park and ride facility construction or improvements.
- Technology improvements that enable enhanced transit services in high priority corridors, including signal prioritization and ITS.
- Technology improvements that significantly improve the coordination of human services transportation by means of mobility management tools such as call centers.
- Wayfinding signage between modes (e.g., signage for intermodal facilities, intercity bus stations, Amtrak, park-and-rides, etc.).
- HOV, HOT, queue jump, and bus pull-out lanes, Bus Rapid Transit projects, and bus lanes.
- Bike racks, lockers and bike parking at multimodal stations.
- Enhanced modal connections, such as trails, sidewalks and bike lanes leading to major transit stations, provided they have a transit connection and enhance transit ridership.
- Pre-construction environmental and design projects.

In addition, in the Other Capital Projects application, CDOT will accept applications for major engineering and environmental studies. This would include projects such as preliminary or final design plans and environmental studies. Studies that address operational, marketing or planning topics should instead seek funding through CDOT's separately-solicited FTA Section 5304 program, which normally has a maximum award of \$35,000.

Due to limited funding, CDOT continues to put an emphasis on a fix-it-first approach—that is, giving higher priority to the replacement and refurbishment of buses, facilities, and equipment, rather than on new or expansion capital or planning projects. This does NOT mean, however, that expansion or planning projects will not be funded—only that an applicant seeking funding for expansion projects must make a very strong case, with documented justification and evidence of sustainability, in order to be considered. Replacement requests that do not score well on their merits will not be automatically prioritized higher than expansion equipment or facilities that do score well.

Project eligibility for the Senate Bill 267 program is limited to facility and infrastructure projects that would typically have a useful life of at least 40 years, such as a facility or park and ride.

Project eligibility for the Settlement program is limited to the direct replacement of passenger transit vehicles that are conventionally fueled with (gas or diesel) and Class 4 or higher (over 14,000 pounds), with an alternative fuel vehicle. Also eligible is charging equipment associated

with that vehicle(s), as well as reasonable costs associated with installing that equipment. Further details on eligibility are included in Part 12 below.

PART 7 Threshold (minimum) Criteria

The applicant must have the financial and managerial capability and capacity to manage any funds awarded, as well as demonstrate that it has the resources necessary to operate the project on an ongoing basis. Federal, State and Settlement grants will be awarded on a reimbursement basis; that is, the award recipient must first incur costs before being reimbursed by CDOT, after submitting sufficient documentation of such costs. Therefore, the recipient must have the financial ability and cash flow to incur and pay such costs initially. The applicant must also be willing and able to follow federal and state guidelines in procurement.

It is especially important that the above capability and capacity is specifically addressed by applicants that have not previously received funds through DTR or which have had delays or other problems implementing projects awarded funding by CDOT. These organizations should address their financial and grant management capability and experience, as well as steps taken to correct any past problems, as appropriate.

Projects must be consistent with the most recent Regional Transportation Plan for the applicant's service area. It is recognized that in many cases consistency will be based on being within a corridor vision(s), not by specific mention of the particular project request.

PART 8 Evaluation Criteria

All projects will be evaluated based on the criteria listed below. Projects will be evaluated based on the type of project—that is, based on whether they are rolling stock, facilities, equipment or studies, and, further, whether they are replacements or expansions. Please note that the sub-criteria will not be weighted equally and that some will not be pertinent. For example, if a criterion has four sub-criteria, evaluators do not assign 25% weighting to each; they are given flexibility in assigning scores. One exception is on replacement rolling stock scores, where there are metrics for comparing need. Also, some consideration may be given to geographical equity.

Projects will be evaluated using the following metrics:

(1) For Replacement of Revenue Vehicles:

Metric 1: The vehicle's State of Good Repair (SGR) - Age, Mileage, Usage, Readiness, including how the vehicle's replacement is projected and prioritized within the agency's or Group Asset Management Plans; higher mileage vehicles will be scored higher than lower mileage units;

Metric 2: Higher scoring will be awarded to applicants that can demonstrate a good state of repair through effective, documented, formal preventive maintenance programs or Transit Asset Management programs, and to those that have and follow a capital replacement plan;

(2) For Expansion of Revenue Vehicles:

Metric 1: Demonstrated Need and Readiness: Higher scoring will be awarded to projects that clearly demonstrate the need for the expanded service in terms of documented ridership or need studies and community support, that demonstrate an effective business case and can demonstrate they are truly ready to implement the expansion;

Metric 2: Special Considerations: For vehicle requests, applicants with a lower fleet spare ratio, who have a capital replacement plan/asset management plan, who can show strong institutional commitment, and who can show a strong financial commitment (higher local match ratio), will be scored more strongly.

(3) For Facilities, Design, and Equipment:

Metric 1: Readiness and Demonstrated Timetable: Higher priority will be given to those that are shovel ready (NEPA clearance finalized, at least 30% design completed, and site location selected and purchased), and to the completion of existing projects.

Metric 2: Project Purpose, Cost Savings, and Efficiency: Higher priority will be given to those projects that: have a high degree of local and regional support; well-developed and defensible business case, and support or provide significant transit operational and utilization benefits.

Metric 3: Special Considerations. Higher scoring in this area will be given to those projects that demonstrate they were developed in partnership with the local community. In the case of requests for the expansion of existing facilities, higher scoring will be applied if the project demonstrates the need for the facility and for growth in the program it supports. Agencies that adequately demonstrate institutional commitment, funding, financial capacity, and capability to sustain the service and project over time will be also be scored more strongly.

(4) For Planning Studies

Metric 1: Project Purpose and Demonstrated Need: The project does not qualify for FTA Section 5303 or 5307 (in urbanized areas) or 5304 funding, is relevant to other transit agencies in the state, has been vetted with the local transit provider, and the study is ready to proceed upon award.

The evaluation criteria for the new Settlement program varies slightly, putting more of an emphasis on the alternative fuel planning and capabilities of the applicant. These are outlined in Part 12 below.

For the SB 267 program, the following evaluation criteria are considered, **in addition to those** described in (3) above. They are as follows:

1. Project Readiness – The project has already undergone a significant level of planning and is ready to proceed in the short term and complete construction in approximately 3 years.
2. Strategic Nature – Project is of regional or statewide significance or is part of a statewide programmatic need.
3. Planning Support – The project is supported by relevant planning documents (Transit Development Program, Intercity Bus Plan, corridor NEPA documents, local plan documents)
4. Statewide Transit Plan Goal Areas – Supports statewide plan goal areas of system preservation and expansion, mobility/accessibility, transit system development and partnerships, environmental stewardship, and economic vitality.
5. Expected Life - The project results in a facility or infrastructure asset that carries an expected life cycle longer than the SB267 financing term of 25 years.
6. Supports Statewide System – Supports a statewide transportation system, with consideration of transportation needs throughout the region and the state.

PART 9 Selection Methodology

A selection committee made up of CDOT staff (DTR, DTD, the Policy and Government Relations Office, Office of Civil Rights) will evaluate and score applications. In selecting projects for funding, consideration will be given to geographic distribution. A recommended list will then be presented to the DTR director for approval. DTR may also solicit input from CDOT’s Region Planners regarding infrastructure, planning and large capital purchase projects; applicants are strongly urged to discuss their projects with their Region Planner. After approval, CDOT and its Regions will take all the steps necessary to set up the projects internally and budget them. Then DTR and Region staff will begin scope of work and contract negotiations with the local agencies. State-funded contracts cannot be executed before the start of Fiscal Year 2019 (July 1, 2019) — unless a project is budgeted with funds from a prior fiscal year.

Applications for Settlement Funding will be reviewed and evaluated by a secondary selection committee consisting of representatives of the State agencies on the intra-agency Settlement Fund steering committee, including the Colorado Department of Public Health and Environment

(CDPHE), CDOT, Regional Air Quality Council (RAQC), and Colorado Energy Office (CEO). This selection committee will review only the applying agencies' alternative fuel implementation plans outlined in the submitted applications and make recommendations for vehicle and related charging equipment Settlement awards.

PART 10 Appeals Process

All applicants will be notified of DTR's funding awards, including those not awarded funding. They are provided a list of projects that were selected, as well as, for transparency purposes, comments indicating the primary reasons an application or project may have received an insufficient score. If an application is denied, the grounds therefore will be given to the applicant. Applicants not awarded funding may reapply in the future for project requests that were denied.

An applicant that is aggrieved by a Department determination may file an appeal with the DTR Transit Programming Unit Manager within 30 days of DTR publishing of the awards. The appeal shall state the nature and basis for the appeal. Any repeal related to alleged discrimination will be reviewed by the CDOT Civil Rights and Business Resource Center. A decision on the appeal shall be issued by DTR management within 30 days of the appeal. If the applicant does not accept the decision, they may request a hearing pursuant to the provisions of Section 24-4-104, C.R.S., as amended, of the State of Colorado Administrative Procedures Act. If a hearing is requested, it will be conducted in accordance with 24-4-105 C.R.S., as amended, before an administrative law judge. The request for a hearing must be made within 60 calendar days after an applicant is notified of the Department's decision. If a subsequent hearing overturns a DTR decision, DTR will take action to modify its decision and awards, which may include revisions to other awards, if necessary, to comply with the ruling.

PART 11 Nondiscrimination

The Colorado Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

(CONTINUED ON NEXT PAGE)



PART 11 **Schedule**

Following is the schedule CDOT will generally adhere to for the CY 2019 project selection process.

Phase	Application/Evaluation/Selection Milestone	Due Date
Notice & Application Development	Call for projects officially broadcast by DTR	10/19/2018
	Applications Due to DTR on COTRAMS	12/7/2018
Review, Scoring, and Selection	Initial screening (completeness/eligibility) by DTR Applications evaluated by review committee DTR conducts conference call with each CDOT Region regarding projects within their jurisdiction DTR completes scoring and prepares list of recommended projects; final scores and recommendations submitted to DTR Director	01/18/2019
Award Discussion and Approval	DTR develops list of recommended projects and consults with CASTA regarding the proposed selections	Mid-February 2019
	DTR Director finalizes awards	Late Feb 2019



<p>Budgeting and Programming</p>	<p>TIP / STIP policy amendments</p> <p>CDOT Business Offices set up project budgets</p> <p>Scope of work drafting, negotiations with local agencies initiated by DTR, Regions</p>	<p>Mar-Apr 2019</p>
<p>Grant Agreements</p>	<p>DTR and Regions negotiate and finalize grant agreements/IGAs.</p>	<p>May-Sept 2019</p>

PART 12 Additional Guidance for Alt Fuels Settlement Program

What are the Settlement Funds?

An automobile manufacturer has agreed to settle allegations that it violated the federal Clean Air Act by selling vehicles that emit more air pollution than the Clean Air Act allows, and by falsifying federal emission tests to hide the excess pollution. Because the affected vehicles exceed emission limits for a pollutant that harms public health and forms ozone or smog, the manufacturer has agreed to place funds in a national trust fund, referred to hereinafter as the Settlement funds, that can be used for a variety of purchases intended to mitigate those harmful pollutants.

States have been awarded Settlement funds. CDOT DTR expects to receive, over a period of about five years, 26% of the State’s funds, approximately \$18 million. By agreement, DTR will use these funds for the replacement of conventionally-fueled (i.e., diesel or gas) vehicles with alternative fuel vehicles (CNG, propane, electric). In Colorado, for improved efficiency, funding will flow through existing programs. For DTR, that means the funds for alternative fuel transit buses will become part of DTR’s annual Consolidated Call for Capital Projects. Funds will be distributed statewide and there will be no geographic targets or quotas, though CDOT will attempt to achieve some geographic equity, all things being equal.

What kinds of projects are eligible?

The Settlement funds can only be used for the direct replacement of passenger transit vehicles that are conventionally fueled (gas or diesel) and Class 4 or higher (over 14,000 pounds). The funds would be used for the purchase of an alternative fuel (hereinafter referred to simply as “alt fuel”) vehicle. Settlement funds cannot be used to purchase hybrid vehicles, though alt fuel vehicles may be awarded to replace existing hybrid gas or diesel vehicles. CDOT will use Settlement funds only for the **incremental** cost of an alt fuel vehicle. That is, for example, for the purchase of a 40-foot coach, Settlement funds can only be used for the cost exceeding the

normal cost of a conventionally-fueled 40-foot coach (hereinafter referred to as the “equivalent vehicle”). However, applicants for Settlement funds can request federal or state funds in their CCCP application to cover the cost of the equivalent vehicle—though CDOT is not guaranteeing the award of such funds.

Other eligibility criteria include:

- Only engine model year 2009 or older transit vehicles in Classes 4-8 may be replaced.
- The vehicle identified for replacement must be scrapped (i.e., the vehicle’s frame rails must be cut completely in half and a 3-inch hole must be cut in the engine block) for each new alt fuel vehicle that is funded. CDOT must be given the opportunity to witness the scrapping procedure or given other acceptable evidence of such.
- Vehicles identified for replacement must be drivable and must have been registered, operated, and insured in Colorado for the previous two years (to ensure that the program achieves real emission reductions and to prevent abuse).
- Public, private, for-profit, and nonprofit fleets are eligible so long as they meet all applicable eligibility requirements.
- The Settlement is limited to vehicle replacements and will not fund engine repowers or non-OEM conversion kits.
- If Settlement funds are awarded for a new electric vehicle, charging equipment associated with that vehicle(s) may also receive Settlement funds, in an amount not to exceed \$100,000, with no local match required. The funds can be used for the charging equipment as well as reasonable costs associated with installing that equipment, such as underground utility work, building modifications to accommodate the equipment, etc.
- Settlement funds cannot fund CNG or propane fueling infrastructure.

How will CDOT DTR award the Settlement funds?

DTR will use a combination of existing funds and Settlement funds to incentivize the purchase of alt fuel vehicles. DTR will fund 110% of the incremental cost of a new alt fuel vehicle and may also fund 80% of the cost of the equivalent vehicle with CDOT-administered federal or state funds; however, as pointed out above, CDOT cannot guarantee it will award both alt fuel and equivalent vehicle funding. By providing 110% of the incremental cost, CDOT is essentially reducing the local match amount for the equivalent vehicle award. See the tables below for examples.

There are three basic funding scenarios, as outlined below that could occur with this mix of Federal/State and Settlement funds:

- A. An applicant requests and receives both Settlement funding for the alt fuel vehicle(s) and Federal or State funding for the equivalent vehicle(s).
- B. An applicant requests and receives Settlement funding for the alt fuel vehicle(s) but does not receive Federal or State funding for the equivalent vehicle(s) requested--or which were not requested in the first place.



C. Applicant requests both Settlement funding for the alt fuel vehicle(s) and Federal or State funding for the equivalent vehicle(s) but is only awarded Federal or State funding for the equivalent vehicle(s). In such a case, the applicant can either decline the award, proceed with purchase of a conventionally fueled vehicle, or use other funding to pay for the incremental cost of an alt fuel vehicle. It will be important for applicants to respond to questions in the application regarding how they would proceed if this scenario were to come into play.

The two tables below illustrate the first two scenarios and calculations showing the amount of awards and local match for CNG and electric vehicles. In each scenario, the equivalent vehicle cost for a 40-foot bus is estimated to be \$500,000, a CNG-fueled vehicle cost is estimated to be \$600,000, an electric vehicle cost is estimated to be \$800,000, and the electric charging cost is estimated to be \$80,000.

Table A: Settlement Funding Examples with State or Federal Award

	CNG Bus Funding		Electric Bus and Charging Equipment	
Alt Fuel vehicle cost	\$600,000 CNG bus cost	\$600,000	\$800,000 electric bus cost	\$ 800,000
Electric charging cost	N/A		Electric charging equipment \$80,000	\$ 80,000
Equivalent vehicle cost	Estimated conventional fuel 40-ft bus cost of \$500,000		Estimated conventional fuel 40-ft bus cost of \$500,000	
Federal/State award	\$500,000 times 80% Federal/State share = \$400,000		\$500,000 times 80% Federal/State share = \$400,000	
Settlement award	Incremental bus cost (\$600,000 minus \$500,000) times 110% = \$110,000		Incremental bus cost (\$800,000 minus \$500,000) times 110% = \$330,000, plus 100% of \$80,000 charging cost = \$410,000	
Total awards	Federal/State award \$400,000 plus Settlement award \$110,000 = \$510,000	\$510,000	Federal/State award \$400,000 plus Settlement award \$410,000 = \$810,000	\$ 810,000



Applicant local share	Alt Fuel vehicle cost \$600,000 minus Total Awards \$510,000 = \$90,000	\$ 90,000	Alt Fuel vehicle cost \$800,000 plus charging cost \$80,000 minus Total Awards \$810,000 = \$70,000	\$ 70,000
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Table B: Settlement Funding Examples without State or Federal Award

	CNG Bus Funding		Electric Bus and Charging Equipment	
Alt Fuel vehicle cost	\$600,000 CNG bus cost	\$600,000	\$800,000 electric bus cost	\$ 800,000
Electric charging cost	N/A		Electric charging equipment \$80,000	\$ 80,000
Equivalent vehicle cost	Estimated conventional fuel 40-ft bus cost of \$500,000		Estimated conventional fuel 40-ft bus cost of \$500,000	
Federal/State award	N/A	\$ -	N/A	\$ -
Settlement award	Incremental bus cost (\$600,000 minus \$500,000) times 110% = \$110,000	\$110,000	Incremental bus cost (\$800,000 minus \$500,000) times 110% = \$330,000, plus 100% of \$80,000 charging cost = \$410,000	\$ 410,000
Applicant local share	Alt Fuel vehicle cost \$600,000 minus Total Awards \$110,000	\$ 490,000	Alt Fuel vehicle cost \$800,000 plus charging cost \$80,000 minus Total Awards \$410,000 = \$470,000	\$ 470,000

Evaluation Criteria

As with other replacement vehicle requests, age, mileage and condition will be key factors in evaluating applications. However, another important part of the review of applications will be the applicant's demonstrated capacity to implement and operate alt fuel vehicles within their fleet, particularly if it is for an electric bus. For example, applicants are asked to describe their long-term alt fuel vehicle plan and timeline for implementation; their agency's operational considerations; their plan for power delivery; and, their agency's related financial plan. It will be important for those who propose to use electric vehicles for the first time to address demand charges—that is, the much higher utility rates charged during the peak times that many transit operators would plan to charge vehicles.

Attachment 3-3. Example New Applicant Questionnaire



CDOT New Applicant Questionnaire

A. General Information

1. Legal Name of your organization: _____

2. Brief description of your organization:

Is it a public, nonprofit, or for-profit organization? _____

What services does it provide? _____

Is it a "stand alone" agency providing transportation with its own budget and governance, or is it a program within a larger organization (e.g., a city or county government, a multipurpose nonprofit)? [Within this questionnaire some questions will be directed to your transportation **program** alone and some will be geared to the larger **organization** in which you are housed (if applicable).] _____

3. What is the total annual budget of your **transportation program**? _____

What is the total annual budget of your **organization** (if applicable)? _____

4. How many in-service revenue vehicles are used in your program? _____

How many transit-related employees are in your program? _____

5. What is your organization's Employer Identification Number (EIN) or other Tax Identification Number (TIN)? _____

6. Is your organization registered with SAM.gov? [The System for Award Management (SAM) is the Official U.S. Government system with which one must register in order to be eligible to receive federal financial assistance. There is no charge to register or maintain your registration record in SAM.] _____

What is your SAM expiration date? _____

7. What is your organization's DUNS number? [DUNS is Dun & Bradstreet's "Data Universal Numbering System," a copyrighted, proprietary means of identifying entities on a location-specific basis. A DUNS number is a unique nine-character identification number provided free of charge. Having a DUNS number is not a prerequisite to applying, but it is for registering with SAM.gov and for receiving funds.] _____

8. Has your organization spent more than \$750,000 in any federal funds in the past fiscal year? [This amount triggers certain reporting requirements.] _____

9. Do you currently provide passenger transportation services, or are you seeking funds with which to **begin** a transportation service? If you are not now providing service, have you conducted a

study that demonstrates the need for service and that explores alternatives for providing service under a contractual arrangement with an existing provider? Please describe and attach any supporting documentation. _____

10. Have you provided any type of contract services to the State of Colorado, or had a grant contract with the State, in recent years? If yes, what is your State vendor number? _____
11. Please generally describe the type of transportation service your program provides and the way it's delivered. [Is it demand response service? Fixed-route/fixed schedule? Do passengers call in advance for rides?] _____
12. To whom do you provide transportation? Are there eligibility requirements? [The general public of any age? Older adults? Persons with disabilities who are not over 65? Residents of a facility? Clients of a particular program? Developmentally disabled adults under a Medicaid waiver?] _____
13. What geographic areas do you serve? _____
14. On average, approximately how many hours per weekday does each of your vehicles operate? _____
15. Does your program use subcontractors to provide its services? If yes, please describe. _____

B. Legal Standing

1. Has your organization been sanctioned by the federal government within the past five years in any of the following areas: Suspension or debarment from receipt of federal funds? Making of false claims? If yes, please describe. _____
2. Does your organization pay for lobbying activities at the state or federal level? If yes, please describe, including the source of funds you use for such. [If awarded federal funds, you will be required to submit (OMB) Standard Form LLL quarterly to CDOT to certify that you do not use federal funds to conduct any lobbying.] _____

C. Financial Management and Capacity

1. Does your organization regularly have a financial audit conducted by an external group? If yes, has your **transportation program** had any findings in the most recent audit? If yes, please describe. [Organizations receiving over \$750,000 in any federal funding must have an annual single audit.] [Having findings is not normally grounds for disqualification, depending on the severity.] _____
2. If awarded funding, your organization will be required to have written policies and procedures in place for managing your federal and/or state funds, establishing internal controls, ensuring timely distribution of funds, and determining allowability of costs. Does your organization have such policies and procedures in place now? If yes, please attach them. If not, is your organization willing and able to establish such? _____
3. Does your organization's structure clearly define, assign, and delegate appropriate authority for all financial duties? Generally describe what you have in place. Attach any supporting documentation. [If awarded funds, your organization will be required to have such a structure in place.] _____

4. Does your organization have a financial management system in place to track multiple funding types, awards and project expenditures, and to prepare reports? If yes, please attach a report as an example. [If awarded funds, your organization will be required to have such a system in place.] _____
5. Has your agency received any federal or state grants in the past three years? If yes, please generally describe what type of grants you received and when. _____
6. Has your organization had to return any federal or state funds awarded in the past three years? If yes, please describe. _____

D. Technical Capacity

1. How many years of experience with federal or state grants does the staff that would be assigned to CDOT funding have? Briefly outline. _____
2. What types of technical training have your program's employees received in the past three years? In particular, do your drivers receive training in defensive driving and the handling of accessibility equipment and persons with disabilities? Please describe. _____
3. Has your program been involved in the development of the most recent Regional Transit Plan or Coordinated Human Service Plan in your area? If yes, briefly describe. [Involvement in these plans is not a prerequisite to receive funding, but it is encouraged, and any project funding requested must be generally consistent with an implementation strategy in those plans.] _____

E. Continuing Control

1. Does your program have a maintenance plan for its vehicles? Describe any preventative maintenance that is performed on your vehicles, including schedules. [Having a maintenance plan is not a prerequisite for funding, but could affect one's score in the evaluation process.] _____
2. Does your organization have a vehicle replacement plan or asset management plan that indicates how it will prioritize vehicles for vehicle replacements? If yes, please attach it. In general, how do you prioritize vehicles for replacement? [If awarded funding you will be required to have a maintenance plan, keep maintenance records that could be inspected by CDOT, and participate in an asset management plan.] _____
3. Do you have inventory control procedures in place (procedures to prevent loss, damage or theft of property)? If yes, please attach. [If awarded funding you will be required to have such procedures in place to protect any capital that is awarded.] _____

F. Procurement

1. Does your organization have written procurement policies? [If awarded funding, you will need to comply with specific requirements in your procurement in order to ensure that funds are being spent properly. In particular, there are specific documents that must be promptly completed when vehicles are purchased: smaller vehicles, i.e. minivans and minibuses, must normally be purchased from a CDOT price agreement negotiated with vendors; larger buses must be obtained through a well-defined competitive process; all federally funded vehicles must meet Buy America, bus testing, and other requirements; construction projects are subject to the Davis-Bacon Act and will be overseen by CDOT.] _____

2. If you are awarded funding to purchase a vehicle, you will be required to list the State as an “additional insured” in your insurance policy in order to protect the federal (or state) interest in the vehicle in the event of a claim. In addition, the State will become a lien holder for the federal (or state) 80% share interest in the vehicle; as a means of ensuring that no lien or other obligation is made upon that interest, CDOT requires that subrecipients give physical possession of the vehicle’s title to CDOT until the federal (or state) interest expires. Does your organization have any objections to these two items? _____

G. Civil Rights

1. All subrecipients of CDOT administered transit grants are required by the FTA to have submitted to CDOT various Civil Rights documents. In particular, if awarded funding, your organization must submit a Title VI Civil Rights Non-discrimination Plan that conforms to FTA requirements in Circular 4702.1B. Does your agency agree to submit a Title VI plan upon receiving assistance from CDOT within 30 days of acceptance of the Award Letter? _____
2. Subrecipients of CDOT administered transit grants are required to have an Equal Employment Opportunity (EEO) plan that conforms to FTA requirements in Circular 4704.1 if your organization employs 50 or more transit-related employees and requests/receives over \$1 million in operating/capital or over \$250,000 in planning funds in the previous federal fiscal year. If your agency is awarded funding and meets this criteria, do you agree to submit an EEO plan within 30 days of acceptance of the Award Letter? _____
3. For the project for which you intend to seek funding from CDOT, have you assessed the need and impact of that project? Does this assessment include the impact on low-income and minority populations? _____
4. Does your service area include neighborhoods where the predominant population consists of minority or low income persons? If so, please describe. How does your program serve those populations’ needs? Describe your program’s outreach to those populations? Please include data about the population served through your program (e.g., number of elderly, disabled, minority, and low income persons served). _____
5. Has your organization had any **transit service-related** discrimination complaints, investigations, or lawsuits in the last three years? If yes, please briefly describe them here, indicating current status and outcome. [Your organization must not discriminate against users or potential users of your service because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, your programs or activities. Having a complaint would not normally disqualify an applicant. All subrecipients must track and report any future complaints.] _____
6. Your organization must not discriminate against its **employees** because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities. Has your program had any discrimination complaints based on these EEO requirements within the last year? If yes, please describe any active lawsuit or complaints alleging EEO discrimination, as well as the status or outcome of the lawsuits or complaints. [Having a complaint does not disqualify an applicant. All those awarded funding must track and report any future complaints.] _____
7. Do you make information about your program available in various formats--e.g., in various languages or in Braille? [Doing so is not a prerequisite to funding but receipt of FTA funding will require such if there are populations in need of such.] _____

8. Does your agency track all of its contracting activity, tracking amount of contract, contractor, time period, etc.? _____

Attachment 3-4. Policy Directive 14



COLORADO

Transportation Commission

4201 . E. Arkansas Ave.
Denver, CO 80122

RELEASE MEMORANDUM

To: All CDOT Employees

From: Debra Perkins-Smith / Herman Stockinger

Re: Updated Policy Directive 14.0 "Policy Guiding Statewide Plan Development"

Date: November 15, 2017

-
1. Name of Policy Directive: "Policy Guiding Statewide Plan Development"
 2. Date of Policy Directive this Directive Supersedes: October 20, 2016
 3. Executive Summary: Policy Directive 14.0 sets objectives for safety, infrastructure condition, system performance, and maintenance. The PD 14.0 goals and objectives help provide a framework for development of the Statewide Transportation Plan (SWP) and guide distribution of resources in the SWP, the Statewide Transportation Improvement Program (STIP), and the annual budget. To better align budget setting with PD 14.0, the Transportation Commission annually reviews the performance of PD 14.0 objectives to determine if there is a need to modify objectives or realign resources in an effort to meet an objective(s).

In October of 2017, the Transportation Commission adopted updated PD 14.0. Changes to the PD include:

Infrastructure Condition – Transit

The removal of one transit performance measure from PD 14: "CDOT completion of a group transit asset management plan, with the involvement and participation of CDOT transit grantees, by December 2017." This measure was originally a percentage target, based on a requirement that rural transit grantees complete transit asset management plans (i.e. % of rural transit grantees with completed transit asset management plans). This Federal Transit Administration (FTA) requirement was subsequently changed to require DOTs develop a single transit asset management plan for all rural transit providers. Since the Division of Transit and Rail (DTR) is on track to complete by early to mid-2018, this measure was recommended for removal from PD 14.

Infrastructure Condition – Highway

The Department now has a few years of experience in asset management, better inventories and condition assessments, more advanced analytical capabilities, and the Asset Investment Management System (AIMS) and is now better able to set realistic targets more closely aligned with fiscal constraint. Some of the performance measures and targets adopted by the Commission in PD 14 were refined in this update. The

refinements represent a reduction in overall need from an annual average of \$1.09 billion over ten years to an average of \$1.05 billion annually over ten years. The changes to asset management performance measures and objectives are summarized in Attachment C.

4. Office to Contact with Questions: Division of Transportation Development
5. Effective Date of Updated Policy Directive: October 19, 2017

COLORADO DEPARTMENT OF TRANSPORTATION		<input checked="" type="checkbox"/> POLICY DIRECTIVE <input type="checkbox"/> PROCEDURAL DIRECTIVE	
Subject			
Policy Guiding Statewide Plan Development			14.0
Effective	Supersedes	Originating Office	
10/19/2017	10/20/2016	Division of Transportation Development	

I. PURPOSE

This Policy Directive provides an overall framework for the transportation planning process through which a multimodal, comprehensive Statewide Transportation Plan will be developed and implemented. With limited funding available, the Colorado Department of Transportation (CDOT) has developed a vision for the Statewide Transportation Plan that guide investment for Colorado’s multimodal transportation system and that balances:

- Preservation and maintenance, and incorporation of risk-based asset management,
- Efficient system operations and management strategies,
- Capacity improvements, and
- Incorporation of safety in all areas

Policy Directive 14.0 performance objectives will guide the distribution of resources in the Statewide Transportation Plan, the Statewide Transportation Improvement Program, and the annual budget. This Policy Directive will be revised, as needed, to update performance objectives or incorporate additional goal areas.

II. AUTHORITY

23 United States Code (U.S.C.) 134, 135 and 450, PL 114-94 (“Fixing America’s Surface Transportation Act” or “FAST Act”), and its implementing regulations.

§ 43-1-106(8)(a), C.R.S. Transportation Commission

§ 43-1-1103, C.R.S. Transportation planning

Transportation Commission Rules Governing the Statewide Transportation Planning Process and Transportation Planning Regions (2 CCR 601-22)

III. APPLICABILITY

This Policy Directive applies to all CDOT Divisions and Regions involved in implementing the Statewide Transportation Plan in cooperation with CDOT’s planning partners: the 10 rural Transportation Planning Regions and the five Metropolitan Planning Organizations.

IV. DEFINITIONS

“Aspirational Objectives” are those objectives, or targets, toward which CDOT may strive if CDOT receives revenues beyond those projected.

“Drivability Life” is an indication in years of how long a highway will have acceptable driving conditions based on an assessment of smoothness, pavement distress, and safety. Drivability Life implements traffic based highway categories, and associated category drivability condition standards and allowed pavement treatments. Unacceptable driving condition is specific to each traffic based highway category and means drivers must reduce speeds to compensate for poor conditions, navigate around damaged pavement, or endure intolerably rough rides. The Risk-Based Asset Management Plan identifies three categories of Drivability Life: High (greater than 10 years of Drivability Life remaining); Moderate (4-10 years); and Low (3 or fewer years).

“Geohazards” are geologic hazards that affect the transportation system and include debris flow, embankment distress, landslides, rockfall, rockslides, and sink holes.

“National Highway System” (NHS) is a federally designated system of roadways important to the nation's economy, defense, and mobility. The NHS includes Interstate highways as well as other roadways. Not all NHS roadways are part of the state highway system.

“Maintenance Level of Service” (MLOS) is a qualitative measure describing operational conditions on the roadway. Overall maintenance level of service is a combined grade for nine maintenance program areas. For snow and ice control, the LOS B level includes maintaining high levels of mobility as much as possible, and proactive avalanche control.

“Performance Measures” are the ways that direction toward a goal is measured.

“Performance Objectives” are the specific targets for a performance measure that an organization intends to meet to make progress toward a goal.

“Planning Time Index” (PTI) is a measure of travel time reliability. For this performance measure, it is defined as the 95th percentile travel time divided by travel time at free-flow speed. In general terms, it identifies the extra time needed to arrive on-time for a trip 19 times out of 20. For example, for a PTI₉₅ of 1.5, a worker should plan 45 minutes for a trip that takes 30 minutes in free-flow conditions ($30 \text{ minutes} \times 1.5 = 45 \text{ minutes}$) to be on-time 19 out of 20 times (which would mean the worker would be late only one of the 20 work days in a month).

“Revenue Service Miles” are the miles of service operated by transit vehicles and available to the general public.

“Serious Injuries” are evident incapacitating injuries which prevent injured persons from walking, driving, or normally continuing the activities they were capable of performing before being injured in traffic crashes.

“Vehicle Miles Traveled” (VMT) is a measurement of miles traveled by vehicles obtained by multiplying the Annual Average Daily Traffic (AADT) count by the length of the roadway segment.

V. POLICY

1. Policy. It shall be the policy of CDOT that the Statewide Transportation Plan and statewide performance objectives stated herein will guide distribution of financial resources to meet or make

progress toward objectives in four goal areas: safety, infrastructure condition, system performance, and maintenance. Financial resources should be directed toward achieving the objectives within the first 10 years of the planning horizon (2016-2025). Projects should be selected to support the goals and objectives and will be included in the Statewide Transportation Improvement Program (STIP). Annual budget decisions will be guided by these performance objectives as well as CDOT's Risk Based Asset Management Plan. Prior to funding new initiatives, funds should be directed to achieving the objectives in each area while recognizing constraints on some funding sources. Aspirational objectives guide the use of funds received that are above baseline revenue projections.

2. Goals. PD 14.0 goals guide development of the multimodal Statewide Transportation Plan and of performance objectives. The goals are:

- SAFETY – Moving Colorado toward zero deaths by reducing traffic-related deaths and serious injuries by one-half by 2030.
- INFRASTRUCTURE CONDITION – Preserve the transportation infrastructure condition to ensure safety and mobility at a least life cycle cost.
- SYSTEM PERFORMANCE – Improve system reliability and reduce congestion, primarily through operational strategies and secondarily through the addition of capacity. Support opportunities for mode choice.
- MAINTENANCE – Annually maintain CDOT's roadways and facilities to minimize the need for replacement or rehabilitation.

PD 14.0 and Statewide Plan Goals are in alignment with the MAP-21 National Goals. For the Statewide Plan, goals are expressed in more public-friendly terms and include: Safety, Mobility (System Performance in PD 14.0), Economic Vitality (not yet identified in PD 14.0), and Maintaining the System (Infrastructure Condition and Maintenance in PD 14.0).

3. Performance Measures and Objectives. Performance measures describe how statewide success will be evaluated and performance objectives establish statewide achievement levels which are used to direct investment decisions primarily focused on a 10-year planning horizon (2016-2025). Explanations of how the objectives will be measured and budget categories that fund the four goal areas - Maintain, Maximize, Expand, and Pass-Through Funds/Multi-Modal Grants - are listed below with the appropriate goals.

a) HIGHWAY SAFETY:

The highway safety objectives (with the exception of the economic impact of crashes objectives) were set after studying trends from 2008 through 2013. Safety measures and objectives apply to *all* roads in the state. The other safety measures and objectives in this section are subsets of the highway measures and objectives. The budget categories that fund Safety are Maintain, Maximize, and Expand.

(1) All Highways

MEASURES:

- Number of fatalities
- Fatalities per vehicle miles traveled (VMT)
- Number of serious injuries
- Serious injuries per VMT
- Economic impact of crashes

OBJECTIVES:

- Reduce fatalities by 12 per year from 548 in 2008 to 344 in 2025.
- Reduce the fatality rate per 100 million VMT by 0.02 per year from 1.03 in 2013 to 0.79 in 2025.
- Reduce serious injuries by 90 per year from 3,200 in 2013 to 2,120 in 2025.
- Reduce the serious injury rate by 0.2 per 100 million VMT per year from 6.86 in 2013 to 4.46 in 2025.
- Reduce the economic impact of crashes annually by 1% over the previous calendar year.

ASPIRATIONAL OBJECTIVE:

- Reduce the fatality rate per 100 million VMT to 0.75 in 2025.

(2) Bike and Pedestrian**MEASURES:**

- Number of bicyclist and pedestrian fatalities involving motorized vehicles
- Number of bicyclist and pedestrian serious injuries involving motorized vehicles

OBJECTIVES:

- Reduce the number of bicyclist and pedestrian fatalities involving motorized vehicles from 67 in 2013 to 47 in 2025.
- Reduce the number of bicyclist and pedestrian serious injuries involving motorized vehicles from 469 in 2013 to 311 in 2025.

b) INFRASTRUCTURE CONDITION:

The infrastructure condition objectives for highways and bridges are intended to be achieved or maintained over the first 10 years of the planning horizon (2016-2025). The budget category that funds Infrastructure Condition is Maintain, except for Transit which is funded with Pass-Through Funds/Multi-Modal Grants.

(1) Bridges**MEASURES:**

- Condition of National Highway System (NHS) bridges
- Condition of state highway bridges

- Risk-Based Asset Management Plan measures for bridges (See Appendix A for additional bridge measures.)

OBJECTIVES:

- Maintain the percent of NHS total bridge deck area that is not structurally deficient at or above 90%.
- Maintain the percent of state highway total bridge deck area that is not structurally deficient at or above 90%.
- Meet bridge objectives in the Risk-Based Asset Management Plan. (See Appendix A for additional bridge objectives.)

ASPIRATIONAL OBJECTIVES:

- Achieve the percent of NHS total bridge deck area that is not structurally deficient at or above 95%.

(2) Highways**MEASURES:**

- Pavement condition of the Interstate System
- Pavement condition of the NHS, excluding Interstates
- Pavement condition of the state highway system

OBJECTIVES:

- Achieve 80% High/Moderate Drivability Life for Interstates based on condition standards and treatments set for traffic volume categories.
- Achieve 80% High/ Moderate Drivability Life for NHS, excluding Interstates, based on condition standards and treatments set for traffic volume categories.
- Achieve 80% High/Moderate Drivability Life for the state highway system based on condition standards and treatments set for traffic volume categories.

ASPIRATIONAL OBJECTIVES:

- Achieve 90% High/Moderate Drivability Life for Interstates based on condition standards and treatments set for traffic volume categories.
- Achieve 90% High/ Moderate Drivability Life for NHS, excluding Interstates, based on condition standards and treatments set for traffic volume categories.

(3) Other Assets**MEASURE:**

- Risk-Based Asset Management Plan measures for other assets (See Appendix A for measures for buildings, Intelligent Transportation Systems (ITS) equipment, fleet, culverts, geohazards, tunnels, traffic signals, and walls.)

OBJECTIVE:

- Meet objectives in the Risk-Based Asset Management Plan (See Appendix A for objectives for buildings, ITS equipment, fleet, culverts, geohazards, tunnels, traffic signals, and walls.)

(4) Transit

MEASURE:

- Transit Asset Condition

OBJECTIVES:

- Maintain the percentage of vehicles in the rural Colorado transit fleet to no less than 65% operating in fair, good, or excellent condition, per Federal Transit Administration definitions.

ASPIRATIONAL OBJECTIVE:

- Increase the percentage of vehicles in the rural Colorado transit fleet to no less than 70% operating in fair, good, or excellent condition, per Federal Transit Administration definitions.

c) SYSTEM PERFORMANCE:

The system performance objectives for Interstates, NHS, and State Highway system are intended to be achieved within the first 10 years (2016-2025) of the planning horizon. The system performance objectives for transit begin in 2012 either for a five-year rolling average or as the baseline year. The budget categories that fund System Performance are Maximize, Expand, and Pass-Through Funds/Multi-Modal Grants.

(1) Interstates, NHS and State Highway system

MEASURES:

- Interstate Performance – Planning Time Index (PTI)
- NHS Performance excluding Interstates – PTI
- Colorado Freight Corridors Performance – PTI

OBJECTIVES:

- Prevent the spread of congestion by maintaining a PTI of 1.05 or less on 90% or greater of Interstates centerline miles.
- Prevent the spread of congestion by maintaining a PTI of 1.16 or less on 90% or greater of NHS centerline miles, excluding Interstates.
- Prevent the spread of congestion by maintaining a PTI of 1.12 or less on 90% or greater of Colorado Freight Corridor centerline miles.

(2) Transit

MEASURES:

- Transit Utilization – Ridership statewide for small urban and rural “transit grantees”
- Transit Connectivity – Revenue service miles provided

OBJECTIVES:

- Increase ridership of small urban and rural transit grantees by at least an average of 1.5% statewide over a five-year period beginning with 2012.
- Maintain or increase the total number of revenue service miles of CDOT-funded regional, inter-regional, and inter-city passenger service over that recorded for 2012.

ASPIRATIONAL OBJECTIVES:

- Increase ridership of small urban and rural transit grantees by at least an average of 1.7% statewide over a five-year period beginning with 2012.
- Increase the statewide total number of revenue service miles of regional, inter-regional, and inter-city passenger service by at least an average 1.7% over a five-year period beginning with 2012.

d) MAINTENANCE:

Maintenance objectives are established based on annual funding levels and measured annually. The budget category that funds Maintenance is Maintain.

MEASURES:

- Level of Service (LOS) for snow and ice removal
- Overall Maintenance Level of Service (MLOS) for the state highway system

OBJECTIVES:

- Maintain a LOS B grade for snow and ice removal.
- Maintain an overall MLOS B minus grade for the state highway system.

ASPIRATIONAL OBJECTIVES:

- Achieve a LOS B+ grade for snow and ice removal.
- Achieve an overall Maintenance LOS B grade for the state highway system.

VI. DOCUMENTS REFERENCED IN THIS POLICY DIRECTIVE

Appendix “A” CDOT Asset Management Metrics and Performance Targets

VII. IMPLEMENTATION PLAN

Additional measures and objectives are planned or currently under development. As additional measures and objectives are finalized they will be brought forward for consideration of incorporation into PD 14.0. This includes measures and objectives in the following areas: Bike and Pedestrian, Truck Freight, Freight Rail, Economic Vitality, and Environmental Sustainability.

This Policy Directive will be implemented by the Division of Transportation Development, with the Office of Financial Management and Budget, the Division of Transportation Systems Management & Operations, and the Division of Transit & Rail, and in collaboration with other CDOT Divisions and CDOT Regions. Funds will be directed to budget categories to support accomplishment of the objectives. The Division of Transportation Development will report annually on performance of the transportation system to track progress toward objectives. At a minimum, the Division of Transportation Development will review and update or reaffirm this Policy Directive with each Plan update cycle in collaboration with the Office of Policy and Government Relations, Office of Financial Management and Budget, Division of Transportation Systems Management & Operations, Division of Transit & Rail, and other CDOT Divisions and CDOT Regions.

VIII. REVIEW DATE

This directive shall be reviewed on or before February 2018.

Thomas J. Sauer III
 Secretary, Transportation Commission

10-19-17
 Date of Approval

Appendix "A"
CDOT Asset Management Metrics and Performance Targets

Asset	Measure	Fiscally Constrained Target	Aspirational Target	2016 Performance
Bridges	Percentage of deck area on structurally deficient CDOT-owned bridges	10%	5%	4.92%
	Percentage of deck area on structurally deficient bridges on the NHS	10%	5%	4.50%
	Percentage of CDOT-owned bridges over waterways that are scour critical	5%	1%	6.43%
	Percentage of bridge crossings over Interstates, U.S. routes and Colorado state highways with a vertical clearance less than the statutory maximum vehicle height of 14 feet - 6 inches	1.00%	0.00%	1.66%
	Percentage of bridge crossings over Interstates, U.S. Routes and Colorado state highways with a vertical clearance less than the minimum design requirement of 16 feet - 6 inches	18.00%	12.00%	19.81%
	Percentage of CDOT-owned bridges posted for load	0.10%	0.00%	0.20%
	Percentage of CDOT-owned bridges with a load restriction	0.90%	0.00%	1.60%
	Percentage of expansion joints in fair, poor and severe condition (by length) on CDOT-owned bridges	26%	15%	25.25%
	Percentage of CDOT-owned bridge deck area that is unsealed or otherwise unprotected	35%	20%	44.45%
Pavement	Percentage high/moderate drivability life for Interstates based on condition standards and treatments set for traffic volume categories	80%	90%	94%
	Percentage high/moderate drivability life for CDOT-owned NHS, excluding Interstates, based on condition standards and treatments set for traffic volume categories	80%	90%	85%
	Percentage high/moderate drivability life for the State highway system based on condition standards and treatments set for traffic volume categories	80%	90%	80%
Maintenance	Statewide letter grade	B-	B	C+
Buildings	Statewide letter grade	85% C or Better	90% C or Better	74% C or Better
ITS	Average percent useful life	90%	85%	N/A
Fleet	Average percent useful life	75%	70%	87%
Culverts	Percentage of culverts in poor condition (have a culvert rating of 4 or less)	5%	3%	4.87%
Geohazards	Percentage of segments at or above risk grade B	85%	90%	N/A
Tunnels	Percentage of network tunnel length with all elements in equal or better condition than 2.5 weighted condition index	75%	100%	91%
Traffic Signals	Percentage of signal infrastructure in severe condition	2%	0%	8%
Walls	Percentage of CDOT-owned walls, by square foot, in poor condition (have a rating of 4 or less)	2.50%	1.00%	4.15%

Resolution #TC-17-10-12

Adoption of updated Policy Directive 14.0 "Policy Guiding Statewide Plan Development".

Approved by the Transportation Commission on October 19, 2017.

WHEREAS, the Colorado Transportation Commission ("the Commission") has statutory authority pursuant to § 43-1-106(8)(a) C.R.S. to formulate policy concerning transportation systems in compliance with 23 U.S.C. 134, 135, and 450; PL 114-94 ("Fixing America's Surface Transportation Act" or "FAST Act") and PL 112-141 ("Moving Ahead for Progress in the 21st Century" or "MAP-21), and their regulations; and to undertake transportation planning under § 43-1-1103, C.R.S.; and

WHEREAS, a statewide plan is part of the state and federally required statewide transportation planning process; and

WHEREAS, Policy Directive 14.0 is the framework for development and implementation of a multimodal comprehensive Statewide Transportation Plan and for distribution of resources to meet or make progress toward objectives; and

WHEREAS, the Commission approved the updated Policy Directive 14.0 in October 2015 in Resolution #TC-15-2-7; and

WHEREAS, Policy Directive 14.0 states that the policy will be brought forward for consideration by the Commission as additional measures and objectives are developed; and

WHEREAS, the Commission reviews Policy Directive 14.0 annually to determine if there is a need to modify performance measures or objectives; and

WHEREAS, changes have been proposed to infrastructure condition performance measures or objectives to reflect updated data, to better align with the cost of achieving performance outcomes, and to eliminate an outdated transit performance measure; and

WHEREAS, over the past several months, the Commission reviewed and concurred with the proposed changes.

NOW THEREFORE BE IT RESOLVED, that the Commission adopts the updated Policy Directive 14.0 "Policy Guiding Statewide Plan Development" as reflected in Attachment A to this resolution.

Herman F. Stockinger III
Herman Stockinger, Secretary
Transportation Commission of Colorado

10-19-17
Date



TAM Metric and Target Change Matrix

Asset	Measure	Fiscally Constrained Target	Proposed Fiscally Constrained Target	Aspirational Target	Proposed Aspirational Target	Reason for Target Change
Bridges	Percentage of deck area on structurally deficient CDOT - owned bridges	10%	No Change	5%	No Change	No Change
	Percentage of deck area on structurally deficient bridges on the NHS	10%	No Change	5%	No Change	No Change
	Percentage of CDOT - owned bridges over waterways that are scour critical	5%	No Change	1%	No Change	No Change
	Percentage of bridge crossings over Interstates, U.S. routes and Colorado state highways with a vertical clearance less than the statutory maximum vehicle height of 14 feet - 6 inches	0.40%	1.00%	0.00%	No Change	The number of bridges with vertical clearance issues is greater than originally projected. Current funding strategy is unable to address issues, so staff recommend adjusting the target.
	Percentage of bridge crossings over Interstates, U.S. Routes and Colorado state highways with a vertical clearance less than the minimum design requirement of 16 feet - 6 inches	4.80%	18.00%	2.00%	12.00%	The number of bridges with vertical clearance issues is greater than originally projected. Current funding strategy is unable to address issues, so staff recommend adjusting the target.
	Percentage of CDOT - owned bridges posted for load	0.00%	0.10%	0.00%	No Change	Updated inventory found more bridges with lower than desirable conditions. Current funding strategy is unable to address issues, so staff recommend adjusting the target.
	Percentage of CDOT - owned bridges with a load restriction	3.00%	0.90%	1.00%	0.00%	We are doing better than that originally projected, so staff recommend adjusting the target.
	Percentage of leaking expansion joint by length on CDOT - owned bridges	15%	26%	5%	15%	Updated inventory found more bridges with lower than desirable conditions. Current funding is unable to keep up with the rate of decline, so staff recommend adjusting the target.
Pavement	Percentage of CDOT - owned bridge deck area that is unsealed or otherwise unprotected	30%	35%	5%	20%	Updated inventory found more bridges with lower than desirable conditions. Current funding is unable to keep up with the rate of decline, so staff recommend adjusting the target.
	Percentage high - moderate drivability life for Interstates based on condition standards and treatments set for traffic volume categories	80%	No Change	90%	No Change	No Change
	Percentage high - moderate drivability life for CDOT - owned NHS, excluding Interstates based on condition standards and treatments set for traffic volume categories	80%	No Change	90%	No Change	No Change
Maintenance	Percentage high - moderate drivability life for the State highway system based on condition standards and treatments set for traffic volume categories	80%	No Change	90%	No Change	No Change
	Statewide letter grade	B-	No Change	B	No Change	No Change
Buildings	Statewide letter grade	90% C or Better	85% C or Better	100% C or Better	90% C or Better	Analysis indicates that, given fiscal constraints, the old target is not achievable, so staff recommend adjusting the target.
ITS	Average percent useful life	90%	No Change	85%	No Change	No Change
Road Equipment	Average percent useful life	70%	75%	50%	70%	Analysis indicates that, given fiscal constraints, the old target is not achievable, so staff recommend adjusting the target.
Culverts ^a	Percent culverts in poor condition (have a culvert rating of 4 or less)	5%	No Change	3%	No Change	Description of performance metric changed for clarification purposes.
Geohazards ^b	Percent of segments at or above risk grade B	80%	85%	90%	90%	Staff recommends adjusting target based on better inventory data. Focusing investment based on the new target will result in a significant reduction in statewide risk exposure.
Tunnels	Percent of network tunnel length with all elements in equal or better condition than 2.5 weighted condition index	80%	75%	100%	No Change	Tunnel condition is worse than originally projected, so staff recommend adjusting the target.
Traffic Signals ^c	Percent of signal infrastructure in severe condition	15%	2%	0%	No Change	The new metric and target allows the program to focus on signals with the greatest performance deficiencies as opposed to all signals without regards to performance.
Walls ^d	Percentage of CDOT - owned walls, by square foot, in poor condition (have a rating of 4 or less)	1%	2.50%	0.50%	1.00%	Description of performance metric changed for clarification purposes. Updated inventory found more walls with lower than desirable conditions. Current funding is unable to keep up with the rate of decline, so staff recommend adjusting the target.

^a Previous Description: Percent of culverts that are structurally deficient (have a culvert rating of 4 or less)

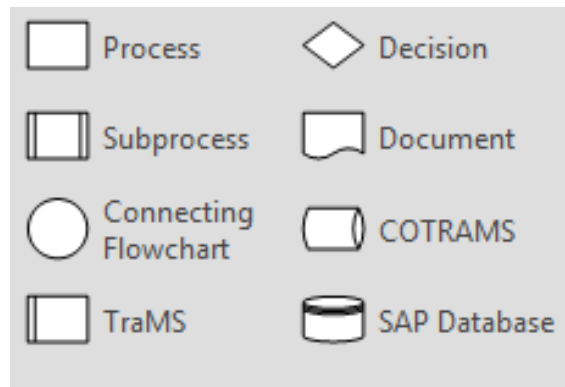
^b Previous Metric: Percent of segments at or above risk grade C

^c Previous Metric: Percent intersections with at least one signal assembly beyond 100% Useful Life

^d Previous Description: Percent of CDOT-owned walls, by square foot, that are structurally deficient (have a rating of 4 or less)

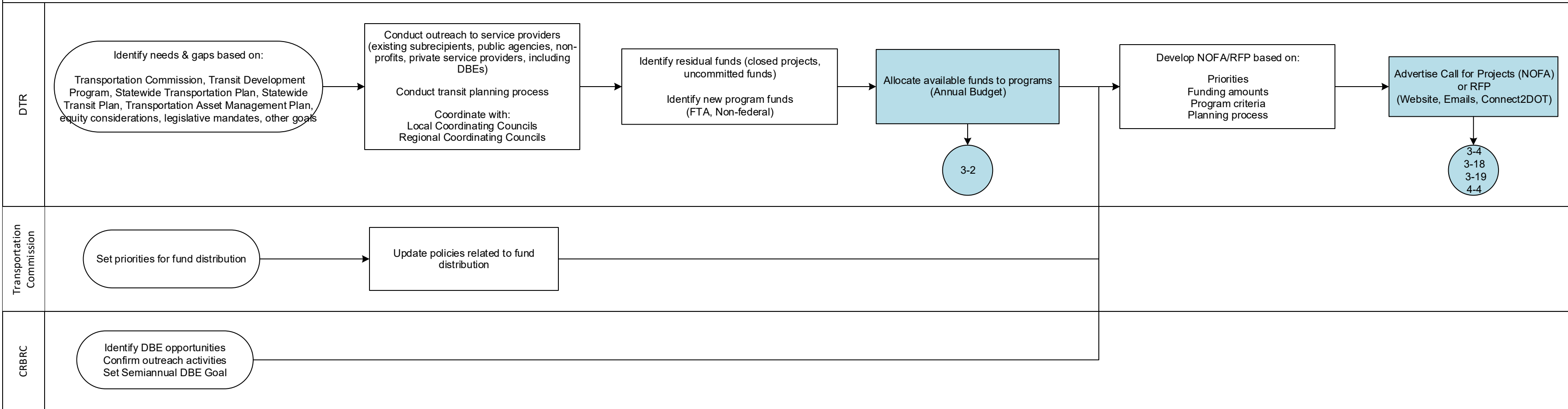
CHAPTER 3 FLOWCHARTS

Flowchart Shapes/Key



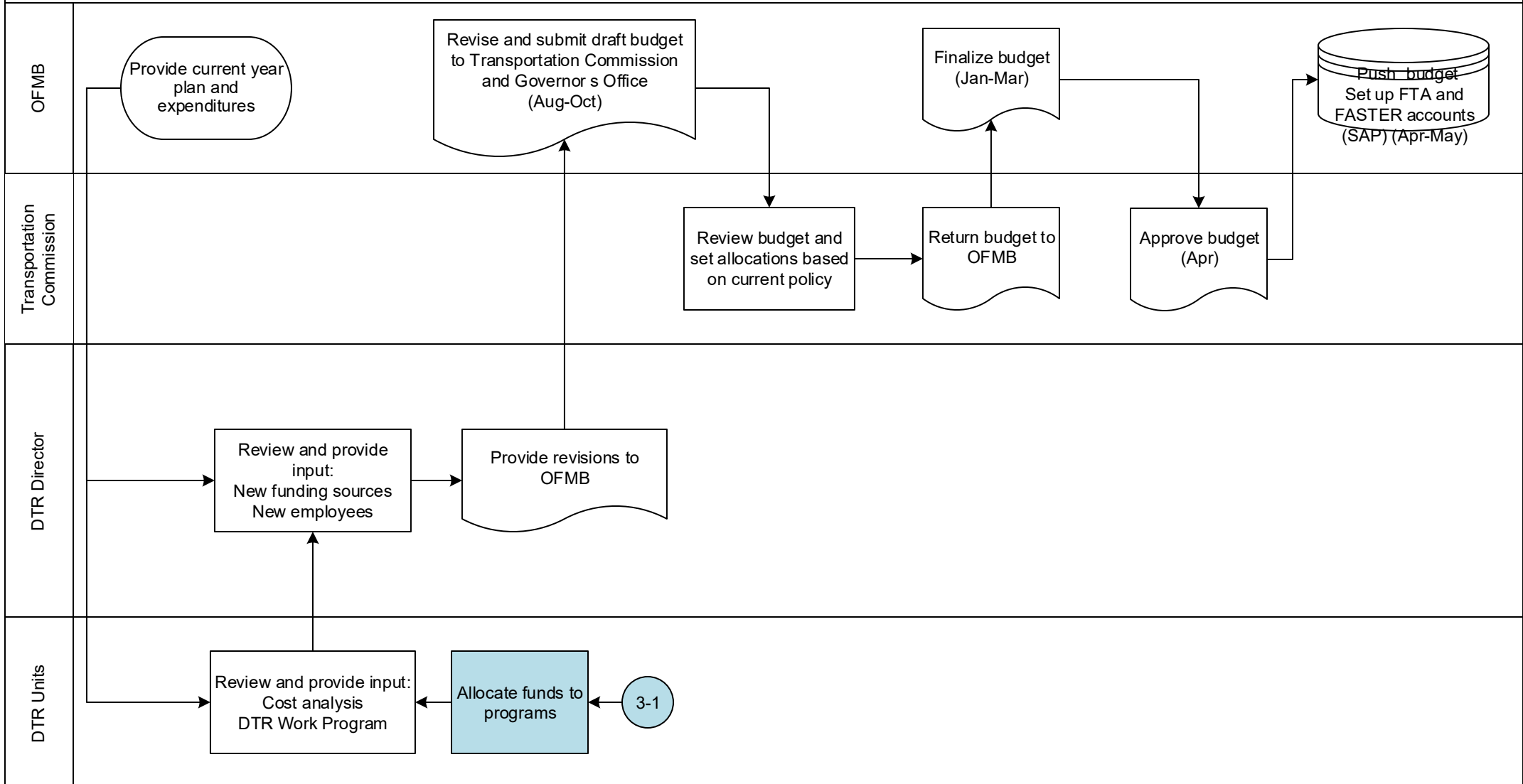
Flowchart 3-1. CDOT Planning to Notice of Funding Availability

3-1 CDOT Outreach/Planning to Notice of Funding Availability or RFP

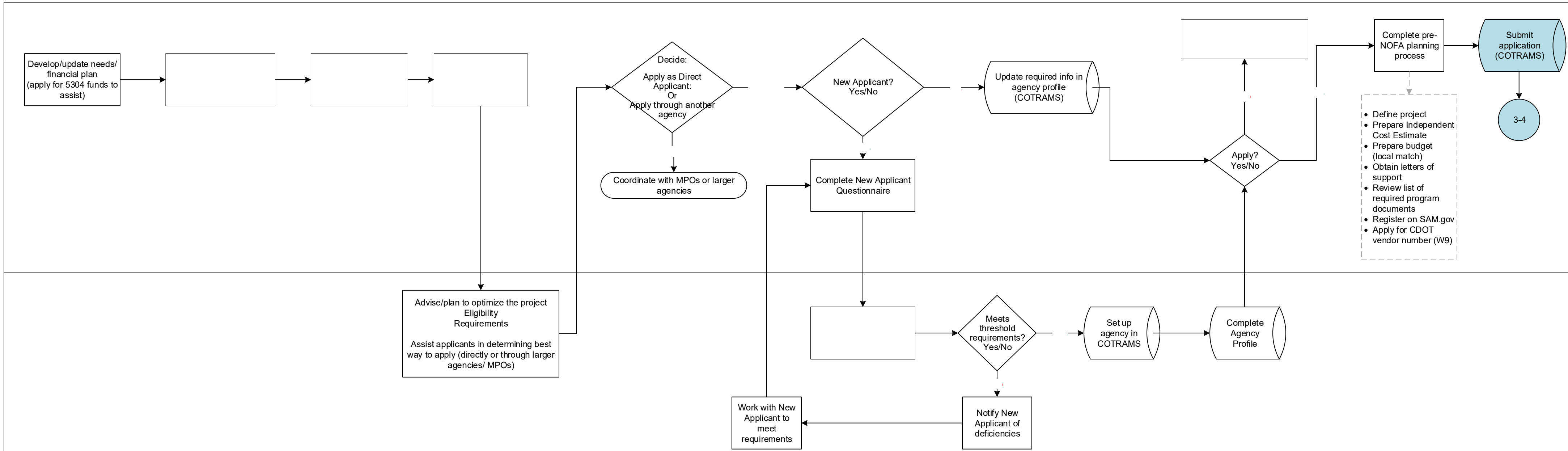


Flowchart 3-2. DTR Annual Budget

3-2 DTR Annual Budget (CDOT Internal)



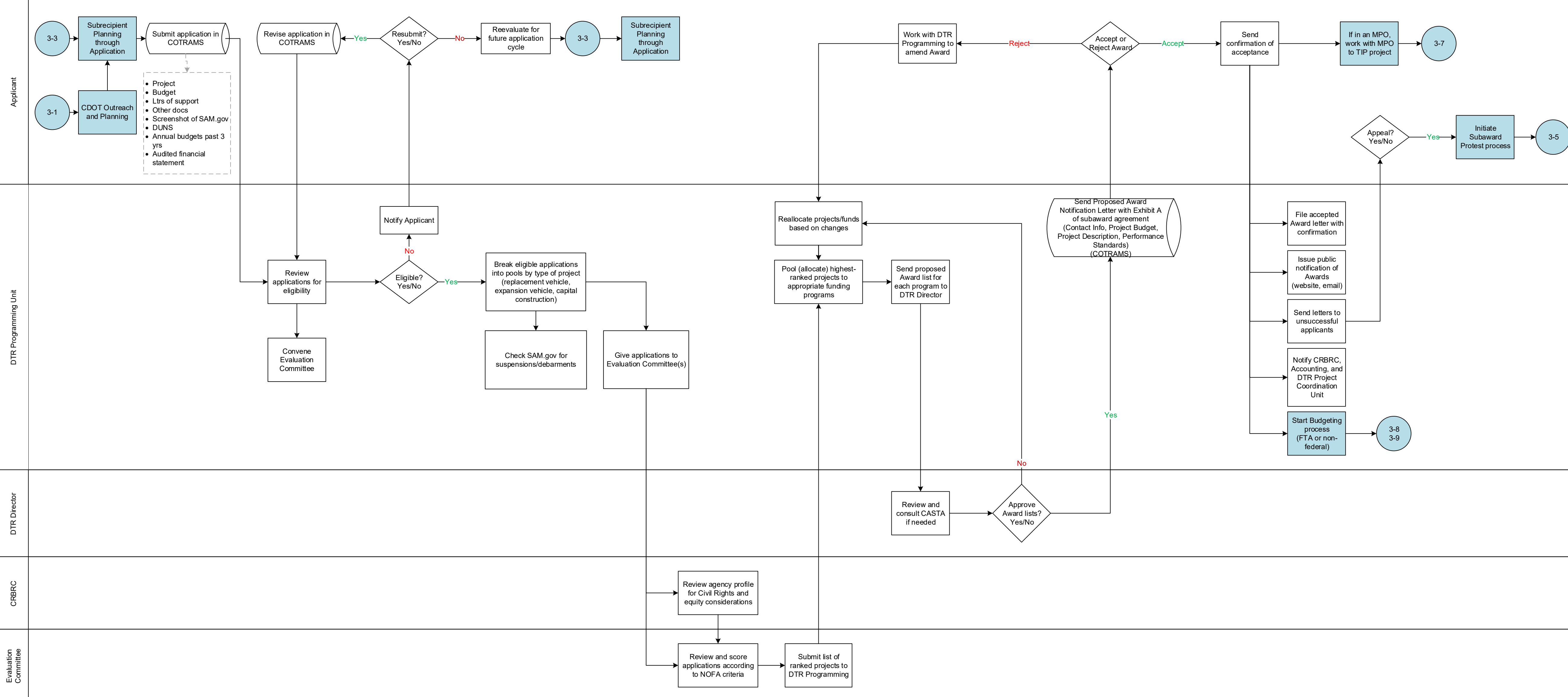
Flowchart 3-3. Subrecipient Planning Through Application



- Define project
- Prepare Independent Cost Estimate
- Prepare budget (local match)
- Obtain letters of support
- Review list of required program documents
- Register on SAM.gov
- Apply for CDOT vendor number (W9)

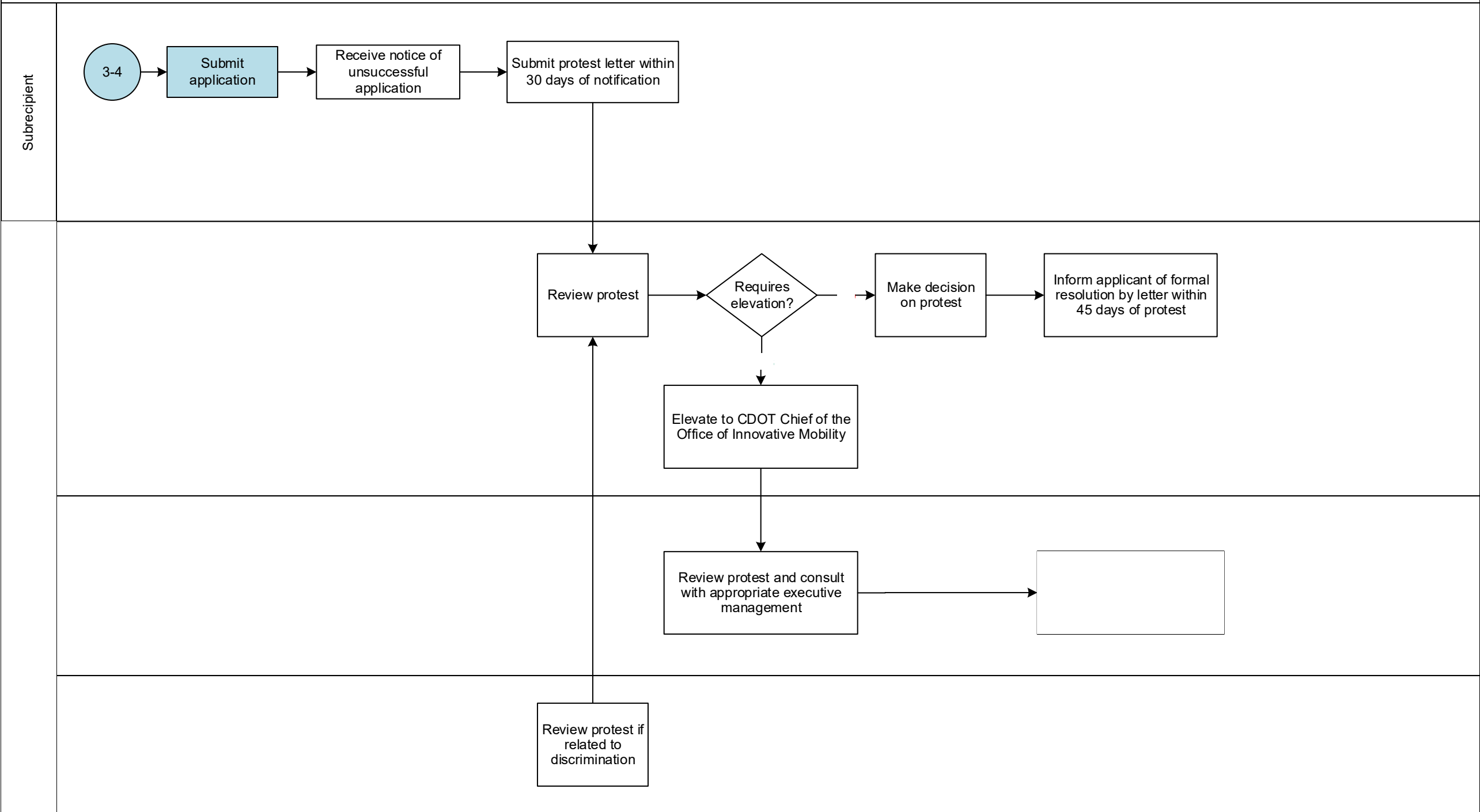
Flowchart 3-4. Transit Project Application Evaluation and Award

3-4 Transit Project: Application Evaluation/Award

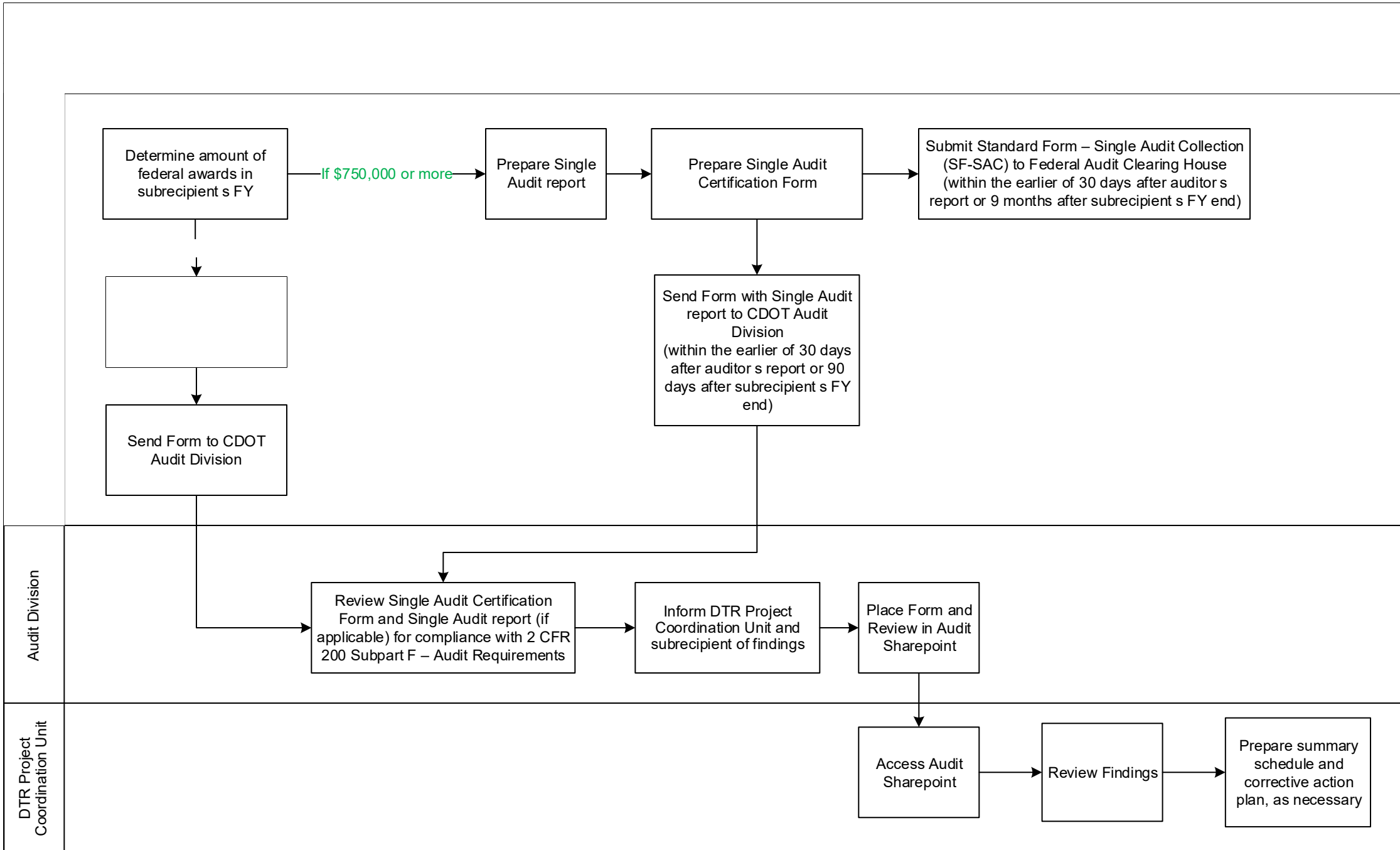


Flowchart 3-5. Subaward Protest Process

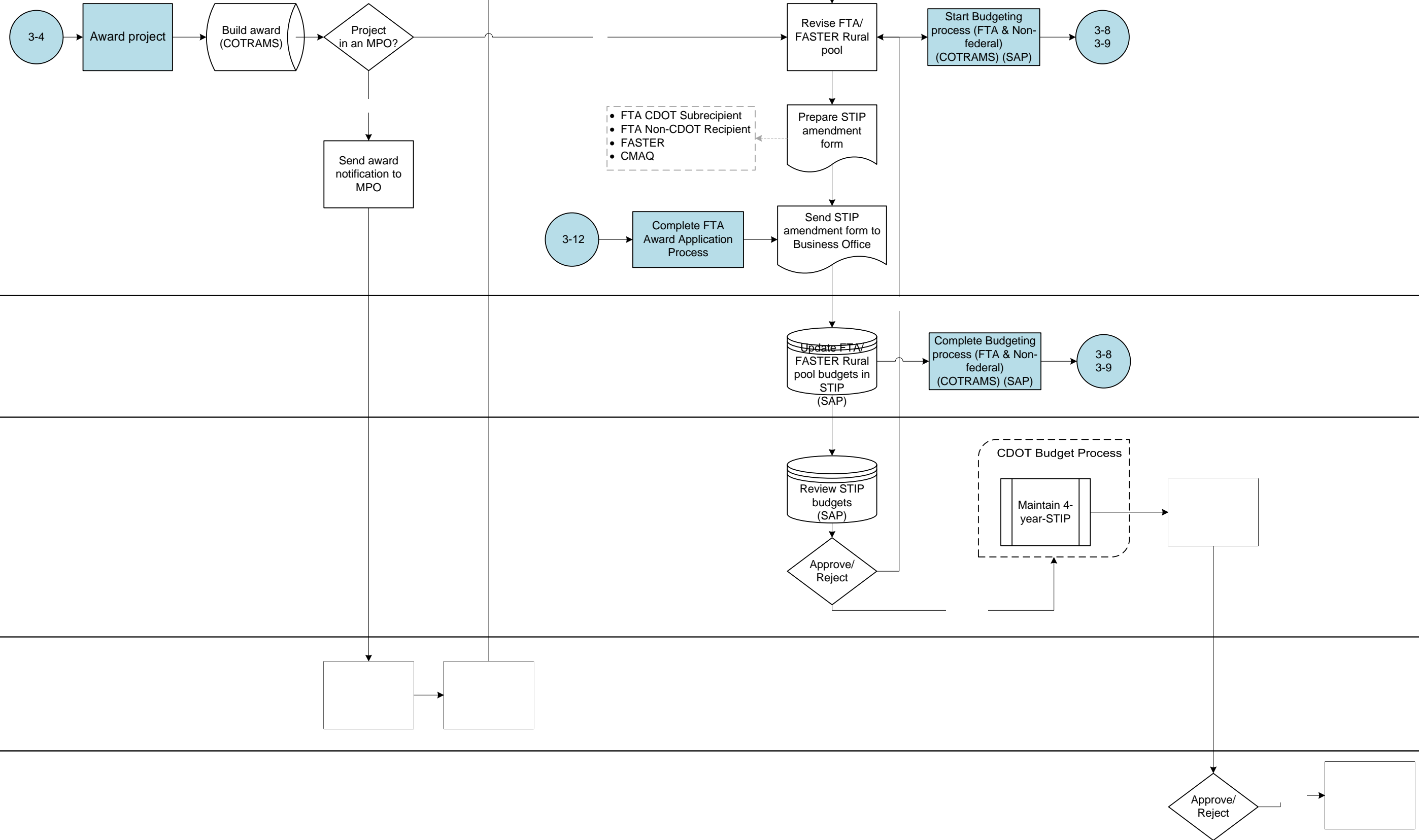
3-5 Subaward Protest Process



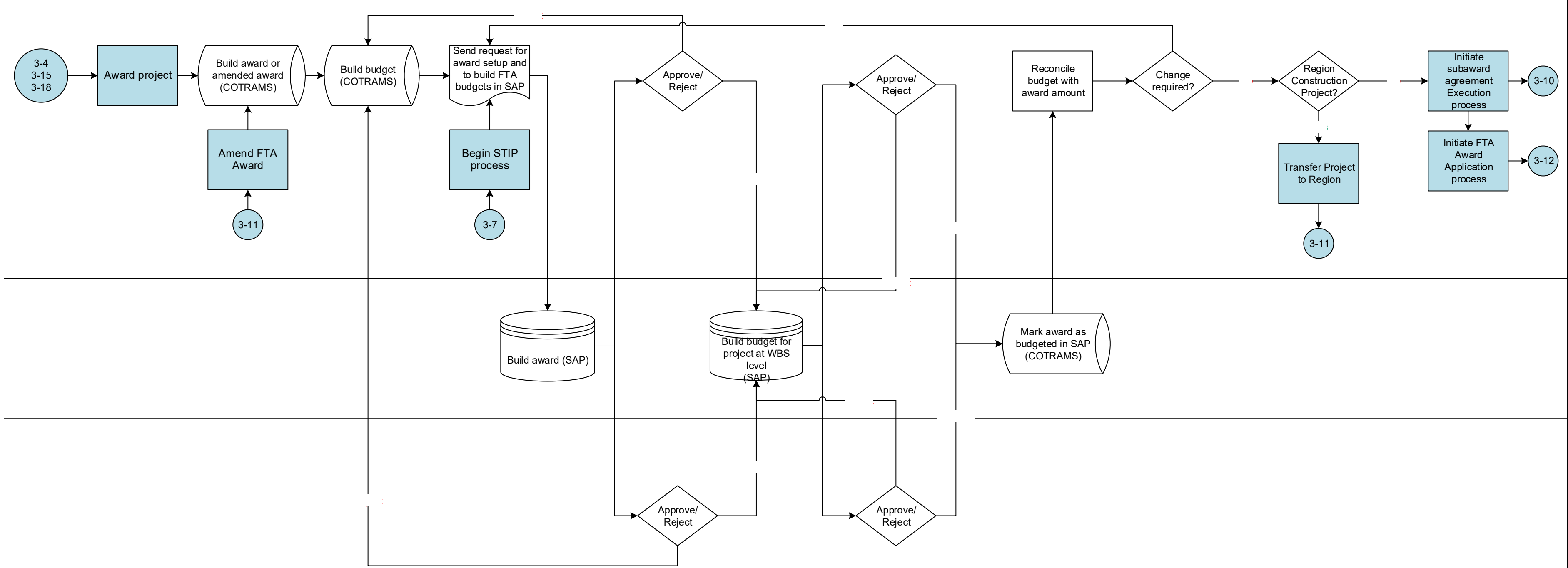
Flowchart 3-6. Single Audit



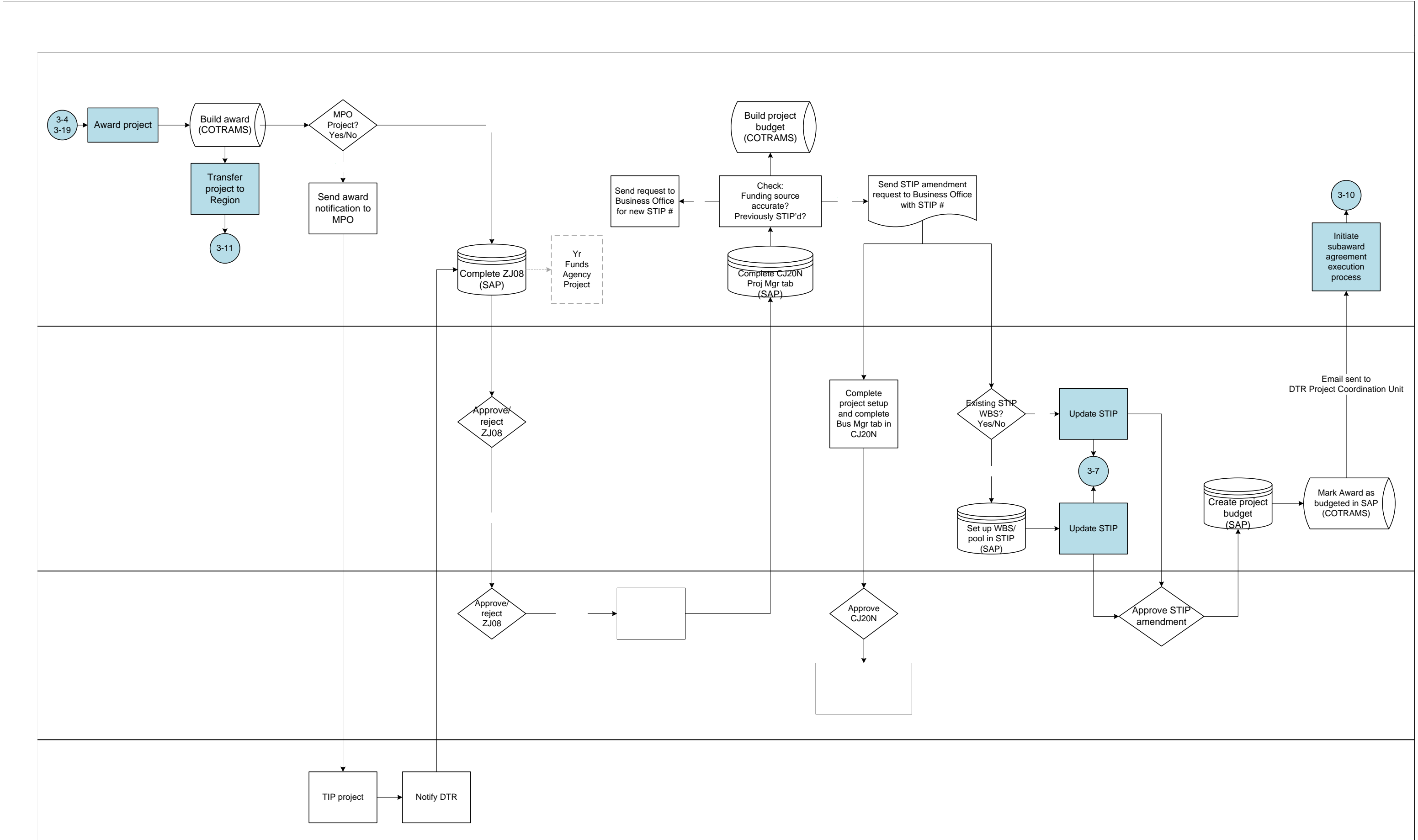
Flowchart 3-7. Transit STIP Process



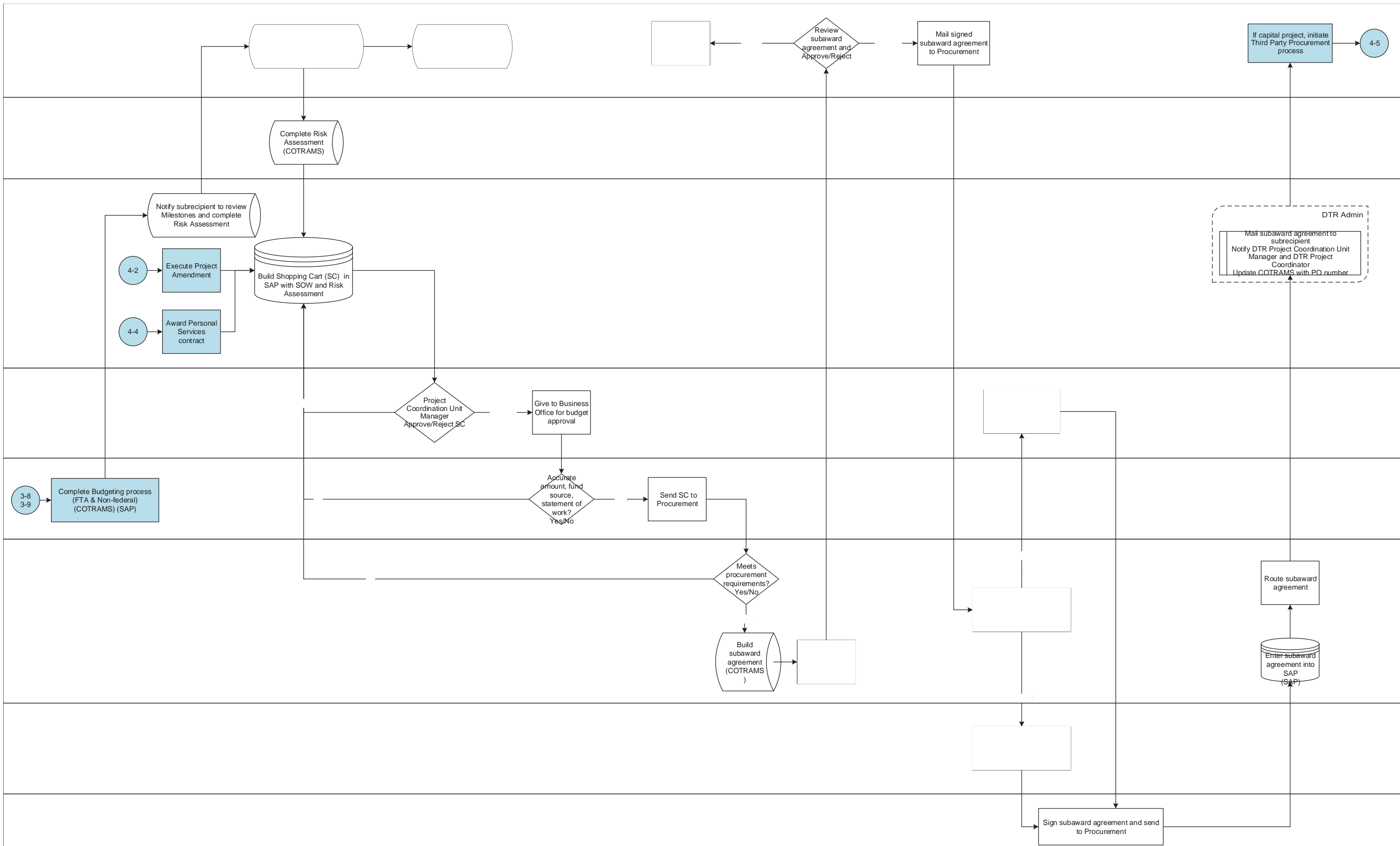
Flowchart 3-8. Budgeting of FTA Funds



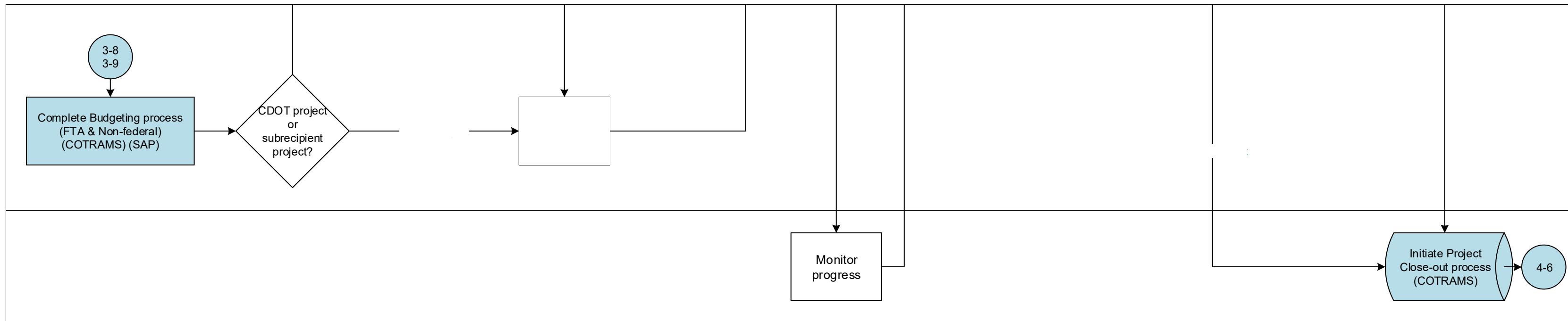
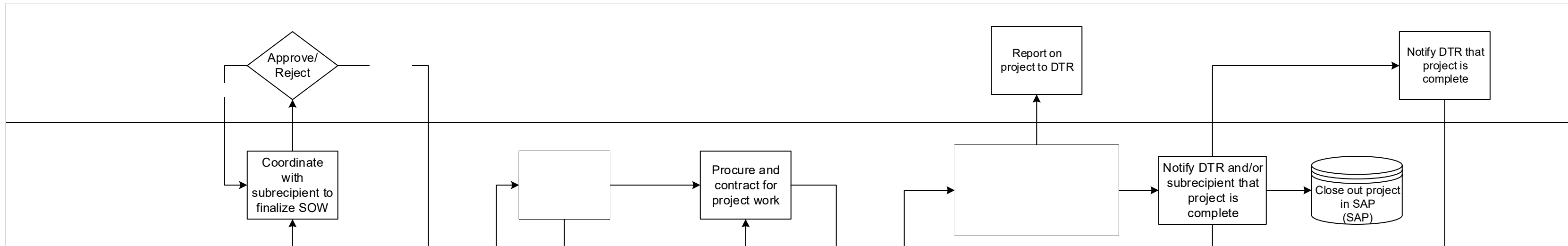
Flowchart 3-9. Budgeting of Non-federal Funds



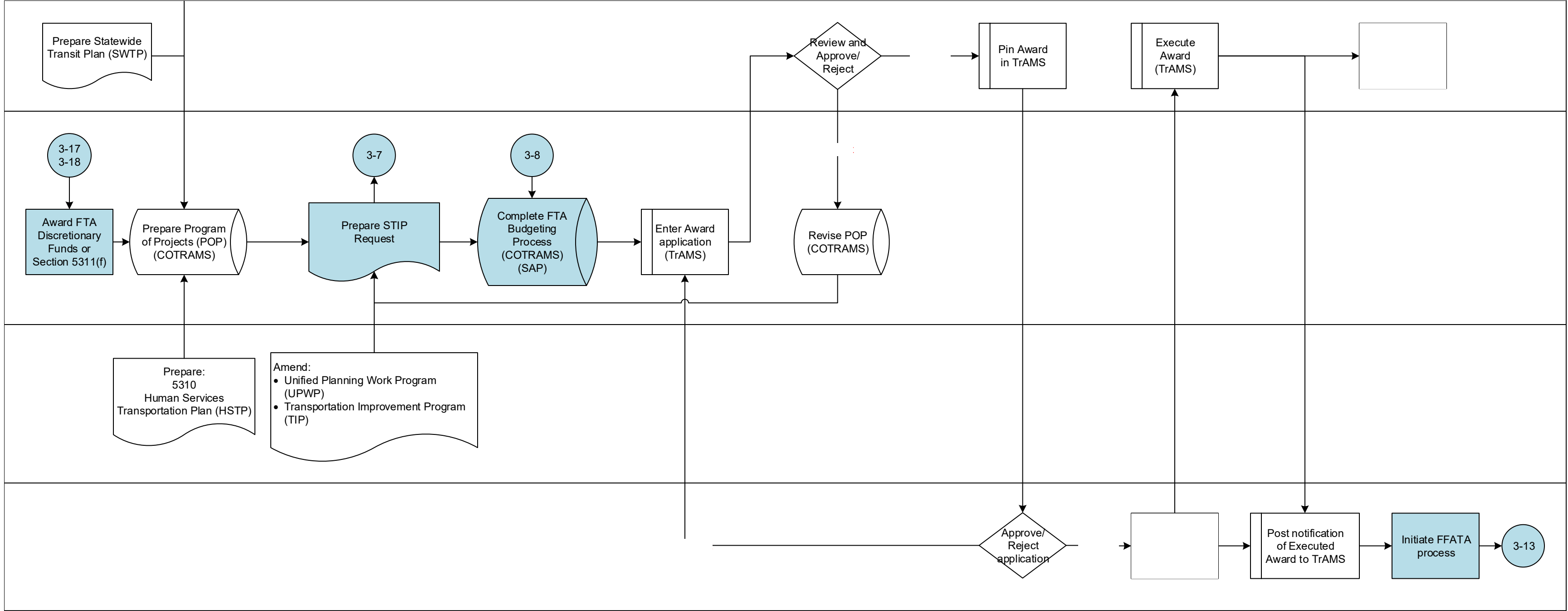
Flowchart 3-10. Budget to Executed Subaward Agreement



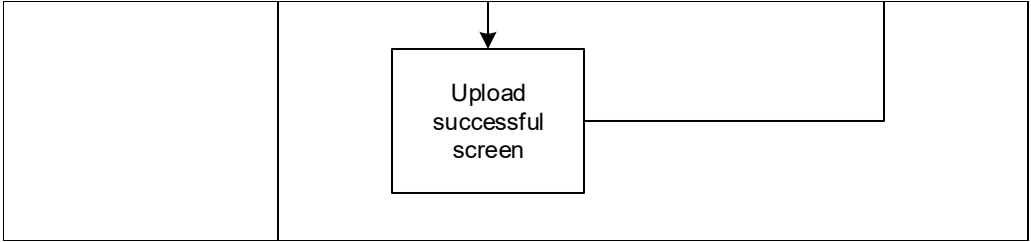
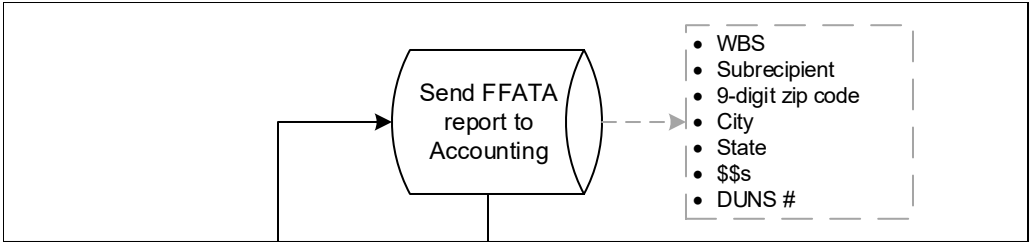
Flowchart 3-11. Transfer Construction Project to Region



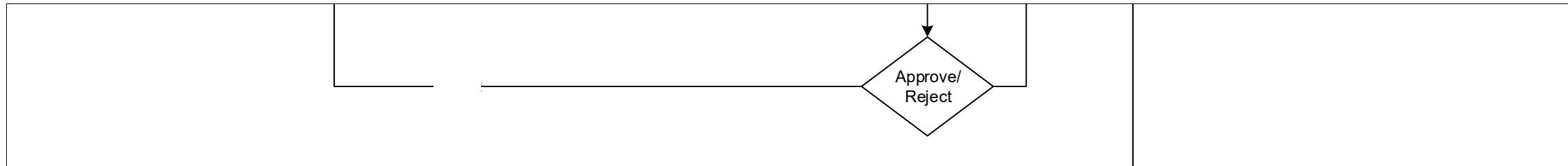
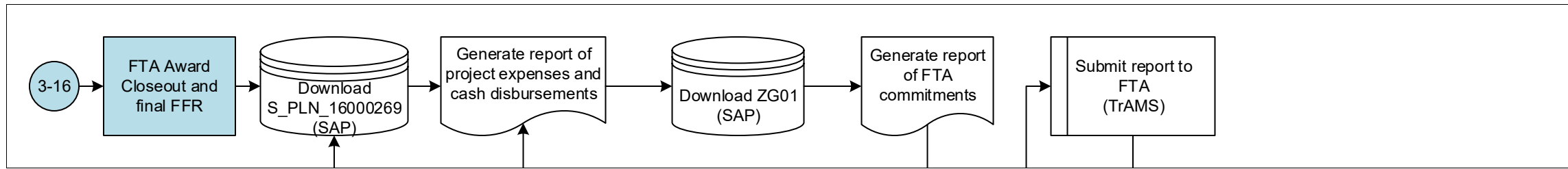
Flowchart 3-12. FTA Award Application



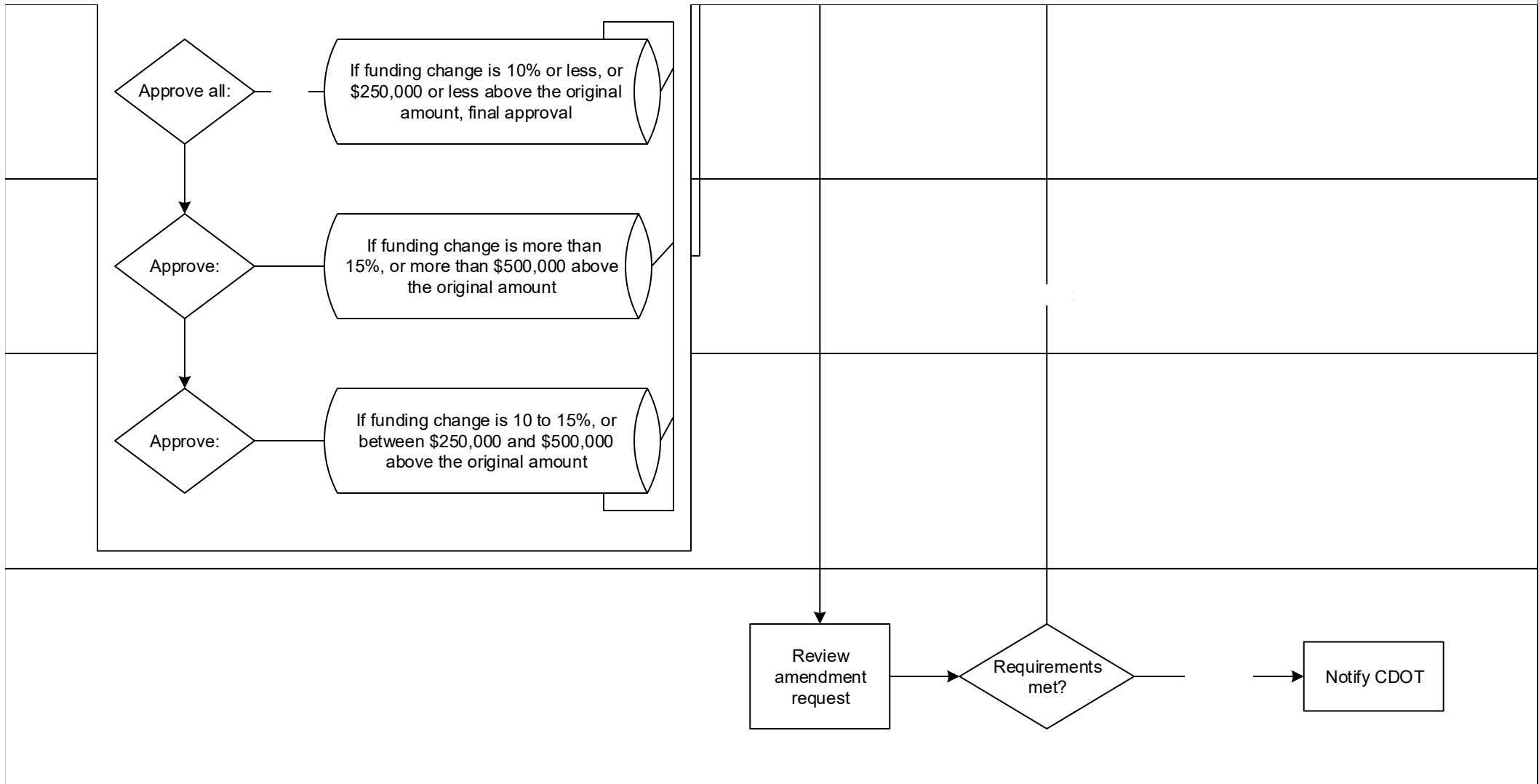
Flowchart 3-13. FFATA Reporting



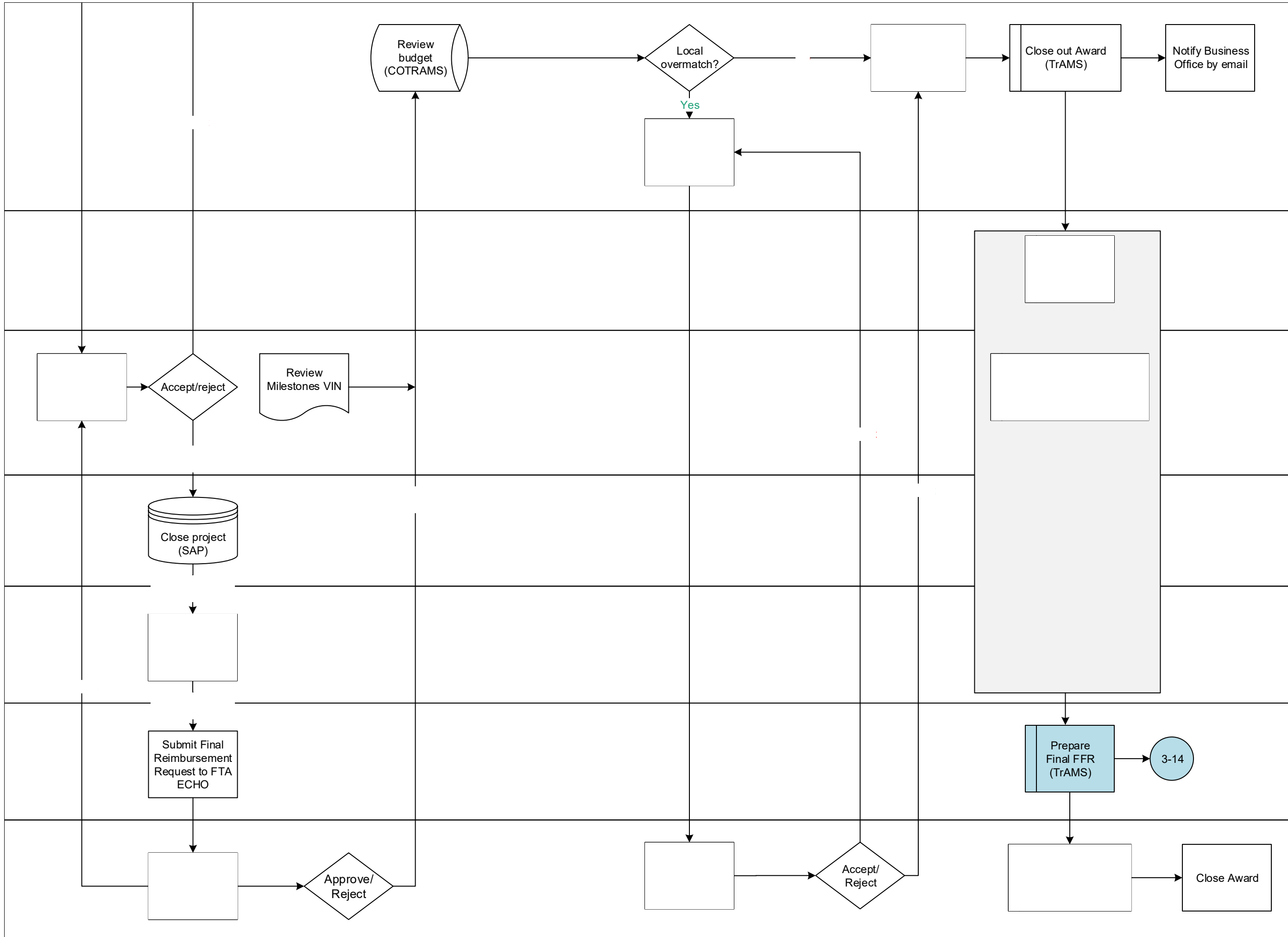
Flowchart 3-14. FFR Reporting



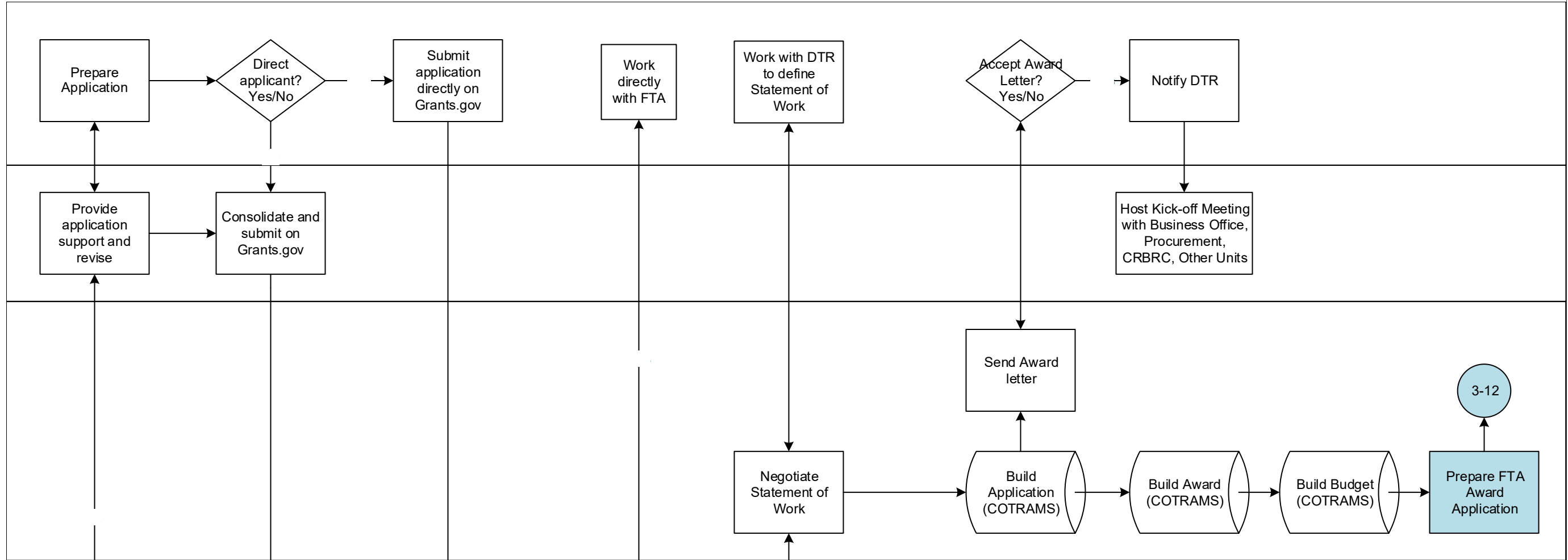
Flowchart 3-15. FTA Award Amendment



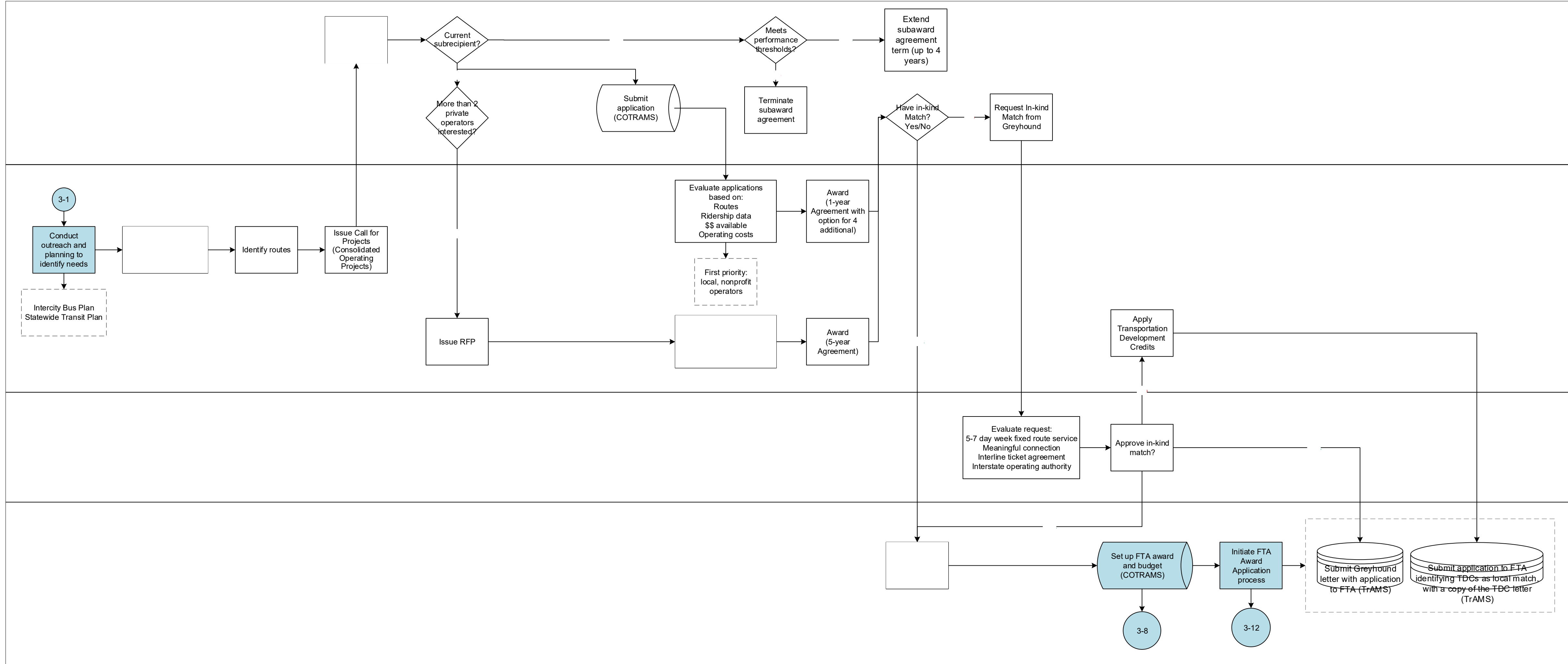
Flowchart 3-16. FTA Project and Award Closeout



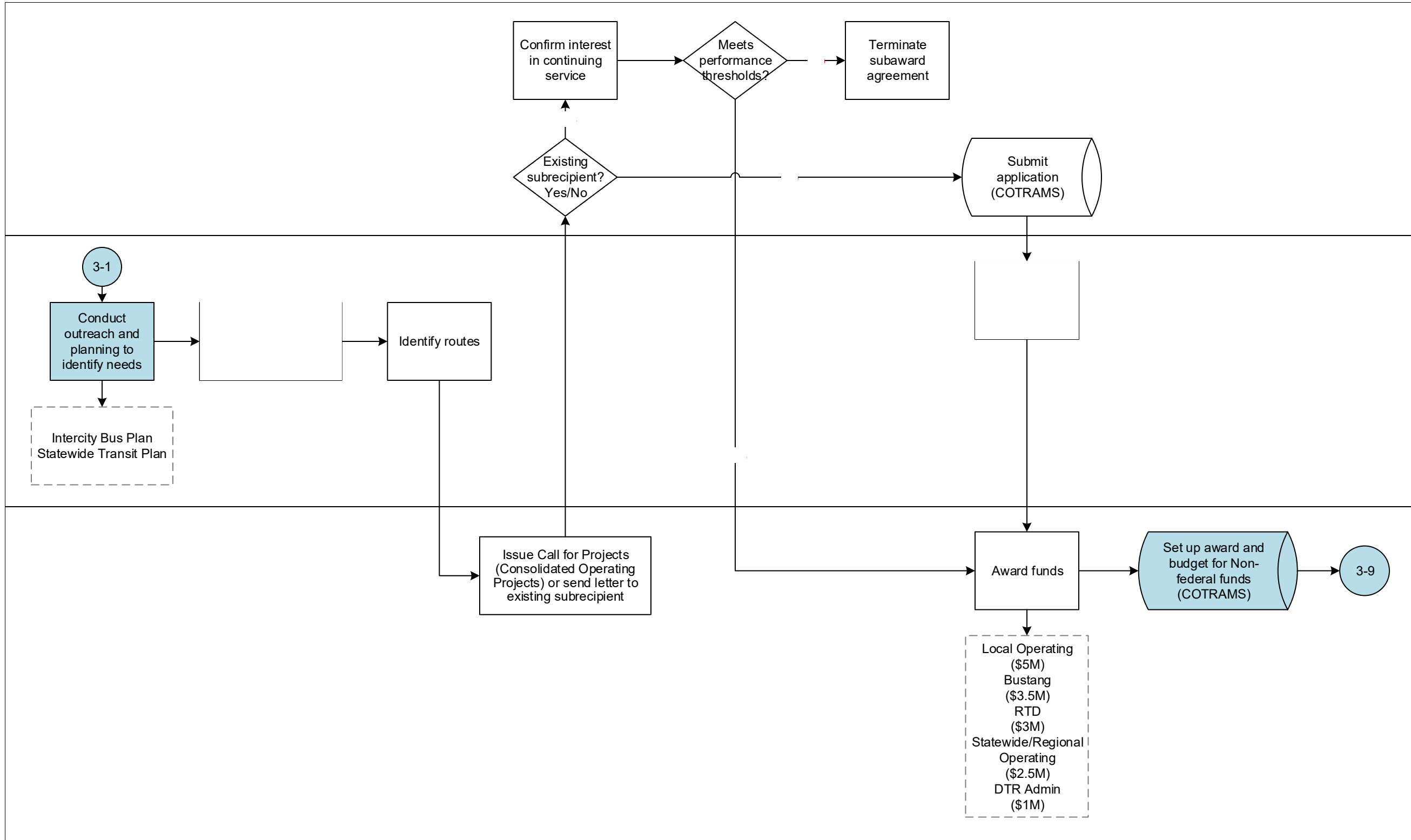
Flowchart 3-17. FTA Discretionary Program Application and Award



Flowchart 3-18. Section 5311(f) Planning through Award



Flowchart 3-19. FASTER Local and Regional Bus Planning through Award





COLORADO
Department of Transportation

DIVISION OF TRANSIT AND RAIL STATE MANAGEMENT PLAN

CHAPTER 4 Project Management

Outline

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Chapter 4 Attachments

- Attachment 4-1. Subrecipient Information Request (SIR) and Site Review Checklist
- Attachment 4-2. FTA FY 2019 Certifications and Assurances
- Attachment 4-3. CDOT Standard Subaward Agreement
- Attachment 4-4. Sample Personal Services RFP
- Attachment 4-5. DTR Quick Procurement Guide

Chapter 4 Flowcharts

Flowchart 4-1. Subrecipient Information Request (SIR) and Site Review Process

Flowchart 4-2. Amendment for Capital Project

Flowchart 4-3. Capital Project Reimbursement Request

Flowchart 4-4. Personal Services Procurement

Flowchart 4-5. Third-Party Procurement

Flowchart 4-6. Project Closeout

4. PROJECT MANAGEMENT

4.1 Project Coordination/Oversight Program

Once an executed subaward agreement is in place, the Colorado Department of Transportation (CDOT)/Division of Transit and Rail (DTR) is responsible for oversight of the subrecipient agency and its implementation of the project. Oversight includes monitoring, training, and technical support for subrecipient agencies to support them in compliance with federal and state regulations and guidelines associated with receiving and disbursing funds.

When subrecipient agencies enter into contracts with contractors and subcontractors to perform work funded by the Federal Transit Administration (FTA) or state transit funds, the subrecipient agencies are responsible for oversight and compliance of the contractors and subcontractors with federal and state regulations and guidelines.

DTR utilizes the Comprehensive Review Guide, updated annually by the FTA, as a guide to conduct oversight. The most current Comprehensive Review Guide can be found through a link on **FTA's Program Oversight web page** (<https://www.transit.dot.gov/regulations-and-guidance/program-oversight/program-oversight>).

4.1.1 DTR Organization for Project Oversight

DTR Project Coordinators are responsible for overseeing subrecipients to determine their compliance with federal and state requirements, knowledge of programs, level of risk, timeliness and participation, operation levels, fiscal responsibility, and budget management practices.

Each DTR Project Coordinator is responsible for the primary oversight of transit agencies in an assigned region of Colorado made up of the CDOT Transportation Planning Regions (TPR), as shown on Figure 4.2 and Figure 1 in Chapter 1. Site Reviews, reimbursement requests, and other tasks are subject to team-based oversight if necessary. Project Coordinators are encouraged to be in the field interacting with their assigned subrecipients and participating in regional meetings when scheduling permits.

Northwest. Intermountain TPR, Northwest TPR

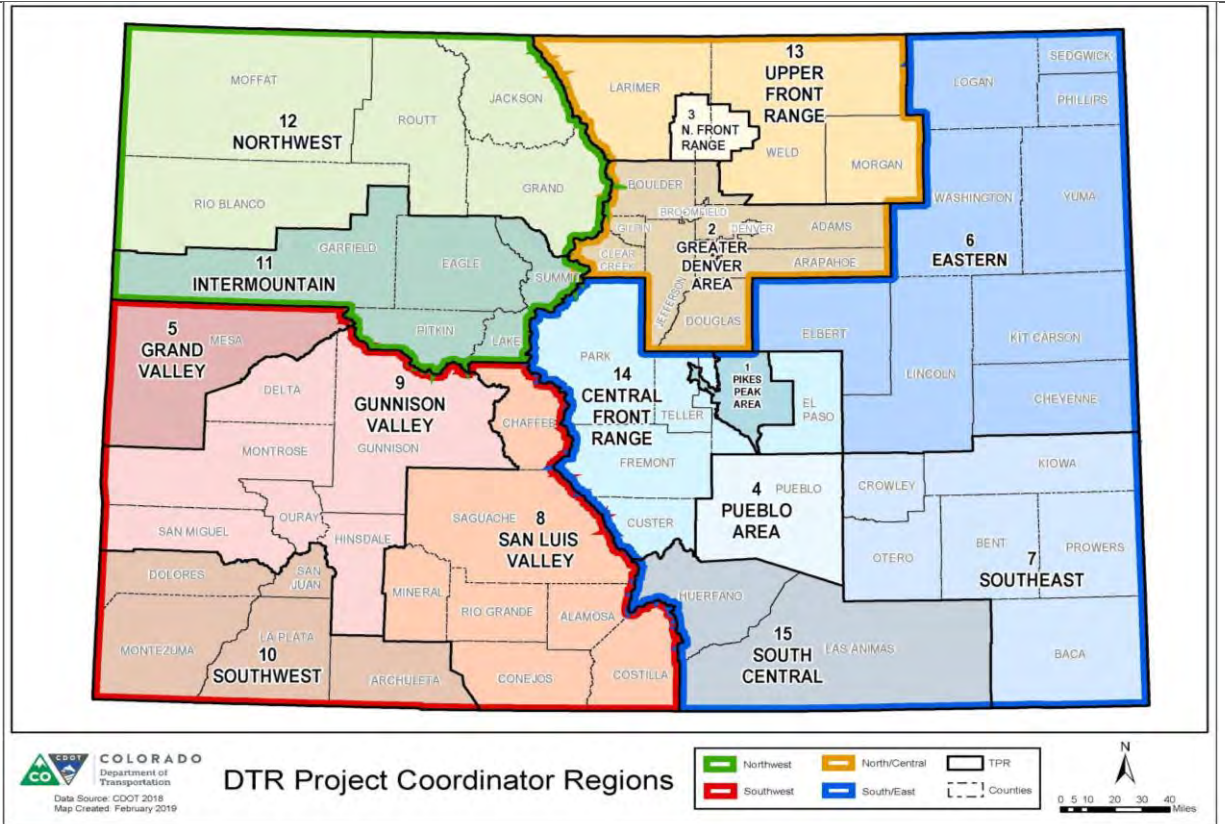
Southwest. San Luis Valley TPR, Gunnison Valley TPR, Southwest TPR, Grand Valley TPR

North/Central. Eight counties within the Denver Regional Council of Governments (DRCOG), North Front Range Metropolitan Planning Organization, and Upper Front Range TPR

South/East. Southeast TPR, South Central TPR, Eastern TPR, Pikes Peak Area Council of Governments (COG), Pueblo TPR, Central Front Range TPR

In addition, DTR’s Bus Operations Unit oversees projects funded with FTA Section 5311(f) intercity bus funds or the Funding Advancement for Surface Transportation and Economic Recovery Act (FASTER) regional operating pool. Oversight responsibilities for facility and infrastructure construction projects can vary based on the type of project, but are often provided by CDOT Engineering Region staff, with support from DTR staff.

Figure 4.1. Project Coordinator Regions and TPRs



4.1.2 DTR Oversight Policy

As funding recipients, subrecipients are responsible for:

- Meeting the requirements for applying for appropriate funding.
- Having the technical capacity for managing and implementing the projects.
- Ensuring availability of the required match.
- Working with DTR to develop an appropriate statement of work.
- Contracting with DTR for the project.

- Meeting all subaward agreement requirements, including submitting Procurement Requests for CDOT approval in Colorado Transit & Rail Awards Management System (COTRAMS).
- Maintaining appropriate and accurate records.
- Submitting reports and invoices in a timely manner through COTRAMS.
- Closing a subaward in COTRAMS 15 days after the final invoice was approved by CDOT.
- Complying with all state and federal regulations pertaining to the award.

Each Project Coordinator tracks the project milestones to ensure that each project is adhering to the required schedule and terms of the contract or subaward agreement.

4.1.2.1 Baseline Activities

DTR Project Coordinators and subrecipients have responsibilities related to ongoing oversight and participating in oversight activities. Subrecipients are expected to participate in baseline activities, unless deemed not required by DTR. Baseline activities are outlined in Table 4.1.

Table 4.1. Baseline Activities

COTRAMS = Colorado Transit & Rail Awards Management System		NTD = National Transit Database	
LCC = Local Coordinating Council		DTR = Division of Transit and Rail	
RCC = Regional Coordinating Council		FTA = Federal Transit Administration	
RTAP = Rural Transit Assistance Program		TrAMS = Transit Award Management System	
CASTA = Colorado Association of Transit Agencies			
	Activity	Subrecipient	DTR
Daily/Weekly	Customer Service and COTRAMS support		Assist subrecipients as requested
	Reimbursement Requests for Capital projects (COTRAMS)	Submit	Approve
Monthly	Transit Conference Calls	Participate and contribute	Prepare for and conduct
	Informal Site Reviews	Prepare for and participate	Schedule and conduct
	Reimbursement requests for Admin/Operating and Mobility Management projects (COTRAMS)	Submit	Review and approve
Quarterly	LCC and RCC meetings	Attend	Attend as needed
	RTAP and other training opportunities	Attend	Schedule and conduct
	CASTA committees	Participate and attend	Participate and attend
	Risk assessments (COTRAMS)	Complete	Complete
	Quarterly Reports (Section 5311 and Section 5311[f] recipients)*	Prepare	Review

Table 4.1. Baseline Activities

COTRAMS = Colorado Transit & Rail Awards Management System		NTD = National Transit Database	
LCC = Local Coordinating Council		DTR = Division of Transit and Rail	
RCC = Regional Coordinating Council		FTA = Federal Transit Administration	
RTAP = Rural Transit Assistance Program		TrAMS = Transit Award Management System	
CASTA = Colorado Association of Transit Agencies			
	Activity	Subrecipient	DTR
	Program Measures Reports (Section 5310 recipients)**	Prepare	Review
Annually (spring)	Transit Open Houses	Attend	Prepare for and conduct

*Quarterly Reports are designed to assist 5311 and 5311(f) subrecipients capture the service information quarterly that they are required to report annually in the NTD. Subrecipients that have active 5311 and 5311(f) projects must complete these reports in COTRAMS quarterly.

** Program Measures Reports are required from subrecipients that have active 5310 projects. These reports ask for updates on program performance: gaps in service filled and ridership. Subrecipients are encouraged to include a client story or success story, as these are important to share with the FTA. Subrecipients must complete these quarterly in COTRAMS; DTR then submits the reports to FTA using TrAMS.

4.1.2.2 Subrecipient Information Request and Site Review Process

All subrecipients are required complete the Subrecipient Information Request (SIR) and participate in the Site Review Process at least once as a new subrecipient, unless otherwise **decided by DTR management. The SIR is adapted from FTA’s** current Comprehensive Review Guide (<https://www.transit.dot.gov/regulations-and-guidance/program-oversight/program-oversight>) that covers the range of requirements for all FTA programs in the following areas:

- Legal (Lobbying)
- Financial Management and Capacity
- Technical Capacity
- Satisfactory Continuing Control
- Maintenance
- Procurement
- Disadvantaged Business Enterprise (DBE)
- Title VI
- Americans with Disabilities Act (ADA) General
- Americans with Disabilities Act Complementary Paratransit
- Equal Opportunity Employer
- School Bus
- Charter Bus
- Drug and Alcohol Program

The SIR may be completed differently by agencies because some areas are only applicable to certain funding sources or for certain types of projects. The process is illustrated in Flowchart

4-1 Subrecipient Information Request (SIR) and Site Review Process and includes the following:

Pre-Review. Project Coordinators send notifications to the agencies scheduled to have a Site Review. The notification stating the purpose of the SIR according to **DTR's** risk assessment process described in Chapter 3 and Section 4.1.2.3 and **DTR's** SIR oversight policy. A site review date is agreed upon and scheduled. The subrecipient receives a SIR custom-created for the agency made up of questions for the subrecipient to answer and a request for copies of **the subrecipient's program documents. The notification includes a deadline to return the completed SIR and upload the requested documents to COTRAMS.**

Desk Review. Project Coordinators perform a Desk Review of the **subrecipient's SIR and documents**, and then complete an internal SIR document that captures their comments (and comments from the CRBRC review). Based on the review, the Project Coordinator develops questions, highlights areas of concern, and identifies additional areas for discussion, such as upcoming projects and needs. A detailed agenda for the Site Visit is sent to the subrecipient prior to the scheduled Site Visit.

Site Visit. The Site Visit view is typically a one-day meeting with facility and/or bus tours, as appropriate. The visits are an opportunity for the Project Coordinator and the subrecipient to review projects, help subrecipient reach compliance requirements, identify opportunities for improvement, answer questions, and identify future needs. Attendees include the agency executive staff, the Project Coordinator, and representatives from other CDOT/DTR programs, as needed (Transit Asset Management, Civil Rights, Audit, Business Office, Drug & Alcohol program, RTAP, CDOT Regional Planner, and others). Subrecipients are responsible for ensuring that pertinent staff members are available.

Site Visits begin with an entrance conference stating the purpose of the review and a **reminder that the informal "findings" are a reflection on CDOT's oversight.** Site Visits follow the pre-arranged agenda and leave ample time for the in-person checklist, especially checking maintenance records. A typical Site Visit checklist is included as Attachment 4-1 Subrecipient Information Request (SIR) and Site Review Checklist. The Site Visit ends with an exit conference to review the notes taken during the Site Visits and clarify any next steps.

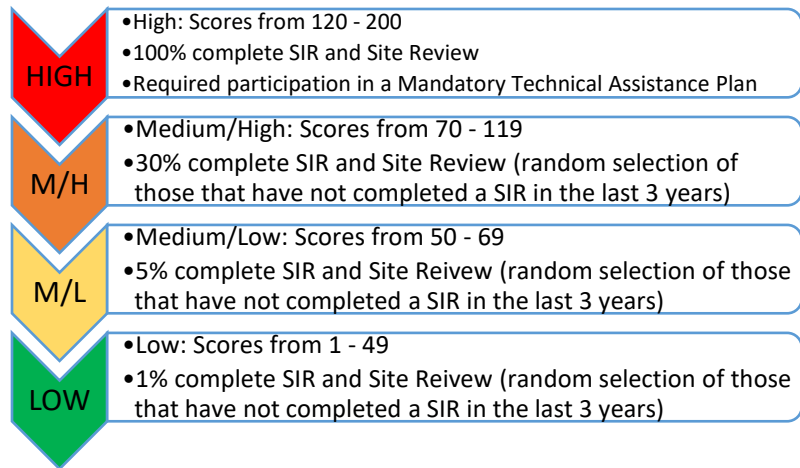
Post-Review: The Project Coordinator sends a follow-up letter declaring whether or not the subrecipient is in compliance; and documenting observations, recommendations, and conclusions. Follow-up actions required by the subrecipient are also identified, including, if needed, additional training and technical assistance or a corrective action plan with a timeline.

4.1.2.3 Frequency and Level of Oversight

After a subrecipient’s initial SIR and Site Visit, the frequency and level of oversight are based on the results of the scores of the Risk Assessment completed by the subrecipient and DTR in COTRAMS after an award. The Risk Assessment process is described in Chapter 3 (Section 3.5.1). **DTR’s objective is to provide** the appropriate level of oversight based on the risk assessment scores and the needs of the specific agency.

The combined numerical score from the Risk Assessment corresponds to High, Medium/High, Medium/Low, and Low level of oversight. DTR uses the Low to High ratings to determine how often a subrecipient is asked to complete the SIR and participate in a Site Review. The percentage of subrecipients at the different risk levels participating in the SIR and Site Review is illustrated in Figure 4.2.

Figure 4.2. Subrecipients Participating in SIR



Due to time constraints and the broad scope of federal and state requirements associated with subrecipient oversight, DTR conducts the SIR and Site Review process as diligently as possible, given the allotted time and resources available and the desire to minimize disruption to subrecipient operations and activities.

It is not the intent to provide absolute assurance of compliance for every category of project administration and operations, but to provide reasonable assurance that activities associated with awards are conducted according to regulatory requirements and sound practices.

4.2 FTA Certifications and Assurances

To ensure compliance with other federal requirements, subrecipients are required to sign federal Certifications and Assurances for FTA Assistance Programs. A subrecipient applying for assistance under any FTA program must annually submit Certifications and Assurances that are applicable to the **subrecipient’s award during the current federal fiscal year.**

FTA issues a list of required certifications and assurances for each fiscal year. The FY 2019 list is available at <https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances> and is included as Attachment 4-2 FTA FY 2019 Certifications and Assurances. Some certifications and assurances apply to all applicants.

Others are required from applicants requesting more than \$100,000 in federal assistance or depend on the type of applicant or project.

4.2.1 Program Documents

In addition to the annual Certifications and Assurances, DTR requires subrecipients to maintain Program Documents on file in COTRAMS. These documents are specifically requested and reviewed by Project Coordinators during the SIR and Site Review Process; however, subrecipients are expected to have updated documents in COTRAMS on an ongoing basis. These documents cover all of **the applicable areas of review in the FTA's Comprehensive Review Guide** (<https://www.transit.dot.gov/regulations-and-guidance/program-oversight/program-oversight>).

Individual FTA programs and non-federal programs require additional submittals. Specific program requirements are detailed in SMP Appendix A (FTA Programs) and Appendix B (Non-Federal Transit Funds).

Finally, there are Civil Rights requirements related to Civil Rights programs for both CDOT and subrecipients. These are described in Chapter 5.

4.2.2 Remedies for Noncompliance

Remedies for a subrecipient's noncompliance with the statutes, regulations, or the terms and conditions of the award or the executed subaward are set forth in 2 Code of Federal Regulations (CFR) 200 (<https://www.govinfo.gov/content/pkg/CFR-2014-title2-vol1/pdf/CFR-2014-title2-vol1-part200.pdf>). If CDOT determines that a subrecipient is not complying with the general or specific terms of an award, CDOT may impose additional conditions to the award, as described in 2 CFR 200.207, or take additional actions, as detailed in 2 CFR **200.338. Rules pertaining to noncompliance are defined in CDOT's executed** subaward agreement with the subrecipient in the Breach of Agreement and Remedies sections. **CDOT's** standard subaward agreement is included as Attachment 4-3 CDOT Standard Subaward Agreement.

4.2.3 Project Amendments

Subrecipients are responsible for reporting to DTR whenever one or more of the following occurs:

- Budget or schedule changes.
- Milestone or completion dates were not met.
- Identification of problem areas and how the problems will be resolved.
- Expected impacts and the efforts to recover from delays.

DTR takes proactive steps to address issues on projects that are not meeting performance standards, including identifying resources for subrecipients, identifying specific issues causing the delay, and providing a date certain by which time requirements must be met.

CDOT works with a subrecipient to obtain FTA’s prior approval of proposed changes, then amend the subaward agreement to extend the end date or adjust awarded amount to reflect the approved changes. The process DTR uses to amend a capital project is shown in Flowchart 4-2 Amendment for Capital Project.

4.2.4 Subaward (Project) Performance Schedule

The subrecipient is responsible for meeting the schedule requirements included in the executed subaward agreement and reporting through COTRAMS on meeting milestones. The DTR Project Coordinator confirms on a regular basis that the project is performing on schedule. If it falls behind schedule, the Project Coordinator notifies the DTR Unit Managers and DTR Director of the underperforming project, and a plan is developed to remediate or terminate the project.

The DTR Unit Managers and the DTR Director monitors schedule changes, with the goal of efficiently addressing underperforming projects and taking proactive steps to close out the projects in a timely manner.

4.3 Cost Principles

4.3.1 General Provisions

DTR expects all subrecipients of federal and state awards to comply with the General Provisions referenced in 2 CFR 200 Subpart E (<https://www.govinfo.gov/content/pkg/CFR-2014-title2-vol1/pdf/CFR-2014-title2-vol1-part200-subpartE.pdf>). These General Provisions align with oversight practices that ensure subrecipients are fiscally responsible and have sound award management practices.

4.3.2 Basic Considerations

DTR expects all subrecipients of federal and state awards to comply with the Basic Considerations referenced in 2 CFR 200 Subpart E. DTR Project Coordinators and the CDOT Business Office review reimbursement requests to determine if costs are reasonable, allocable, and allowable. The criteria for allowable, reasonable, and allocable costs can be found at 2 CFR 200 403-405. Each cost will need to have these criteria for the specific award being reimbursed, and cannot be cross-referenced against a different award when seeking reimbursement.

4.3.3 Direct and Indirect Costs

Direct costs are the costs that can be identified specifically or that can be directly assigned to such activities with relative ease and a high degree of accuracy for a particular award or project. An indirect cost is one that has been incurred for the common objectives of an organization. Requirements for preparing a Cost Allocation Plan or an Indirect Cost Rate Proposal are included in Chapter 3. **CDOT's Audit Department must approve the subrecipient's indirect cost plan on an annual basis.** Subrecipients that do not have an approved indirect cost rate are allowed to charge a *de minimis* rate of 10% of modified total direct costs.

4.3.4 General Provisions for Selected Items of Cost

2 CFR 200 Subpart E, paragraphs 200.420 to 200.475, cover considerations for allowability of specific cost items. DTR staff can address specific questions from subrecipients.

4.4 Invoicing and Reimbursement

4.4.1 Governing Policies

The federal Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (commonly called Uniform Guidance) is the authoritative set of rules and requirements for federal awards and project management (<https://www.grants.gov/learn-grants/grant-policies/omb-uniform-guidance-2014.html>). In addition, specific requirements are outlined in FTA Circular 5010.1E Award Management Requirements, which is included as an SMP Appendix D and can be found here: <https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/32136/5010-1e-circular-award-management-requirements-7-21-2017.pdf>. Requirements for invoicing and reimbursement are also covered in 2 CFR 200.

The State of Colorado “Fiscal Rules” govern the administrative procedures for reviewing and accepting all requests for reimbursement, and are stricter in some instances than required by federal law. The state fiscal rules are available from the Office of the State Controller at <https://www.colorado.gov/pacific/osc/alpha-index-6#F>

4.4.2 DTR Reimbursement to Subrecipients

According to state fiscal rules, CDOT will not reimburse subrecipients for expenses incurred prior to the date of subaward agreement execution, unless the agreement contains a 60-day retroactivity clause (typically operating projects). Under an executed subaward agreement, a subrecipient must first incur costs before submitting an invoice for reimbursement.

Reimbursement Requests may be held for payment due to any breach of the executed subaward agreement, i.e., lack of reporting or other documented noncompliance with the subaward agreement terms.

4.4.2.1 Eligible Expenses

According to federal and state policies, CDOT pays all reasonable and fully and accurately documented requests for reimbursement within 30-45 calendar days of submittal. If the documentation is incomplete or there are ineligible expenses in the invoice, the process may take longer.

Eligible expenses are defined in an exhibit to the executed subaward agreement titled Verification of Payment checklist and vary depending on the type of project. These are outlined for Section 5310 and Section 5311 programs in SMP Appendix A (FTA Programs) and FASTER in SMP Appendix B (Non-Federal Transit Funds). Information about how to submit documentation for reimbursement is outlined in the COTRAMS Manual in Appendix C.

Supporting documentation for the expenses and payment of expenses includes, but is not limited to, accounting records, such as cancelled checks, paid bills with receipts, or other proof-of-payment; payroll; time and attendance records; contracts; and subaward documents. Some programs have specific requirements related to documentation.

4.4.2.2 Invoicing/Reimbursement Request Schedule

CDOT requires subrecipients to submit Reimbursement Requests in a timely fashion and regularly, according to the executed subaward agreement.

Delay in submitting invoices may result in the subrecipient being considered a higher-risk agency and more stringent requirements may be placed on the agency. For example, the agency may be required to provide additional or more detailed documentation in its Reimbursement Requests. Or, the agency may be required to clear the backlog of invoices before CDOT will approve future applications from the agency.

The process for reimbursement for capital projects is illustrated in Flowchart 4-3 Capital Project Reimbursement Request.

4.5 Procurement Policies and Procedures

4.5.1 CDOT Direct Procurements

CDOT's Procurement and Contract Services office oversees CDOT's direct procurement of goods and services in accordance with State of Colorado Procurement Code and Fiscal Rules. This includes procurement of professional architectural and engineering services, as well as services that do not require an architectural or engineering license. Resources are available at <https://www.codot.gov/business/procurement-and-contract-services>.

The State of Colorado procurement policies and procedures are located here: <https://www.colorado.gov/pacific/osc/procurement-resources> and described further in the following documents:

- Procurement Code (Title 24, Article 101 to Article 112), modernized under Colorado House Bill (HB) 17-1051.
(<https://advance.lexis.com/container?config=0345494EJAA5ZjE0MDIyYy1kNzZkLTRkNzktYTkxMS04YmJhNjBINWUwYzYKAFBvZENhdGFsb2e4CaPI4cak6laXLCWYLBO9&crld=de9a576c-afd4-46c2-8253-d5e72996d564>)
https://www.colorado.gov/pacific/sites/default/files/2017A_1051_signed.pdf
- State of Colorado Procurement Code of Ethics and Guidelines
<https://www.colorado.gov/pacific/sites/default/files/State%20of%20Colorado%20Procurement%20Code%20of%20Ethics%20and%20Guidelines.pdf>)
- State of Colorado Procurement & Fiscal Rules
(<https://www.sos.state.co.us/CCR/NumericalCCRDclList.do?deptID=14&deptName=100,80%20Department%20of%20Personnel%20and%20Administration&agencyID=40&agencyName=101%20Division%20of%20Finance%20and%20Procurement>)

4.5.2 Professional Services Contracts

In Colorado, procurement of professional architectural and engineering services is governed under The Brooks Act. Professional services that are not performed by a licensed architect or **engineer are considered “personal services.” CDOT’s Procurement Office conducts the** procurement process in collaboration with DTR for these types of services according to the Procurement Code and State of Colorado Procurement & Fiscal Rules. The selection is generally made based on meeting minimum requirements and that are outlined in an Invitation for Bid (IFB) or Request for Proposal (RFP).

CDOT’s process for this type of procurement is documented in Flowchart 4-4 Personal Services Procurement. A sample RFP is included as Attachment 4-4 Sample Personal Services RFP.

4.5.3 Competition

All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards set forth in 2 CFR 200.319 and Title 49 United States Code 5325(a) (<https://www.gpo.gov/fdsys/pkg/USCODE-2009-title49/pdf/USCODE-2009-title49-subtitleIII-chap53-sec5325.pdf>). CDOT encourages full and open competition.

For its direct procurements, CDOT advertises in the Rocky Mountain Bid System and has an open prequalification process for consultants and contractors wishing to do business with CDOT.

4.5.4 Contracting with Small and Minority Businesses, Women’s Business Enterprises, and Labor Surplus Area Firms

In accordance with 49 CFR Part 26, CDOT seeks to ensure non-discrimination in the award and administration of Department of Transportation (DOT)-assisted contracts and to create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.

Detailed information about CDOT's DBE Program and requirements for subrecipients regarding DBE contracting is provided in Chapter 5.

4.5.5 Third-Party Procurements

As recipients of federal funds used in third-party procurements, CDOT and its subrecipients must comply with the State of Colorado Procurement Code for non-federal procurements, as well as the federal procurement standards outlined in 2 CFR § 200.318 General Procurement Standards through 2 CFR § 200.326 Contract Provisions. Subrecipients must take all necessary affirmative steps to assure that minority businesses, women business enterprises, and labor surplus area firms are used when possible (2 CFR 200.321).

CDOT and its subrecipients are also responsible for ensuring that all of its contracts or subcontracts made in connection with FTA transit funds comply with provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

Subrecipients must track all prime contractors and subcontractors, including DBEs, on all awarded, in process, and closed FTA-funded contracts.

DTR's policies and procedures related to third-party procurements are outlined in Attachment 4-5 DTR Quick Procurement Guide.

4.5.5.1 DTR Oversight of Third-Party Procurements

In its oversight role, DTR monitors and oversees subrecipient purchases of goods and/or services using FTA and state funds to confirm that the procurements are conducted in compliance with applicable state and federal regulations. Subrecipients must incorporate Title VI and DBE nondiscrimination language into procurement documents and awarded contracts.

DTR coordinates, as needed, with the CDOT Procurement and Contract Services Office throughout the procurement process. The Procurement and Contract Services Office reviews the statement of work/specifications; makes recommendation on type of procurement; and drafts and reviews the procurement subaward agreements, Purchase Orders, and associated documentation. The Procurement and Contract Services Office conducts annual training for subrecipients on CDOT procurement procedures. In addition, Title VI and DBE civil rights requirements related to procurement are coordinated with the Civil Rights and Business Resource Center (CRBRC) in accordance with 49 CFR part 26.

4.5.5.2 Subrecipient Written Procurement Procedures

Subrecipients are required to have written procurement procedures that conform to applicable state and local regulations, as well as the federal law and the standards set forth in 2 CFR § 200.318 General Procurement Standards through 2 CFR § 200.326 Contract Provisions.

Below is a list of what should be included in a subrecipient's written procedures for third-party procurements:

- DBE policy or goal.
- Identified dollar thresholds, specifically for sealed bids/competitive process.
- Description of management of payment to contractors.
- A protest and appeal process.
- Standards of conduct.
- Graduated purchasing authority (what employee can authorize what type of purchase).
- Policy for the documentation of responsibility determinations (prior to the award, the bidders are checked for integrity, compliance, past performance, etc.).

4.5.5.3 Subrecipient Third-Party Procurement Process

Subrecipients are required to submit required documentation in COTRAMS for the Project **Coordinator's review and approval at each step of the third-party** procurement process. The procurement process is explained in detail in Attachment 4-5 DTR Quick Procurement Guide.

An overview of the Procurement process is illustrated in Flowchart 4-5 Third-Party Procurement. Requirements for the submittals are detailed in the following sections.

4.5.5.3.1 Independent Cost Estimate

Subrecipients must prepare an Independent Cost Estimate prior to conducting a procurement process. This helps to determine the appropriate procurement method and the special requirements for it, as outlined in 2 CFR 200.320.

4.5.5.3.2 Procurement Method

A Project Coordinator is available to assist a subrecipient in determining which procurement method to use. Procurements may be conducted by an individual agency or through a joint procurement with multiple agencies with common specifications.

Requirements for the different procurement methods can be referenced in Attachment 4-5 DTR Quick Procurement Guide.

4.5.5.3.3 Procurement Forms

DTR follows a 4-step Procurement Approval process in COTRAMS, where the following forms are collected. These forms are more fully explained in Attachment 4-5 DTR Quick Procurement Guide.

- PCR: Procurement Concurrence Request
- PA: Purchase Authorization
- NA: Notice of Acceptance, and Vehicle Checklist
- SA: Security Agreement

4.5.5.3.4 Post-Procurement Administrative Requirements

The subrecipient must include the following items in its procurement records and make them available for the Project Coordinator upon request.

- Record of any debriefing with proposers
- Record of any protest and subrecipient response

4.5.5.3.5 Retention Requirement for Procurement Documentation

The FTA's Best Practices Procurement & Lessons Learned Manual recommends that agencies maintain records for 3 years following project completion or project closeout

(<https://www.transit.dot.gov/funding/procurement/third-party-procurement/best-practices-procurement-manual>). Some examples of documentation to maintain in a written record of procurement history could include:

- Purchase request, acquisition planning information and other pre-solicitation documents.
- Rationale for the method of procurement (e.g., RFP, IFB, Sole Source).
- Independent cost estimate.
- Copy of the solicitation, all addenda and all amendments.
- List of sources solicited.
- Copies of published notices of proposed contract action.
- An abstract of each offer or quote.
- Reasons for contractor selection or rejection.
- Determination that contractor is responsive and responsible.
- Determination that price is fair and reasonable including an analysis of the cost and price data.
- Required internal approvals for award.
- Notice of award
- Notice to unsuccessful quoters or offerors and record of any debriefing.
- Record of any protest.
- Required insurance documents, if any.
- Notice to proceed.

4.6 Project Close-Out

Upon completion of the project—after the purchase of the goods for capital projects or at the end of the service period for operating or mobility management agreements as provided in 2 CFR § 200.343 and within 30 days of the final invoice paid, the subrecipient must submit a project closeout form through COTRAMS and notify the Project Coordinator to close the project. The executed subaward agreement includes the required project close-out elements or other project deliverables.

DTR's process for this is shown in Flowchart 4-6 Project Closeout.

CDOT’s policy is to close out projects and FTA awards as soon as practicable and deobligate and reobligate unspent funds, such that “older money” from these closed awards is used first for new projects.

The Project Coordinator verifies that the subrecipient has completed all of its responsibilities related to the project. Examples include:

- Final report and quarterly reports submitted to DTR.
- Vehicle title on file with DTR.
- Copy of completed plan for planning projects, if applicable.

When a project is closed out, terminated or partially terminated, the recipient is responsible for compliance with the requirements in 2 CFR § 200.344 Post-Close Out Adjustments and Continuing Responsibilities.

4.7 Records Retention, Access, and Transfer

The FTA Master Agreement and FTA Circular 5010.1D in SMP Appendix D outline retention and access requirements for all financial and programmatic records, supporting documents, statistical records, and other records of award recipients. The requirements apply to direct recipients, subrecipients, contractors, and subcontractors.

The general requirements for records retention are in Table 4.2. Specific rules are defined in Exhibit D of **the subrecipient’s executed** subaward agreement with CDOT in a section called Record Retention and Access to Sites of Performance. **This section also outlines CDOT’s right** to access to records related to the project. At project close-out, DTR notifies the subrecipient of any records that must be transferred from the subrecipient.

Table 4.2. General Requirements for Records Retention

Financial and programmatic records, supporting documents, statistical records, and other records	Three years after completion of any subaward agreement, litigation, claim, negotiation, audit, or other action involving the records and started before the expiration of the 3-year period and including resolution of all issues that arise from these actions.
Vehicle Records	Three years after its disposition, including procurement, maintenance, repairs, and inspection records.
Facilities or Real Property	In perpetuity.

As stated in 2 CFR 200.335 regarding the 2013 Executive Order 13642 on Making Open and Machine Readable the New Default for Government Information, CDOT maintains project records in open and machine readable formats; however, CDOT also transmits and accepts paper versions of award-related information when necessary.

CHAPTER 4 ATTACHMENTS

Attachment 4-1. Subrecipient Information Request (SIR) and Site Review Checklist

COLORADO DEPARTMENT OF TRANSPORTATION: DIVISION OF TRANSIT AND RAIL

CHECKLIST IS MEANT FOR USE DURING SITE REVIEWS, DOES NOT REFLECT OFFICIAL FINDINGS

SITE REVIEW	NOTES
Use as an opportunity to show how well projects are progressing and to identify problem areas that might require technical assistance	
PROGRAM	
✓ Interview staff and review files to determine effectiveness of programs	
✓ Sample program brochures and hear updates	
FINANCIAL	
✓ Sample a few financial transactions for accuracy, completeness and review of source documentation (receipts), especially the appropriate use of funds.	
✓ Determine that accounting transactions are recorded in a timely manner.	
✓ Ask business office if they have any concerns.	
✓ Review where records are kept and how they are secured.	
PERSONNEL	
✓ Any new staff? Turnover contributed to?	
CONTRACTS	
✓ Review that contracts or subcontracts for services are conducted competitively (obtained multiple bids, use of selection procedures and monitoring techniques); maintains detailed records documenting the basis of all solicitations/procurements	
✓ Review contract and procurement records; view where they are stored and how they are secured. (PCR, PA, NA, SA)	
PROPERTY	
✓ Review whether recipient keeps adequate property records and maintains an up-to-date inventory of all property used on the grant	
✓ Are there proper controls in place to safeguard property against loss, damage, theft (ie, locked fences or garage, lighting, security system); Where are keys secured?	
✓ Check vehicle maintenance plan for preventative maintenance schedules.	

✓ Check that vehicle maintenance plan coincides with vehicle manufacturing recommendations?	
✓ Has your alternate maintenance schedule been approved by the manufacturer?	
✓ Check 2-3 vehicle records for +/- 500 mi or are within 10% variance to actuals in 80% of the audit sample.	
✓ How are warranty claims handled and tracked back to the manufacturer?	
✓ Record retention - policy & practice (3 years)	
CIVIL RIGHTS	
✓ Where is the (ADA & Title VI) discrimination complaint log kept? If any within the last 3 years, were they sent to CDOT Civil Rights Specialist?	
✓ Is the location of a discrimination complaint process posted on vehicles? At the transit center? Website?	
✓ Ensure correct Civil Rights contacts and ADA & Title VI complaint procedures are posted on the agency's website.	
✓ Ensure requests for reasonable modification are posted on the agency's website.	
SIGNAGE	
✓ Job Safety & Health Protection sign	
✓ If a Job Injury Occurs sign	
✓ Rights as a Worker sign	
✓ Equal Opportunity is the Law sign	
✓ Nondiscrimination public notice (i.e. reception desk - public location - and on the website)	
✓ ADA Policy (if applicable)	
TRANSIT FACILITIES	
✓ Check that transit facilities are open to the public are ADA accessible: <ul style="list-style-type: none"> ○ Is there a clear path of travel from the transit stop/station to adjacent pedestrian pathways? ○ Is there clear access to the boarding area? ○ Is there a flat concrete pad at the boarding area? ○ Is there adequate seating present at the stop/station? ○ Are route numbers on the bus stop sign at least three inches tall? 	

<ul style="list-style-type: none"> ○ Are other signs at the stop/station easy to read? ○ Are there braille signs indicating which buses/trains use that stop/station? ○ Is visual information in terminals, bus stops, or stations variable: by size, contrast, color, layout, spacing, etc. ○ Is auditory information available and are alternatives provided, such as text or voice recognition-to-text technology, visual symbols for emphasis, sound alerts, etc. ○ Is there a clear path of travel from the transit stop/station to adjacent pedestrian pathways? 	
<ul style="list-style-type: none"> ✓ Review ADA accessibility features in public facilities are operational i.e. automatic doorways 	
If RIDE ALONG	
<ul style="list-style-type: none"> ✓ Stop announcements made? 	
<ul style="list-style-type: none"> ✓ Ask operator to operate the lift or ramp. 	
<ul style="list-style-type: none"> ✓ Review if a pre-trip vehicle inspection checklist is used. What items are tracked on it? Lifts? 	
ADA-VEHICLE	
<ul style="list-style-type: none"> ✓ Review ADA accessibility features on vehicles are operational (ie, lifts, ramps, kneeling) 	
<ul style="list-style-type: none"> ✓ Review complementary paratransit bus schedules to ensure that they mirror the fixed route service provided. 	

Attachment 4-2. FTA FY 2019 Certifications and Assurances

CATEGORY 1. CERTIFICATIONS AND ASSURANCES REQUIRED OF EVERY APPLICANT.

All applicants must make the certifications in this category.

1.1. Standard Assurances.

This certification appears on the Office of Management and Budget's standard form 424B "Assurances—Non-Construction Programs". This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.

As the duly authorized representative of the applicant, you certify that the applicant:

- (a) Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
- (b) Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
- (c) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
- (d) Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
- (e) Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
- (f) Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:
 - (1) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin, as effectuated by U.S. DOT regulation 49 C.F.R. Part 21;
 - (2) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex, as effectuated by U.S. DOT regulation 49 C.F.R. Part 25;
 - (3) Section 5332 of the Federal Transit Law (49 U.S.C. § 5332), which prohibits any person being excluded from participating in, denied a benefit of, or discriminated

- against under, a project, program, or activity receiving financial assistance from FTA because of race, color, religion, national origin, sex, disability, or age.
- (4) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps, as effectuated by U.S. DOT regulation 49 C.F.R. Part 27;
 - (5) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age;
 - (6) The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
 - (7) The comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
 - (8) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records;
 - (9) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental, or financing of housing;
 - (10) Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and,
 - (11) the requirements of any other nondiscrimination statute(s) which may apply to the application.
- (g) Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (“Uniform Act”) (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. The requirements of the Uniform Act are effectuated by U.S. DOT regulation 49 C.F.R. Part 24.
- (h) Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
- (i) Will comply, as applicable, with the provisions of the Davis–Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.
- (j) Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

- (k) Will comply with environmental standards which may be prescribed pursuant to the following:
 - (1) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;
 - (2) Notification of violating facilities pursuant to EO 11738;
 - (3) Protection of wetlands pursuant to EO 11990;
 - (4) Evaluation of flood hazards in floodplains in accordance with EO 11988;
 - (5) Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.);
 - (6) Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.);
 - (7) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and
 - (8) Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
- (l) Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- (m) Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§ 469a-1 et seq.).
- (n) Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
- (o) Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
- (p) Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
- (q) Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 C.F.R. Part 200, Subpart F, “Audit Requirements”, as adopted and implemented by U.S. DOT at 2 C.F.R. Part 1201.
- (r) Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the program under which it is applying for assistance.

- (s) Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. § 7104) which prohibits grant award recipients or a sub-recipient from:
- (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect;
 - (2) Procuring a commercial sex act during the period of time that the award is in effect; or
 - (3) Using forced labor in the performance of the award or subawards under the award.

1.2. Standard Assurances: Additional Assurances for Construction Projects.

This certification appears on the Office of Management and Budget's standard form 424D "Assurances—Construction Programs" and applies specifically to federally assisted projects for construction. This certification has been modified in places to include analogous certifications required by U.S. DOT statutes or regulations.

As the duly authorized representative of the applicant, you certify that the applicant:

- (a) Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from the awarding agency; will record the Federal awarding agency directives; and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project.
- (b) Will comply with the requirements of the assistance awarding agency with regard to the drafting, review, and approval of construction plans and specifications.
- (c) Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work confirms with the approved plans and specifications, and will furnish progressive reports and such other information as may be required by the assistance awarding agency or State.

1.3. Procurement.

The Uniform Administrative Requirements, 2 C.F.R. 200.324, allow a recipient to self-certify that its procurement system complies with Federal requirements, in lieu of submitting to certain pre-procurement reviews.

The applicant certifies that its procurement system complies with:

- (a) U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 C.F.R. Part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost

Principles, and Audit Requirements for Federal Awards,” 2 C.F.R. Part 200, particularly 2 C.F.R. §§ 200.317–200.326 “Procurement Standards;

- (b) Federal laws, regulations, and requirements applicable to FTA procurements; and
- (c) The latest edition of FTA Circular 4220.1 and other applicable Federal guidance.

1.4. Suspension and Debarment.

Pursuant to Executive Order 12549, as implemented at 2 C.F.R. Parts 180 and 1200, prior to entering into a covered transaction with an applicant, FTA must determine whether the applicant is excluded from participating in covered non-procurement transactions. For this purpose, FTA is authorized to collect a certification from each applicant regarding the applicant’s exclusion status. 2 C.F.R. § 180.300. Additionally, each applicant must disclose any information required by 2 C.F.R. § 180.335 about the applicant and the applicant’s principals prior to entering into an award agreement with FTA. This certification serves both purposes.

The applicant certifies, to the best of its knowledge and belief, that the applicant and each of its principals:

- (a) Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily or involuntarily excluded from covered transactions by any Federal department or agency;
- (b) Has not, within the preceding three years, been convicted of or had a civil judgment rendered against him or her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;
- (c) Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any offense described in paragraph (b) of this certification;
- (d) Has not, within the preceding three years, had one or more public transactions (Federal, State, or local) terminated for cause or default.

CATEGORY 2. TAX LIABILITY AND FELONY CONVICTIONS.

Federal appropriations acts since at least 2014 have prohibited FTA from using funds to enter into an agreement with any corporation that has unpaid Federal tax liabilities or recent felony convictions without first considering the corporation for debarment. As prescribed by U.S. DOT Order 4200.6, FTA requires each applicant to certify as to its tax and felony status.

If the applicant is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, the applicant certifies that:

- (a) It has no unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
- (b) It has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months.

CATEGORY 3. LOBBYING.

If the applicant will apply for a grant or cooperative agreement exceeding \$100,000, or a loan, line of credit, loan guarantee, or loan insurance exceeding \$150,000, it must make the following certification and, if applicable, make a disclosure regarding the applicant's lobbying activities. This certification is required by 49 C.F.R. § 20.110 and app. A to that part.

This certification does not apply to an applicant that is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 49 C.F.R. Part 20.

3.1. Certification for Contracts, Grants, Loans, and Cooperative Agreements.

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3.2. Statement for Loan Guarantees and Loan Insurance.

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

CATEGORY 4. PRIVATE SECTOR PROTECTIONS.

If the applicant will apply for funds that it will use to acquire or operate public transportation facilities or equipment, the applicant must make the following certification regarding protections for the private sector.

4.1. Charter Service Agreement.

To enforce the provisions of 49 U.S.C. § 5323(d), FTA's charter service regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following Charter Service Agreement. 49 C.F.R. § 604.4.

The applicant agrees that it, and each of its subrecipients, and third party contractors at any level who use FTA-funded vehicles, may provide charter service using equipment or facilities acquired with Federal assistance authorized under the Federal Transit Laws only in compliance with the regulations set out in 49 C.F.R. Part 604, the terms and conditions of which are incorporated herein by reference.

4.2. School Bus Agreement.

To enforce the provisions of 49 U.S.C. § 5323(f), FTA's school bus regulation requires each applicant seeking assistance from FTA for the purpose of acquiring or operating any public transportation equipment or facilities to make the following agreement regarding the provision of school bus services. 49 C.F.R. § 605.15.

- (a) If the applicant is not authorized by the FTA Administrator under 49 C.F.R. § 605.11 to engage in school bus operations, the applicant agrees and certifies as follows:
 - (1) The applicant and any operator of project equipment agrees that it will not engage in school bus operations in competition with private school bus operators.
 - (2) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Mass Transit Regulations, or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
- (b) If the applicant is authorized or obtains authorization from the FTA Administrator to engage in school bus operations under 49 C.F.R. § 605.11, the applicant agrees as follows:
 - (1) The applicant agrees that neither it nor any operator of project equipment will engage in school bus operations in competition with private school bus operators except as provided herein.
 - (2) The applicant, or any operator of project equipment, agrees to promptly notify the FTA Administrator of any changes in its operations which might jeopardize the continuation of an exemption under § 605.11.
 - (3) The applicant agrees that it will not engage in any practice which constitutes a means of avoiding the requirements of this agreement, part 605 of the Federal Transit Administration regulations or section 164(b) of the Federal-Aid Highway Act of 1973 (49 U.S.C. 1602a(b)).
 - (4) The applicant agrees that the project facilities and equipment shall be used for the provision of mass transportation services within its urban area and that any other use of project facilities and equipment will be incidental to and shall not interfere with the use of such facilities and equipment in mass transportation service to the public.

CATEGORY 5. TRANSIT ASSET MANAGEMENT PLAN.

If the applicant owns, operates, or manages capital assets used to provide public transportation, the following certification is required by 49 U.S.C. § 5326(a).

The applicant certifies that it has, or will develop, a transit asset management plan in compliance with 49 C.F.R. Part 625.

CATEGORY 6. ROLLING STOCK BUY AMERICA REVIEWS AND BUS TESTING.

6.1. Rolling Stock Buy America Reviews.

If the applicant will apply for an award to acquire rolling stock for use in revenue service, it must make this certification. This certification is required by 49 C.F.R. § 663.7.

The applicant certifies that it will conduct or cause to be conducted the pre-award and post-delivery audits prescribed by 49 C.F.R. Part 663 and will maintain on file the certifications required by Subparts B, C, and D of 49 C.F.R. Part 663.

6.2. Bus Testing.

If the applicant will apply for funds for the purchase or lease of any new bus model, or any bus model with a major change in configuration or components, the applicant must make this certification. This certification is required by 49 C.F.R. § 665.7.

The applicant certifies that the bus was tested at the Bus Testing Facility and that the bus received a passing test score as required by 49 C.F.R. Part 665. The applicant has received or will receive the appropriate full Bus Testing Report and any applicable partial testing reports before final acceptance of the first vehicle.

CATEGORY 7. URBANIZED AREA FORMULA GRANTS PROGRAM.

If the applicant will apply for an award under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), or any other program or award that is subject to the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310); “flex funds” from infrastructure programs administered by the Federal Highways Administration (see 49 U.S.C. § 5334(i)); projects that will receive an award authorized by the Transportation Infrastructure Finance and Innovation Act (“TIFIA”) (23 U.S.C. §§ 601–609) or State Infrastructure Bank Program (23 U.S.C. § 610) (see 49 U.S.C. § 5323(o)); formula awards or competitive awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(a) and (b)); or low or no emission awards to any area under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339(c)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5307(c)(1).

The applicant certifies that it:

- (a) Has or will have the legal, financial, and technical capacity to carry out the program of projects (developed pursuant 49 U.S.C. § 5307(b)), including safety and security aspects of the program;
- (b) Has or will have satisfactory continuing control over the use of equipment and facilities;

- (c) Will maintain equipment and facilities in accordance with the applicant's transit asset management plan;
- (d) Will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a project financed under this section, a fare that is not more than 50 percent of the peak hour fare will be charged for any—
 - (1) Senior;
 - (2) Individual who, because of illness, injury, age, congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semi-ambulatory capability), cannot use a public transportation service or a public transportation facility effectively without special facilities, planning, or design; and
 - (3) Individual presenting a Medicare card issued to that individual under title II or XVIII of the Social Security Act (42 U.S.C. §§ 401 et seq., and 1395 et seq.);
- (e) In carrying out a procurement under 49 U.S.C. § 5307, will comply with 49 U.S.C. §§ 5323 (general provisions) and 5325 (contract requirements);
- (f) Has complied with 49 U.S.C. § 5307(b) (program of projects requirements);
- (g) Has available and will provide the required amounts as provided by 49 U.S.C. § 5307(d) (cost sharing);
- (h) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning);
- (i) Has a locally developed process to solicit and consider public comment before raising a fare or carrying out a major reduction of transportation;
- (j) Either—
 - (1) Will expend for each fiscal year for public transportation security projects, including increased lighting in or adjacent to a public transportation system (including bus stops, subway stations, parking lots, and garages), increased camera surveillance of an area in or adjacent to that system, providing an emergency telephone line to contact law enforcement or security personnel in an area in or adjacent to that system, and any other project intended to increase the security and safety of an existing or planned public transportation system, at least 1 percent of the amount the recipient receives for each fiscal year under 49 U.S.C. § 5336; or
 - (2) Has decided that the expenditure for security projects is not necessary;
- (k) In the case of an applicant for an urbanized area with a population of not fewer than 200,000 individuals, as determined by the Bureau of the Census, will submit an annual report listing projects carried out in the preceding fiscal year under 49 U.S.C. § 5307 for associated transit improvements as defined in 49 U.S.C. § 5302; and
- (l) Will comply with 49 U.S.C. § 5329(d) (public transportation agency safety plan).

CATEGORY 8. FORMULA GRANTS FOR RURAL AREAS.

If the applicant will apply for funds made available to it under the Formula Grants for Rural Areas Program (49 U.S.C. § 5311), it must make this certification. Paragraph (a) of this certification helps FTA make the determinations required by 49 U.S.C. § 5310(b)(2)(C). Paragraph (b) of this certification is required by 49 U.S.C. § 5311(f)(2). Paragraph (c) of this certification, which applies to funds apportioned for the Appalachian Development Public Transportation Assistance Program, is necessary to enforce the conditions of 49 U.S.C. § 5311(c)(2)(D).

- (a) The applicant certifies that its State program for public transportation service projects, including agreements with private providers for public transportation service—
 - (1) Provides a fair distribution of amounts in the State, including Indian reservations; and
 - (2) Provides the maximum feasible coordination of public transportation service assisted under 49 U.S.C. § 5311 with transportation service assisted by other Federal sources; and
- (b) If the applicant will in any fiscal year expend less than 15% of the total amount made available to it under 49 U.S.C. § 5311 to carry out a program to develop and support intercity bus transportation, the applicant certifies that it has consulted with affected intercity bus service providers, and the intercity bus service needs of the State are being met adequately.
- (c) If the applicant will use for a highway project amounts that cannot be used for operating expenses authorized under 49 U.S.C. § 5311(c)(2) (Appalachian Development Public Transportation Assistance Program), the applicant certifies that—
 - (1) It has approved the use in writing only after providing appropriate notice and an opportunity for comment and appeal to affected public transportation providers; and
 - (2) It has determined that otherwise eligible local transit needs are being addressed.

CATEGORY 9. FIXED GUIDEWAY CAPITAL INVESTMENT GRANTS AND THE EXPEDITED PROJECT DELIVERY FOR CAPITAL INVESTMENT GRANTS PILOT PROGRAM.

If the applicant will apply for an award under any subsection of the Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), including an award made pursuant to the FAST Act's Expedited Project Delivery for Capital Investment Grants Pilot Program (Pub. L. 114-94, div. A, title III, § 3005(b)), the applicant must make the following certification. This certification is required by 49 U.S.C. § 5309(c)(2) and Pub. L. 114-94, div. A, title III, § 3005(b)(3)(B).

The applicant certifies that it:

- (a) Has or will have the legal, financial, and technical capacity to carry out its Award, including the safety and security aspects of that Award,
- (b) Has or will have satisfactory continuing control over the use of equipment and facilities acquired or improved under its Award.
- (c) Will maintain equipment and facilities acquired or improved under its Award in accordance with its transit asset management plan; and
- (d) Will comply with 49 U.S.C. §§ 5303 (metropolitan transportation planning) and 5304 (statewide and nonmetropolitan transportation planning).

CATEGORY 10. GRANTS FOR BUSES AND BUS FACILITIES AND LOW OR NO EMISSION VEHICLE DEPLOYMENT GRANT PROGRAMS.

If the applicant is in an urbanized area and will apply for an award under subsection (a) (formula grants) or subsection (b) (competitive grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 7 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5339(a)(3) and (b)(6), respectively.

If the applicant is in a rural area and will apply for an award under subsection (a) (formula grants) or subsection (b) (competitive grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 8 for Formula Grants for Rural Areas (49 U.S.C. § 5311). This certification is required by 49 U.S.C. § 5339(a)(3) and (b)(6), respectively.

If the applicant, regardless of whether it is in an urbanized or rural area, will apply for an award under subsection (c) (low or no emission vehicle grants) of the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the certification in Category 7 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5339(c)(3).

Making this certification will incorporate by reference the applicable certifications in Category 7 or Category 8.

CATEGORY 11. ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAMS.

If the applicant will apply for an award under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program (49 U.S.C. § 5310), it must make the certification in Category 7 for Urbanized Area Formula Grants (49 U.S.C. § 5307). This certification is required by 49 U.S.C. § 5310(e)(1). Making this certification will incorporate by reference the certification in Category 7, except that FTA has determined that (d), (f), (i), (j), and (k) of Category 7 do not apply to awards made under 49 U.S.C. § 5310 and will not be enforced.

In addition to the certification in Category 7, the applicant must make the following certification that is specific to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program. This certification is required by 49 U.S.C. § 5310(e)(2).

The applicant certifies that:

- (a) The projects selected by the applicant are included in a locally developed, coordinated public transit-human services transportation plan;
- (b) The plan described in clause (a) was developed and approved through a process that included participation by seniors, individuals with disabilities, representatives of public, private, and nonprofit transportation and human services providers, and other members of the public;
- (c) To the maximum extent feasible, the services funded under 49 U.S.C. § 5310 will be coordinated with transportation services assisted by other Federal departments and agencies, including any transportation activities carried out by a recipient of a grant from the Department of Health and Human Services; and
- (d) If the applicant will allocate funds received under 49 U.S.C. § 5310 to subrecipients, it will do so on a fair and equitable basis.

CATEGORY 12. STATE OF GOOD REPAIR GRANTS.

If the applicant will apply for an award under FTA's State of Good Repair Grants Program (49 U.S.C. § 5337), it must make the following certification. Because FTA generally does not review the transit asset management plans of public transportation providers, this certification is necessary to enforce the provisions of 49 U.S.C. § 5337(a)(4).

The applicant certifies that the projects it will carry out using assistance authorized by the State of Good Repair Grants Program, 49 U.S.C. § 5337, are aligned with the applicant's most recent transit asset management plan and are identified in the investment and prioritization section of such plan, consistent with the requirements of 49 C.F.R. Part 625.

CATEGORY 13. INFRASTRUCTURE FINANCE PROGRAMS.

If the applicant will apply for an award for a project that will include assistance under the Transportation Infrastructure Finance and Innovation Act ("TIFIA") Program (23 U.S.C. §§ 601–609) or the State Infrastructure Banks ("SIB") Program (23 U.S.C. § 610), it must make the certifications in Category 7 for the Urbanized Area Formula Grants Program, Category 9 for the Fixed Guideway Capital Investment Grants program, and Category 12 for the State of Good Repair Grants program. These certifications are required by 49 U.S.C. § 5323(o).

Making this certification will incorporate the certifications in Categories 7, 9, and 12 by reference.

CATEGORY 14. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

If the applicant will apply for an award under FTA's Urbanized Area Formula Grants Program (49 U.S.C. § 5307), Fixed Guideway Capital Investment Program (49 U.S.C. § 5309), Formula Grants for Rural Areas Program (49 U.S.C. § 5311), or Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339) programs, the applicant must make the following certification. The applicant must make this certification on its own behalf and on behalf of its subrecipients and contractors. This certification is required by 49 C.F.R. § 655.83.

The applicant certifies that it, its subrecipients, and its contractors are compliant with FTA's regulation for the Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations, 49 C.F.R. Part 655.

CATEGORY 15. RAIL SAFETY TRAINING AND OVERSIGHT.

If the applicant is a State with at least one rail fixed guideway system, or is a State Safety Oversight Agency, or operates a rail fixed guideway system, it must make the following certification. The elements of this certification are required by 49 C.F.R. §§ 659.43, 672.31, and 674.39.

The applicant certifies that the rail fixed guideway public transportation system and the State Safety Oversight Agency for the State are:

- (a) Compliant with the requirements of 49 C.F.R. part 659, "Rail Fixed Guideway Systems; State Safety Oversight";
- (b) Compliant with the requirements of 49 C.F.R. part 672, "Public Transportation Safety Certification Training Program"; and
- (c) Compliant with the requirements of 49 C.F.R. part 674, "State Safety Oversight".

CATEGORY 16. DEMAND RESPONSIVE SERVICE.

If the applicant operates demand responsive service and will apply for an award to purchase a non-rail vehicle that is not accessible within the meaning of 49 C.F.R. Part 37, it must make the following certification. This certification is required by 49 C.F.R. § 37.77.

The applicant certifies that the service it provides to individuals with disabilities is equivalent to that provided to other persons. A demand responsive system, when viewed in its entirety, is deemed to provide equivalent service if the service available to individuals with disabilities, including individuals who use wheelchairs, is provided in the most integrated setting appropriate to the needs of the individual and is equivalent to the service provided other individuals with respect to the following service characteristics:

- (a) Response time;

- (b) Fares;
- (c) Geographic area of service;
- (d) Hours and days of service;
- (e) Restrictions or priorities based on trip purpose;
- (f) Availability of information and reservation capability; and
- (g) Any constraints on capacity or service availability.

CATEGORY 17. INTEREST AND FINANCING COSTS.

If the applicant will pay for interest or other financing costs of a project using assistance awarded under the Urbanized Area Formula Grants Program (49 U.S.C. § 5307), the Fixed Guideway Capital Investment Grants Program (49 U.S.C. § 5309), or any program that must comply with the requirements of 49 U.S.C. § 5307, including the Formula Grants for the Enhanced Mobility of Seniors Program (49 U.S.C. § 5310), “flex funds” from infrastructure programs administered by the Federal Highways Administration (see 49 U.S.C. § 5334(i)), or awards to urbanized areas under the Grants for Buses and Bus Facilities Program (49 U.S.C. § 5339), the applicant must make the following certification. This certification is required by 49 U.S.C. §§ 5307(e)(3) and 5309(k)(2)(D).

The applicant certifies that:

- (a) Its application includes the cost of interest earned and payable on bonds issued by the applicant only to the extent proceeds of the bonds were or will be expended in carrying out the project identified in its application; and
- (b) The applicant has shown or will show reasonable diligence in seeking the most favorable financing terms available to the project at the time of borrowing.

CATEGORY 18. CONSTRUCTION HIRING PREFERENCES.

If the applicant will ask FTA to approve the use of geographic, economic, or any other hiring preference not otherwise authorized by law on any contract or construction project to be assisted with an award from FTA, it must make the following certification. This certification is required by the Consolidated Appropriations Act, 2019, Pub. L. 116-6, div. G, title I, § 191.

The applicant certifies the following:

- (a) That except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the work that the contract requires resides in the jurisdiction;
- (b) That the applicant will include appropriate provisions in its bid document ensuring that the contractor does not displace any of its existing employees in order to satisfy such hiring preference; and

- (c) That any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Statewide Transportation Improvement Program or Transportation Improvement Program.

FTA FISCAL YEAR 2019 CERTIFICATIONS AND ASSURANCES

FEDERAL FISCAL YEAR 2019 CERTIFICATIONS AND ASSURANCES FOR FTA ASSISTANCE PROGRAMS

(Signature pages alternate to providing Certifications and Assurances in TrAMS.)

Name of Applicant: _____

The Applicant certifies to the applicable provisions of categories 01–18. _____

Or,

The Applicant certifies to the applicable provisions of the categories it has selected:

Category	Certification
01 Certifications and Assurances Required of Every Applicant	_____
02 Tax Liability and Felony Convictions	_____
03 Lobbying	_____
04 Private Sector Protections	_____
05 Transit Asset Management Plan	_____
06 Rolling Stock Buy America Reviews and Bus Testing	_____
07 Urbanized Area Formula Grants Program	_____
08 Formula Grants for Rural Areas	_____
09 Fixed Guideway Capital Investment Grants and the Expedited Project Delivery for Capital Investment Grants Pilot Program	_____
10 Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs	_____
11 Enhanced Mobility of Seniors and Individuals with Disabilities Programs	_____
12 State of Good Repair Grants	_____
13 Infrastructure Finance Programs	_____
14 Alcohol and Controlled Substances Testing	_____
15 Rail Safety Training and Oversight	_____
16 Demand Responsive Service	_____
17 Interest and Financing Costs	_____
18 Construction Hiring Preferences	_____

FEDERAL FISCAL YEAR 2019 FTA CERTIFICATIONS AND ASSURANCES SIGNATURE

PAGE

(Required of all Applicants for federal assistance to be awarded by FTA in FY 2019)

AFFIRMATION OF APPLICANT

Name of the Applicant: _____

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in federal fiscal year 2019, irrespective of whether the individual that acted on his or her Applicant's behalf continues to represent it.

FTA intends that the Certifications and Assurances the Applicant selects on the other side of this document should apply to each Award for which it now seeks, or may later seek federal assistance to be awarded during federal fiscal year 2019.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

Signature _____ Date: _____

Name _____ Authorized Representative of Applicant

AFFIRMATION OF APPLICANT'S ATTORNEY

For (Name of Applicant): _____

As the undersigned Attorney for the above-named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA assisted Award.

Signature _____ Date: _____

Name _____ Attorney for Applicant

Each Applicant for federal assistance to be awarded by FTA must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its electronic signature in lieu of the Attorney's signature within TrAMS, provided the Applicant has on file and uploaded to TrAMS this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.

Attachment 4-3. CDOT Standard Subaward Agreement

STATE OF COLORADO SUBAWARD AGREEMENT

COVER PAGE

State Agency Department of Transportation	Agreement Number/PO Number XX-HTR-ZL-XXXXXX/491XXXXXX
Subrecipient XXXXXXXXXXXX	Agreement Performance Beginning Date The Effective Date
Subaward Agreement Amount	Initial Agreement Expiration Date December 31, 2021
Federal Funds Maximum Amount (80%) \$XX,XXX.XX	Fund Expenditure End Date December 31, 2021
Local Funds Local Match Amount (20%) \$XX,XXX.XX	Agreement Authority Authority to enter into this Agreement exists in CRS §§43-1-106, 43-1-110, 43-1-117.5, 43-1-701, 43-1-702 and 43-2-101(4)(c), appropriated and otherwise made available pursuant to the FAST ACT, MAP-21, SAFETEA_LU, 23 USC §104 and 23 USC §149.
Agreement Total \$XX,XXX.XX	
Agreement Purpose XXXXXXXXXXXX	
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Agreement: <ol style="list-style-type: none"> 1. Exhibit A – Statement of Work and Budget. 2. Exhibit B – Sample Option Letter. 3. Exhibit C – Federal Provisions. 4. Exhibit D – Required Federal Contract/Agreement Clauses. 5. Exhibit E – Verification of Payment. <p>In the event of a conflict or inconsistency between this Agreement and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:</p> <ol style="list-style-type: none"> 1. Exhibit C – Federal Provisions. 2. Exhibit D – Required Federal Contract/Agreement Clauses. 3. Colorado Special Provisions in §18 of the main body of this Agreement. 4. The provisions of the other sections of the main body of this Agreement. 5. Exhibit A – Statement of Work and Budget. 6. Exhibit B – Sample Option Letter 	
Principal Representatives	
For the State: To Be Determined Division of Transit and Rail Colorado Dept. of Transportation 2829 W. Howard Place Denver, CO 80204 TBD	For Subrecipient: XXXXXXXX XXXXXXXX XXXXXXXX XXXXXX, XX XXXXXX-XXXX XXXXXXXX@XXXXXXXX.org

SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that the signer is duly authorized to execute this Agreement and to bind the Party authorizing such signature.

<p style="text-align: center;">SUBRECIPIENT XXXXXXX</p> <hr/> <p>By: Print Name of Authorized Individual _____</p> <p>Date: _____</p>	<p style="text-align: center;">STATE OF COLORADO Jared S. Polis, Governor Colorado Department of Transportation Shoshana M. Lew, Executive Director</p> <hr/> <p>By: _____</p> <p>Date: _____</p>
<p>2nd State or Subrecipient Signature if needed</p> <hr/> <p>By: Print Name of Authorized Individual _____</p> <p>Date: _____</p>	<p style="text-align: center;">LEGAL REVIEW Philip J. Weiser, Attorney General</p> <hr/> <p>By: Assistant Attorney General _____</p> <p>Date: _____</p>
<p>In accordance with §24-30-202, C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p style="text-align: center;">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p style="text-align: center;">_____ By: Colorado Department of Transportation</p> <p style="text-align: center;">Effective Date: _____</p>	

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1. PARTIES

This Agreement is entered into by and between Subrecipient named on the Cover Page for this Agreement (the “Subrecipient”), and the STATE OF COLORADO acting by and through the State agency named on the Cover Page for this Agreement (the “State”). Subrecipient and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and the Grant Funds shall be expended by the Fund Expenditure End Date shown on the Cover Page for this Agreement. The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Subrecipient for any Work performed or expense incurred before the Effective Date, except as described in §5.D, or after the Fund Expenditure End Date.

B. Initial Term

The Parties’ respective performances under this Agreement shall commence on the Agreement Performance Beginning Date shown on the Cover Page for this Agreement and shall terminate on the Initial Agreement Expiration Date shown on the Cover Page for this Agreement (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this Agreement.

C. Extension Terms - State’s Option

The State, at its discretion, shall have the option to extend the performance under this Agreement beyond the Initial Term for a period, or for successive periods, of 1 year or less at the same rates and under the same terms specified in this Agreement (each such period an “Extension Term”). In order to exercise this option, the State shall provide written notice to Subrecipient in a form substantially equivalent to the Sample Option Letter attached to this Agreement.

D. End of Term Extension

If this Agreement approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Subrecipient as provided in §14, may unilaterally extend such Initial Term or Extension Term for a period not to exceed 2 months (an “End of Term Extension”), regardless of whether additional Extension Terms are available or not. The provisions of this Agreement in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement Agreement or modification extending the total term of this Agreement.

E. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, the State, in its discretion, may terminate this Agreement in whole or in part. A determination that this Agreement should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Agreement by the State for breach by Subrecipient, which shall be governed by §12.A.i.

i. Method and Content

The State shall notify Subrecipient of such termination in accordance with §14. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement, and shall include, to the extent practicable, the public interest justification for the termination.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Subrecipient shall be subject to the rights and obligations set forth in §12.A.i.a.

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Subrecipient an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Agreement is less than 60% completed, as determined by the State, the State may reimburse Subrecipient for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Subrecipient which are directly attributable to the uncompleted portion of Subrecipient's obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Subrecipient hereunder.

F. Subrecipient's Termination Under Federal Requirements

Subrecipient may request termination of this Agreement by sending notice to the State, or to the Federal Awarding Agency with a copy to the State, which includes the reasons for the termination and the effective date of the termination. If this Agreement is terminated in this manner, then Subrecipient shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **"Agreement"** means this subaward agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. **"Award"** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- C. **"Breach of Agreement"** means the failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Subrecipient, or the appointment of a receiver or similar officer for Subrecipient or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach. If Subrecipient is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Agreement, then such debarment or suspension shall constitute a breach.
- D. **"Budget"** means the budget for the Work described in Exhibit A.
- E. **"Business Day"** means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1), C.R.S.
- F. **"CORA"** means the Colorado Open Records Act, §§24-72-200.1, *et. seq.*, C.R.S.
- G. **"Effective Date"** means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature for this Agreement.
- H. **"End of Term Extension"** means the time period defined in §2.D.

- I. **“Exhibits”** means the exhibits and attachments included with this Contract as shown on the Cover Page for this Contract.
- J. **“Extension Term”** means the time period defined in §2.C.
- K. **“Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract, under the Federal Acquisition Regulations or by a formula or block grant, by a Federal Awarding Agency to the Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a Subrecipient or payments to an individual that is a beneficiary of a Federal program.
- L. **“Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. Federal Transit Administration (FTA) is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.
- M. **“FTA”** means Federal Transit Administration.
- N. **“Goods”** means any movable material acquired, produced, or delivered by Subrecipient as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Subrecipient in connection with the Services.
- O. **“Grant Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- P. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401 et. seq. C.R.S. Incidents include, without limitation (i) successful attempts to gain unauthorized access to a State system or State Information regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.
- Q. **“Initial Term”** means the time period defined in §2.B.
- R. **“Master Agreement”** means the FTA Master Agreement document incorporated by reference and made part of FTA’s standard terms and conditions governing the administration of a project supported with federal assistance awarded by FTA.
- S. **“Matching Funds”** (Local Funds, or Local Match) means the funds provided Subrecipient as a match required to receive the Grant Funds and includes in-kind contribution.
- T. **“Party”** means the State or Subrecipient, and “Parties” means both the State and Subrecipient.
- U. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501, C.R.S.
- V. **“Recipient”** means the State agency shown on the Signature and Cover Page of this Agreement, for the purposes of this Federal Award.
- W. **“Services”** means the services to be performed by Subrecipient as set forth in this Agreement and shall include any services to be rendered by Subrecipient in connection with the Goods.
- X. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include but is not limited to PII and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Subrecipient which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Subrecipient without restrictions at the time of its disclosure to Subrecipient; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Subrecipient to the State; (iv) is disclosed to Subrecipient, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- Y. **“State Fiscal Rules”** means that fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.

- Z. **“State Fiscal Year”** means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- AA. **“State Records”** means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- BB. **“Subcontractor”** means third-parties, if any, engaged by Subrecipient to aid in performance of the Work. “Subcontractor” also includes sub-recipients of grant funds.
- CC. **“Subrecipient”** means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a Federal program but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency. For the purposes of this Agreement, Contractor is a Subrecipient.
- DD. **“Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, commonly known as the “Super Circular, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.
- EE. **“Work”** means the Goods delivered and Services performed pursuant to this Agreement.
- FF. **“Work Product”** means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, information, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Grant Award Letter that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

4. STATEMENT OF WORK AND BUDGET

Subrecipient shall complete the Work as described in this Agreement and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate Subrecipient for the delivery of any goods or the performance of any services that are not specifically set forth in this Agreement.

5. PAYMENTS TO SUBRECIPIENT

A. Maximum Amount

Payments to Subrecipient are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Subrecipient any amount under this Agreement that exceeds the Agreement Maximum shown on Cover Page of this Agreement.

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Subrecipient in the amounts and in accordance with the schedule and other conditions set forth in Exhibit A.
- b. Subrecipient shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State’s receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Subrecipient and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Subrecipient shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under this Agreement.

ii. Interest

Amounts not paid by the State within 45 days of the State’s acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Subrecipient shall invoice the State separately for accrued interest on

delinquent amounts, and the invoice shall reference the delinquent payment, the number of day's interest to be paid and the interest rate.

iii. Payment Disputes

If Subrecipient disputes any calculation, determination or amount of any payment, Subrecipient shall notify the State in writing of its dispute within 30 days following the earlier to occur of Subrecipient's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Subrecipient and may make changes to its determination based on this review. The calculation, determination or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Subrecipient beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Grant Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Grant Funds, the State's obligation to pay Subrecipient shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Grant Funds, and the State's liability for such payments shall be limited to the amount remaining of such Grant Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in §2.E.

v. Federal Recovery

The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. Matching Funds

Subrecipient shall provide Matching Funds as provided in §5.A. and Exhibit A. Subrecipient shall have raised the full amount of Matching Funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Subrecipient's obligation to pay all or any part of any matching funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Subrecipient and paid into Subrecipient's treasury or bank account. Subrecipient represents to the State that the amount designated "Subrecipient's Matching Funds" in Exhibit A has been legally appropriated for the purposes of this Agreement by its authorized representatives and paid into its treasury or bank account. Subrecipient does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of Subrecipient. Subrecipient shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Subrecipient's laws or policies

D. Reimbursement of Subrecipient Costs

- i. The State shall reimburse Subrecipient for the federal share of properly documented allowable costs related to the Work after review and approval thereof, subject to the provisions of §5, this Agreement, and Exhibit A. However, any costs incurred by Subrecipient prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. The State shall pay Subrecipient for costs or expenses incurred or performance by the Subrecipient prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules, and regulations applicable to the Work provide for such retroactive payments to the Subrecipient. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Agreement.
- ii. The State shall reimburse Subrecipient's allowable costs, not exceeding the maximum total amount described in Exhibit A and §5 for all allowable costs described in this Subaward and shown in Exhibit A, except that Subrecipient may adjust the amounts between each line item of Exhibit A without formal modification to this Agreement as long as the Subrecipient provides notice to the State of the change,

the change does not modify the total maximum amount of this Agreement or the maximum amount for any state or federal fiscal year, and the change does not modify any requirements of the Work.

- iii. The State shall only reimburse allowable costs described in this Contract and shown in the Budget if those costs are:
 - a. Reasonable and necessary to accomplish the Work and for the Goods and Services provided; and
 - b. Equal to the actual net cost to Subrecipient (i.e. the price paid minus any items of value received by Subrecipient that reduce the cost actually incurred).
- iv. Subrecipient's costs for Work performed after the Fund Expenditure End Date shown on the Cover Page for this Agreement, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable. Subrecipient shall initiate any payment request by submitting invoices to the State in the form and manner set forth and approved by the State.

E. Close-Out

Subrecipient shall close out this Award within 45 days after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement. To complete close-out, Subrecipient shall submit to the State all deliverables (including documentation) as defined in this Agreement and Subrecipient's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. If the Federal Awarding Agency has not closed this Federal Award within 1 year and 90 days after the Fund Expenditure End Date shown on the Signature and Cover Page for this Agreement due to Subrecipient's failure to submit required documentation, then Subrecipient may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

6. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to §16 or pursuant to any other Exhibit, for any Agreement having a term longer than 3 months, Subrecipient shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State.

B. Litigation Reporting

If Subrecipient is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Subrecipient's ability to perform its obligations under this Agreement, Subrecipient shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in §14.

C. Performance and Final Status

Subrecipient shall submit all financial, performance and other reports to the State no later than 45 calendar days after the end of the Initial Term if no Extension Terms are exercised, or the final Extension Term exercised by the State, containing an evaluation and review of Subrecipient's performance and the final status of Subrecipient's obligations hereunder.

D. Violations Reporting

Subrecipient shall disclose, in a timely manner, in writing to the State and the Federal Awarding Agency, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. The State or the Federal Awarding Agency may impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

7. SUBRECIPIENT RECORDS

A. Maintenance

Subrecipient shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Subrecipient shall maintain such records for a period (the "Record Retention Period") of three years following the date of submission to the State of the final

expenditure report, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Subrecipient in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property.

B. Inspection

Subrecipient shall permit the State to audit, inspect, examine, excerpt, copy and transcribe Subrecipient Records during the Record Retention Period. Subrecipient shall make Subrecipient Records available during normal business hours at Subrecipient's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than 2 Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State will monitor Subrecipient's performance of its obligations under this Agreement using procedures as determined by the State. The federal government and any other duly authorized agent of a governmental agency, in its discretion, may monitor Subrecipient's performance of its obligations under this Agreement using procedures as determined by that governmental entity. Subrecipient shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Subrecipient and this Agreement. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Subrecipient's performance in a manner that does not unduly interfere with Subrecipient's performance of the Work.

D. Final Audit Report

Subrecipient shall promptly submit to the State a copy of any final audit report of an audit performed on Subrecipient's records that relates to or affects this Agreement or the Work, whether the audit is conducted by Subrecipient or a third party. Additionally, if Subrecipient is required to perform a single audit under 2 CFR 200.501, *et. seq.*, then Subrecipient shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

8. CONFIDENTIAL INFORMATION - STATE RECORDS

A. Confidentiality

Subrecipient shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Subrecipient shall not, without prior written approval of the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Agreement, permitted by law or approved in Writing by the State. Subrecipient shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. If Subrecipient or any of its Subcontractors will or may receive the following types of data, Subrecipient or its Subcontractors shall provide for the security of such data. Subrecipient shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Subrecipient may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement. Subrecipient shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Subrecipient shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions.

C. Use, Security, and Retention

Subrecipient shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure

environment that ensures confidentiality of all State Confidential Information wherever located. Subrecipient shall provide the State with access, subject to Subrecipient's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Subrecipient shall return State Records provided to Subrecipient or destroy such State Records and certify to the State that it has done so, as directed by the State. If Subrecipient is prevented by law or regulation from returning or destroying State Confidential Information, Subrecipient warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Subrecipient becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Subrecipient can establish that none of Subrecipient or any of its agents, employees, assigns or Subcontractors are the cause or source of the Incident, Subrecipient shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Subrecipient shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the State at no additional cost to the State. The State may adjust or direct modifications to this plan, in its sole discretion and Subrecipient shall make all modifications as directed by the State. If Subrecipient cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Subrecipient shall reimburse the State for the reasonable costs thereof.

E. Safeguarding PII

If Subrecipient or any of its Subcontractors will or may receive PII under this Agreement, Subrecipient shall provide for the security of such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Subrecipient shall be a "Third-Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 *et seq.*, C.R.S.

9. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Subrecipient shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of Subrecipient under this Agreement. Such a conflict of interest would arise when a Subrecipient or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement.

B. Apparent Conflicts of Interest

Subrecipient acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Subrecipient shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Subrecipient's obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Subrecipient is uncertain whether a conflict or the appearance of a conflict has arisen, Subrecipient shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

10. INSURANCE

Subrecipient shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies as approved by the State.

A. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Subrecipient or Subcontractor employees acting within the course and scope of their employment.

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent subrecipients, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any 1 fire.

C. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

D. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Subrecipient and Subcontractors.

E. Primacy of Coverage

Coverage required of Subrecipient and each Subcontractor shall be primary over any insurance or self-insurance program carried by Subrecipient or the State.

F. Cancellation

All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Subrecipient and Subrecipient shall forward such notice to the State in accordance with §14 within 7 days of Subrecipient's receipt of such notice.

G. Subrogation Waiver

All commercial insurance policies secured or maintained by Subrecipient or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Subrecipient or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

H. Public Entities

If Subrecipient is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"), Subrecipient shall maintain, in lieu of the liability insurance requirements stated above, at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA. If a Subcontractor is a public entity within the meaning of the GIA, Subrecipient shall ensure that the Subcontractor maintain at all times during the terms of this Subrecipient, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

I. Certificates

For each commercial insurance plan provided by Subrecipient under this Agreement, Subrecipient shall provide to the State certificates evidencing Subrecipient's insurance coverage required in this Agreement within 7 Business Days following the Effective Date. Subrecipient shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within 7 Business Days following the Effective Date, except that, if Subrecipient's subcontract is not in effect as of the Effective Date, Subrecipient shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within 7 Business Days following Subrecipient's execution of the subcontract. No later than 15 days before the expiration date of Subrecipient's or any Subcontractor's coverage, Subrecipient shall

deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Subrecipient shall, within 7 Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this section.

11. BREACH OF AGREEMENT

In the event of a Breach of Agreement, the aggrieved Party shall give written notice of Breach of Agreement to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §12 for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in this Agreement in order to protect the public interest of the State; or if Subrecipient is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Agreement in whole or in part or institute any other remedy in this Agreement as of the date that the debarment or suspension takes effect.

12. REMEDIES

A. State's Remedies

If Subrecipient is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in §11, shall have all of the remedies listed in this section in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of Subrecipient's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Additionally, if Subrecipient fails to comply with any terms of the Federal Award, then the State may, in its discretion or at the direction of a Federal Awarding Agency, terminate this entire Agreement or any part of this Agreement. Subrecipient shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Subrecipient shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Subrecipient shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Subrecipient shall assign to the State all of Subrecipient's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Subrecipient shall take timely, reasonable and necessary action to protect and preserve property in the possession of Subrecipient but in which the State has an interest. At the State's request, Subrecipient shall return materials owned by the State in Subrecipient's possession at the time of any termination. Subrecipient shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Subrecipient for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Subrecipient was not in breach or that Subrecipient's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under §2.E.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Subrecipient shall remain liable to the State for any damages sustained by the State in connection with any breach by Subrecipient, and the State may withhold payment to Subrecipient for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Subrecipient is determined. The State may withhold any amount that may be due Subrecipient as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Subrecipient's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Subrecipient to an adjustment in price or cost or an adjustment in the performance schedule. Subrecipient shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Subrecipient after the suspension of performance.

b. Withhold Payment

Withhold payment to Subrecipient until Subrecipient corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Subrecipient's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal of any of Subrecipient's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Subrecipient shall, as approved by the State (i) secure that right to use such Work for the State and Subrecipient; (ii) replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, (iii) remove any infringing Work and refund the amount paid for such Work to the State.

B. Subrecipient's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Subrecipient, following the notice and cure period in §11 and the dispute resolution process in §13 shall have all remedies available at law and equity.

13. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Subrecipient for resolution.

B. Resolution of Controversies

If the initial resolution described in §13.A fails to resolve the dispute within 10 Business Days, Subrecipient shall submit any alleged breach of this Agreement by the State to the Procurement Official of the State Agency named on the Cover Page of this Agreement as described in §24-101-301(30), C.R.S. for resolution following the same resolution of controversies process as described in §§24-106-109, and 24-109-101.1 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Subrecipient wishes to challenge any decision rendered by the Procurement Official, Subrecipient's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, in the same manner as described in the Resolution Statutes before Subrecipient pursues any further action. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations regardless of whether the Colorado Procurement Code applies to this Agreement.

14. NOTICES and REPRESENTATIVES

Each individual identified as a Principal Representative on the Cover Page for this Agreement shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing, and shall be delivered **(A)** by hand with receipt required, **(B)** by certified or registered mail to such Party's principal representative at the address set forth below or **(C)** as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this Agreement. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Agreement. Either Party may change its principal representative or principal representative contact information, or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative, by notice submitted in accordance with this section without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

15. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Subrecipient agrees to provide to the State a royalty-free, non-exclusive and irrevocable license to reproduce publish or otherwise use and to authorize others to use the Work Product described herein, for the Federal Government and State purposes. All Work Product shall be delivered to the State by Subrecipient upon completion or termination hereof.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives or other documents, drawings, models, materials, data and information shall be the exclusive property of the State (collectively, "State Materials"). Subrecipient shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Subrecipient's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Subrecipient shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Subrecipient

Subrecipient retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Subrecipient including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Subrecipient under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Subrecipient Property"). Subrecipient Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

16. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Subrecipient under this Agreement is \$100,000 or greater, either on the Effective Date or at any time thereafter, this section shall apply. Subrecipient agrees to be governed by and comply with the provisions of §§24-106-103, 24-102-206, 24-106-106, and 24-106-107, C.R.S. regarding the monitoring of vendor performance and the reporting of Agreement performance information in the State's Agreement management system ("Contract Management System" or "CMS"). Subrecipient's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

17. GENERAL PROVISIONS

A. Assignment

Subrecipient's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Subrecipient's rights and obligations approved by the State shall be subject to the provisions of this Agreement.

B. Subcontracts

Subrecipient shall not enter into any subaward or subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Subrecipient shall submit to the State a copy of each such subaward or subcontract upon request by the State. All subawards and subcontracts entered into by Subrecipient in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement. If the entity with whom Subrecipient enters into a subcontract or subaward would also be considered a Subrecipient, then the subcontract or subaward entered into by Subrecipient shall also contain provisions permitting both Subrecipient and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

C. Binding Effect

Except as otherwise provided in §17.A., all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

H. Digital Signatures

If any signatory signs this Agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

I. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than Agreement amendments, shall conform to the policies issued by the Colorado State Controller.

J. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

K. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Subrecipient's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

L. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of this Agreement.

M. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of this Agreement shall survive the termination or expiration of this Agreement and shall be enforceable by the other Party.

N. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), *et seq.*, C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Subrecipient. Subrecipient shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Subrecipient may wish to have in place in connection with this Agreement.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in §17.A., this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to this Agreement, and do not create any rights for such third parties.

P. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107, C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

Subrecipient shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in Subrecipient's industry, trade, or profession.

S. Licenses, Permits, and Other Authorizations

Subrecipient shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or Subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

T. Indemnification

i. General Indemnification

Subrecipient shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Subrecipient, or its employees, agents, Subcontractors, or assignees in connection with this Agreement.

ii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Subrecipient in violation of §8 may be cause for legal action by third parties against Subrecipient, the State, or their respective agents. Subrecipient shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys' fees and costs) incurred by the State in relation

to any act or omission by Subrecipient, or its employees, agents, assigns, or Subcontractors in violation of §8.

iii. Intellectual Property Indemnification

Subrecipient shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys' fees and costs) incurred by the Indemnified Parties in relation to any claim that any Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

U. Federal Provisions

Subrecipient shall comply with all applicable requirements of Exhibit D at all times during the term of this Agreement.

18. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts except where noted in italics.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR.

Subrecipient shall perform its duties hereunder as an independent contractor and not as an employee. Neither Subrecipient nor any agent or employee of Subrecipient shall be deemed to be an agent or employee of the State. Subrecipient shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Subrecipient and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Subrecipient or any of its agents or employees. Subrecipient shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Subrecipient shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. COMPLIANCE WITH LAW.

Subrecipient shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Subrecipient harmless; requires the State to agree to binding arbitration; limits Subrecipient's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Subrecipient's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Subrecipient hereby certifies and warrants that, during the term of this Contract and any extensions, Subrecipient has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Subrecipient is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Subrecipient has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Subrecipient's services and Subrecipient shall not employ any person having such known interests.

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: **(i)** unpaid child support debts or child support arrearages; **(ii)** unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; **(iii)** unpaid loans due to the Student Loan Division of the Department of Higher Education; **(iv)** amounts required to be paid to the Unemployment Compensation Fund; and **(v)** other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Subrecipient in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Subrecipient by deduction from subsequent payments under this Contract, deduction from any payment due under any other contracts, grants or agreements between the State and Subrecipient, or by any other appropriate method for collecting debts owed to the State.

K. PUBLIC CONTRACTS FOR SERVICES. §8-17.5-101, *et seq.*, C.R.S.

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Subrecipient certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Subrecipient shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a Subcontractor that fails to certify to Subrecipient that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Subrecipient **(i)** shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment ("Department Program") to undertake pre-employment screening of job applicants while this Contract is being performed, **(ii)** shall notify the Subcontractor and the contracting State agency or institution of higher education within 3 days if Subrecipient has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Contract, **(iii)** shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and **(iv)** shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Subrecipient participates in the Department program, Subrecipient shall deliver to the contracting State agency, Institution of Higher Education or political

subdivision, a written, notarized affirmation, affirming that Subrecipient has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Subrecipient fails to comply with any requirement of this provision or §§8-17.5-101, *et seq.*, C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Contract for breach and, if so terminated, Subrecipient shall be liable for damages.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §24-76.5-101, *et seq.*, C.R.S.

Subrecipient, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Subrecipient **(i)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(ii)** shall comply with the provisions of §§24-76.5-101, *et seq.*, C.R.S., and **(iii)** has produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Contract.

EXHIBIT A, STATEMENT OF WORK AND BUDGET

EXHIBIT B, SAMPLE OPTION LETTER

State Agency Department of Transportation	Option Letter Number Insert the Option Number (e.g. "1" for the first option)
Subrecipient Insert Grantee's Full Legal Name, including "Inc.", "LLC", etc...	Original Agreement Number Insert CMS number or Other Contract Number of the Original Contract
Subaward Agreement Amount	Option Agreement Number Insert CMS number or Other Contract Number of this Option
Federal Funds Maximum Amount (%) \$0.00	Agreement Performance Beginning Date The later of the Effective Date or Month, Day, Year
Local Funds Local Match Amount (%) \$0.00	
Agreement Total \$0.00	Current Agreement Expiration Date Month, Day, Year

1. **OPTIONS:**

A. Option to extend for an Extension Term.

2. **REQUIRED PROVISIONS:**

A. **For use with Option 1(A):** In accordance with Section(s) 2.B of the Original Agreement referenced above, the State hereby exercises its option for an additional term, beginning Insert start date and ending on the current Agreement expiration date shown above, at the rates stated in the Original Agreement, as amended.

B. **For use with Options 1(A):** The Agreement Maximum Amount table on the Agreement's Signature and Cover Page is hereby deleted and replaced with the Current Agreement Maximum Amount table shown above.

3. **OPTION EFFECTIVE DATE:**

A. The effective date of this Option Letter is upon approval of the State Controller or, whichever is later.

<p>STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director</p>	<p>In accordance with §24-30-202, C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate.</p> <p align="center">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p>
<p>By: _____ Name & Title of Person Signing for Agency or IHE</p>	<p>By: _____ Name of Agency or IHE Delegate-Please delete if contract will be routed to OSC for approval</p>
<p>Date: _____</p>	<p>Option Effective Date: _____</p>

EXHIBIT C, FEDERAL PROVISIONS

1. APPLICABILITY OF PROVISIONS.

- 1.1. The Contract to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Contract, or any attachments or exhibits incorporated into and made a part of the Contract, the provisions of these Federal Provisions shall control.

2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
- 2.1.1. “Award” means an award of Federal financial assistance, and the Contract setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
- 2.1.1.1. Awards may be in the form of:
- 2.1.1.1.1. Grants;
- 2.1.1.1.2. Contracts;
- 2.1.1.1.3. Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- 2.1.1.1.4. Loans;
- 2.1.1.1.5. Loan Guarantees;
- 2.1.1.1.6. Subsidies;
- 2.1.1.1.7. Insurance;
- 2.1.1.1.8. Food commodities;
- 2.1.1.1.9. Direct appropriations;
- 2.1.1.1.10. Assessed and voluntary contributions; and
- 2.1.2.1.11. Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.
- 2.1.1.1.12. Any other items specified by OMB in policy memoranda available at the OMB website or other source posted by the OMB.
- 2.1.1.2. Award *does not* include:
- 2.1.1.2.1. Technical assistance, which provides services in lieu of money;
- 2.1.1.2.2. A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
- 2.1.1.2.3. Any award classified for security purposes; or
- 2.1.1.2.4. Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).
- 2.1.2. “Contract” means the Contract or Subaward Agreement to which these Federal Provisions are attached and includes all Award types in §2.1.1.1 of this Exhibit.
- 2.1.3. “Contractor” means the party or parties to a Contract or Subaward Agreement funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes Subrecipients and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.
- 2.1.4. “Data Universal Numbering System (DUNS) Number” means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.
- 2.1.5. “Entity” means all of the following as defined at 2 CFR part 25, subpart C;

- 2.1.5.1. A governmental organization, which is a State, local government, or Indian Tribe;
- 2.1.5.2. A foreign public entity;
- 2.1.5.3. A domestic or foreign non-profit organization;
- 2.1.5.4. A domestic or foreign for-profit organization; and
- 2.1.5.5. A Federal agency, but only a Subrecipient under an Award or Sub award to a non-Federal entity.
- 2.1.6. “Executive” means an officer, managing partner or any other employee in a management position.
- 2.1.7. “Federal Award Identification Number (FAIN)” means an Award number assigned by a Federal agency to a Prime Recipient.
- 2.1.8. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR §200.37
- 2.1.9. “FFATA” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
- 2.1.10. “Federal Provisions” means these Federal Provisions subject to the Transparency Act and Uniform Guidance, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.
- 2.1.11. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.12. “Prime Recipient” means a Colorado State agency or institution of higher education that receives an Award.
- 2.1.13. “Subaward” means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR §200.38. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- 2.1.14. “Subrecipient” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subrecipient. The term does not include an individual who is a beneficiary of a federal program.
- 2.1.15. “Subrecipient Parent DUNS Number” means the sub recipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the sub recipient’s System for Award Management (SAM) profile, if applicable.
- 2.1.16. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 2.1.17. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
 - 2.1.17.1. Salary and bonus;
 - 2.1.17.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 2.1.17.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 2.1.17.4. Change in present value of defined benefit and actuarial pension plans;
 - 2.1.17.5. Above-market earnings on deferred compensation which is not tax-qualified;

- 2.1.17.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.18. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.
- 2.1.19. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
- 2.1.20. “Vendor” means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

3. COMPLIANCE.

- 3.1. Contractor shall comply with all applicable provisions of the Transparency Act, all applicable provisions of the Uniform Guidance, and the regulations issued pursuant thereto, including but not limited to these Federal Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REQUIREMENTS.

- 4.1. SAM. Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
- 4.2. DUNS. Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor’s information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor’s information.

5. TOTAL COMPENSATION.

- 5.1. Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 5.1.1. The total Federal funding authorized to date under the Award is \$25,000 or more; and
 - 5.1.2. In the preceding fiscal year, Contractor received:
 - 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Sub awards subject to the Transparency Act; and
 - 5.1.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Sub awards subject to the Transparency Act; and
 - 5.1.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

6. REPORTING.

- 6.1. Contractor shall report data elements to SAM and to the Prime Recipient as required in this Exhibit if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in this Exhibit

are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR REPORTING.

- 7.1. Reporting requirements in §0 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.
- 7.2. The procurement standards in §0 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §0 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

8. SUBRECIPIENT REPORTING REQUIREMENTS.

- 8.1. If Contractor is a Subrecipient, Contractor shall report as set forth below.
 - 8.1.1. **To SAM.** A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Sub award was made:
 - 8.1.1.1. Subrecipient DUNS Number;
 - 8.1.1.2. Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;
 - 8.1.1.3. Subrecipient Parent DUNS Number;
 - 8.1.1.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
 - 8.1.1.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
 - 8.1.1.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.
 - 8.1.2. **To Prime Recipient.** A Subrecipient shall report to its Prime Recipient, upon the effective date of the Agreement, the following data elements:
 - 8.1.2.1. Subrecipient's DUNS Number as registered in SAM.
 - 8.1.2.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

9. PROCUREMENT STANDARDS.

- 9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, §§200.318 through 200.326 thereof.
- 9.2. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ACCESS TO RECORDS

- 10.1. A Subrecipient shall permit Recipient and auditors to have access to Sub recipient's records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass-through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).

11. SINGLE AUDIT REQUIREMENTS

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR §200.501.
- 11.1.1. **Election.** A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 11.1.2. **Exemption.** If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
- 11.1.3. **Subrecipient Compliance Responsibility.** A Subrecipient shall procure or otherwise arrange for the audit required by Part F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Uniform Guidance §200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Part F-Audit Requirements.

12. CONTRACT PROVISIONS FOR SUBRECIPIENT CONTRACTS

- 12.1. If Contractor is a Subrecipient, then it shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Agreement.
- 12.1.1. **Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.
- 12.1.1.1. During the performance of this contract, the contractor agrees as follows:
- 12.1.1.1.1. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants

for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

- 12.1.1.1.2. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
- 12.1.1.1.3. Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 12.1.1.1.4. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 12.1.1.1.5. Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 12.1.1.1.6. In the event of Contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 12.1.1.1.7. Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”
- 12.1.2. **Davis-Bacon Act.** Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- 12.1.3. **Rights to Inventions Made Under a Contract or Contract.** If the Federal Award meets the definition of “funding Contract” under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding Contract,” Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Contracts,” and any implementing regulations issued by the awarding agency.
- 12.1.4. **Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** Contracts and subawards of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- 12.1.5. **Debarment and Suspension (Executive Orders 12549 and 12689).** A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 12.1.6. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier-to-tier up to the non-Federal award.

13. CERTIFICATIONS.

- 13.1. Unless prohibited by Federal statutes or regulations, Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR §200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed, or the level of effort was expended. 2 CFR §200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

14. EXEMPTIONS.

- 14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 14.2. A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.
- 14.3. There are no Transparency Act reporting requirements for Vendors.

15. EVENT OF DEFAULT.

- 15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

EXHIBIT D - Required FEDERAL Contract/Agreement Clauses

All FTA-Assisted Third-Party Contracts and Subawards from the Current FTA Master Agreement [FTA MA(25)]

Section 3.I. – No Federal government obligations to third-parties by use of a disclaimer

No Federal/State Government Commitment or Liability to Third Parties. Except as the Federal Government expressly consents in writing, the Recipient agrees that:

- (1) The Federal Government does not and shall not have any commitment or liability related to the Underlying Agreement, to any Third Party Participant at any tier, or to any other person or entity that is not a party (FTA or the Recipient) to the Underlying Agreement; and
- (2) Notwithstanding that the Federal Government may have concurred in or approved any Solicitation or Third Party Agreement at any tier that may affect the Underlying Agreement, the Federal Government does not and shall not have any commitment or liability to any Third Party Participant or other entity or person that is not a party (FTA or the Recipient) to the Underlying Agreement.

Section 4.e. – Program fraud and false or fraudulent statements and related acts

False or Fraudulent Statements or Claims.

- (1) *Civil Fraud.* The Recipient acknowledges and agrees that:
 - (i) Federal laws, regulations, and requirements apply to itself and its Underlying Agreement, including the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq., and U.S. DOT regulations, “Program Fraud Civil Remedies,” 49 C.F.R. part 31.
 - (ii) By executing the Underlying Agreement, the Recipient certifies and affirms to the Federal Government the truthfulness and accuracy of any claim, statement, submission, certification, assurance, affirmation, or representation that the Recipient provides to the Federal Government.
 - (iii) The Federal Government may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Recipient presents, submits, or makes available any false, fictitious, or fraudulent information.
- (2) *Criminal Fraud.* The Recipient acknowledges that 49 U.S.C. § 5323(l)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001 if the Recipient provides a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation in connection with a federal public transportation program under 49 U.S.C. chapter 53 or any other applicable federal law.

Section 9. Record Retention and Access to Sites of Performance.

- (a) *Types of Records.* The Recipient agrees to retain, and will require its Third Party Participants to retain, complete and readily accessible records related in whole or in part to the Underlying Agreement, including, but not limited to, data, documents, reports, statistics, subagreements, leases, third party contracts, arrangements, other third party agreements of any type, and supporting materials related to those records.
- (b) *Retention Period.* The Recipient agrees to comply with the record retention requirements in the applicable U.S. DOT Common Rule. Records pertaining to its Award, the accompanying Underlying Agreement, and any Amendments thereto must be retained from the day the Underlying Agreement was signed by the authorized FTA official through the course of the Award, the accompanying Underlying Agreement, and any Amendments thereto until three years after the Recipient has submitted its last or final expenditure report, and other pending matters are closed.
- (c) *Access to Recipient and Third Party Participant Records.* The Recipient agrees, and assures that each Subrecipient, if any, will agree to:
 - (1) Provide, and require its Third Party Participants at each tier to provide, sufficient access to inspect and audit records and information related to its Award, the accompanying Underlying Agreement, and any Amendments thereto to the U.S. Secretary of Transportation or the Secretary’s duly authorized representatives, to the Comptroller General of the United States, and the Comptroller General’s duly authorized representatives, and to the Recipient and each of its Subrecipients;
 - (2) Permit those individuals listed above to inspect all work and materials related to its Award, and to audit any information related to its Award under the control of the Recipient or Third Party Participant within books, records, accounts, or other locations; and
 - (3) Otherwise comply with 49 U.S.C. § 5325(g), and federal access to records requirements as set forth in the applicable U.S. DOT Common Rules.
- (d) *Access to the Sites of Performance.* The Recipient agrees to permit, and to require its Third Party Participants to permit, FTA to have access to the sites of performance of its Award, the accompanying

Underlying Agreement, and any Amendments thereto, and to make site visits as needed in compliance with the U.S. DOT Common Rules.

- (e) *Closeout*. Closeout of the Award does not alter the record retention or access requirements of this section of this Master Agreement.

3.G – Federal Changes

Application of Federal, State, and Local Laws, Regulations, Requirements, and Guidance. The Recipient agrees to comply with all applicable federal requirements and follow applicable federal guidance. All standards or limits are minimum requirements when those standards or limits are included in the Recipient’s Underlying Agreement or this Master Agreement. At the time the FTA official awards federal assistance to the Recipient in support of the Underlying Agreement, the federal requirements and guidance that apply then may be modified from time to time, and will apply to the Recipient or the accompanying Underlying Agreement, except as FTA determines otherwise in writing.

12 – Civil Rights

- (c) *Nondiscrimination – Title VI of the Civil Rights Act*. The Recipient agrees to, and assures that each Third Party Participant will:

- (1) Prohibit discrimination based on race, color, or national origin,
- (2) Comply with:
 - (i) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq.;
 - (ii) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 C.F.R. part 21; and
 - (iii) Federal transit law, specifically 49 U.S.C. § 5332; and
- (3) Follow:
 - (i) The most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance;
 - (ii) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3; and
 - (iii) All other applicable federal guidance that may be issued.

- (d) *Equal Employment Opportunity*.

- (1) *Federal Requirements and Guidance*. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin, and:
 - (i) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.;
 - (ii) Facilitate compliance with Executive Order No. 11246, “Equal Employment Opportunity” September 24, 1965 (42 U.S.C. § 2000e note), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs;
 - (iii) Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement;
 - (iv) FTA Circular 4704.1 “Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients;” and
 - (v) Follow other federal guidance pertaining to EEO laws, regulations, and requirements, and prohibitions against discrimination on the basis of disability.
- (2) *Specifics*. The Recipient agrees to, and assures that each Third Party Participant will:
 - (i) *Affirmative Action*. If required to do so by U.S. DOT regulations (49 C.F.R. part 21) or U.S. Department of Labor regulations (41 C.F.R. chapter 60), take affirmative action that includes, but is not limited to:
 - (A) Recruitment advertising, recruitment, and employment;
 - (B) Rates of pay and other forms of compensation;
 - (C) Selection for training, including apprenticeship, and upgrading; and
 - (D) Transfers, demotions, layoffs, and terminations; but
 - (ii) *Indian Tribe*. Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of “Employer;” and
- (3) *Equal Employment Opportunity Requirements for Construction Activities*. Comply, when undertaking “construction” as recognized by the U.S. Department of Labor (U.S. DOL), with:
 - (i) U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. chapter 60; and

- (ii) Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note (30 Fed. Reg. 12319, 12935), as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.
- (h) *Nondiscrimination on the Basis of Disability*. The Recipient agrees to comply with the following federal prohibitions against discrimination based on disability:
- (1) Federal laws, including:
 - (i) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination based on disability in the administration of federally assisted Programs, Projects, or activities;
 - (ii) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities:
 - (A) For FTA Recipients generally, Titles I, II, and III of the ADA apply; but
 - (B) For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of "employer;"
 - (iii) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities;
 - (iv) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination; and
 - (v) Other applicable federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.
 - (2) Federal regulations and guidance, including:
 - (i) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37;
 - (ii) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27;
 - (iii) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38;
 - (iv) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39;
 - (v) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35;
 - (vi) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36;
 - (vii) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630;
 - (viii) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, subpart F;
 - (ix) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194;
 - (x) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609;
 - (xi) FTA Circular 4710.1, "Americans with Disabilities Act: Guidance;" and
 - (xii) Other applicable federal civil rights and nondiscrimination regulations and guidance.

Incorporation of FTA Terms – 16.a.

- (a) *Federal Laws, Regulations, Requirements, and Guidance*. The Recipient agrees:
 - (1) To comply with the requirements of 49 U.S.C. chapter 53 and other applicable federal laws, regulations, and requirements in effect now or later that affect its third party procurements;
 - (2) To comply with the applicable U.S. DOT Common Rules; and
 - (3) To follow the most recent edition and any revisions of FTA Circular 4220.1, "Third Party Contracting Guidance," to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

Energy Conservation – 26.j

- (i) *Energy Conservation*. The Recipient agrees to, and assures that its Subrecipients will, comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. part 622, subpart C.

Applicable to Awards exceeding \$10,000

Section 11. Right of the Federal Government to Terminate.

- (a) *Justification.* After providing written notice to the Recipient, the Recipient agrees that the Federal Government may suspend, suspend then terminate, or terminate all or any part of the federal assistance for the Award if:
- (1) The Recipient has failed to make reasonable progress implementing the Award;
 - (2) The Federal Government determines that continuing to provide federal assistance to support the Award does not adequately serve the purposes of the law authorizing the Award; or
 - (3) The Recipient has violated the terms of the Underlying Agreement, especially if that violation would endanger substantial performance of the Underlying Agreement.
- (b) *Financial Implications.* In general, termination of federal assistance for the Award will not invalidate obligations properly incurred before the termination date to the extent that those obligations cannot be canceled. The Federal Government may recover the federal assistance it has provided for the Award, including the federal assistance for obligations properly incurred before the termination date, if it determines that the Recipient has misused its federal assistance by failing to make adequate progress, failing to make appropriate use of the Project property, or failing to comply with the Underlying Agreement, and require the Recipient to refund the entire amount or a lesser amount, as the Federal Government may determine including obligations properly incurred before the termination date.
- (c) *Expiration of the Period of Performance.* Except for a Full Funding Grant Agreement, expiration of any period of performance established for the Award does not, by itself, constitute an expiration or termination of the Award; FTA may extend the period of performance to assure that each Formula Project or related activities and each Project or related activities funded with “no year” funds can receive FTA assistance to the extent FTA deems appropriate.

Applicable to Awards exceeding \$25,000

From Section 16. Procurement

- (a) *Debarment and Suspension.* The Recipient agrees to the following:
- (1) It will comply with the following requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200.
 - (2) It will not enter into any arrangement to participate in the development or implementation of the Underlying Agreement with any Third Party Participant that is debarred or suspended except as authorized by:
 - (i) U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200;
 - (ii) U.S. OMB regulatory guidance, “Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180, including any amendments thereto;
 - (iii) Executive Order No. 12549, “Debarment and Suspension of Participants in Federal Programs,” February 18, 1986, 31 U.S.C. § 6101 note, as amended by Executive Order No. 12689, “Debarment and Suspension,” August 16, 1989 31 U.S.C. § 6101 note; and
 - (iv) Other applicable federal laws, regulations, requirements, or guidance regarding participation with debarred or suspended Recipients or Third Party Participants.
 - (3) It will review the U.S. GSA “System for Award Management – Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs,” if required by U.S. DOT regulations, 2 C.F.R. part 1200.
 - (4) If the Recipient suspends, debar, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the:
 - (i) FTA Regional Counsel for the Region in which the Recipient is located or implements the Underlying Agreement;
 - (ii) FTA Headquarters Manager that administers the Grant or Cooperative Agreement; or
 - (iii) FTA Chief Counsel.

Applicable to Awards exceeding the simplified acquisition threshold (\$100,000-see Note)

Note: Applicable when tangible property or construction will be acquired

Section 15. Preference for United States Products and Services.

Except as the Federal Government determines otherwise in writing, the Recipient agrees to comply with FTA’s U.S. domestic preference requirements and follow federal guidance, including:

- (a) *Buy America.* The domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, “Buy America Requirements,” 49 C.F.R. part 661, to the extent consistent with 49 U.S.C. § 5323(j);

- (b) *Cargo Preference–Use of United States-Flag Vessels.* The shipping requirements of 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, “Cargo Preference – U.S.-Flag Vessels,” 46 C.F.R. part 381; and
- (c) *Fly America.* The air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations, “Use of United States Flag Air Carriers,” 41 C.F.R. §§ 301-10.131 – 301-10.143.

Section 39. Disputes, Breaches, Defaults, or Other Litigation.

- (a) *FTA Interest.* FTA has a vested interest in the settlement of any violation of federal law, regulation, or requirement, or any disagreement involving the Award, the accompanying Underlying Agreement, and any Amendments thereto including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise.
- (b) *Notification to FTA; Flow Down Requirement.* If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.
 - (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
 - (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
 - (3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.
- (c) *Federal Interest in Recovery.* The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Underlying Agreement. Notwithstanding the preceding sentence, the Recipient may return all liquidated damages it receives to its Award Budget for its Underlying Agreement rather than return the federal share of those liquidated damages to the Federal Government, provided that the Recipient receives FTA’s prior written concurrence.
- (d) *Enforcement.* The Recipient must pursue its legal rights and remedies available under any third party agreement or any federal, state, or local law or regulation.

Applicable to Awards exceeding \$100,000 by Statute

From Section 4. Ethics, Political Activity, and Certain Criminal Activity.

- (a) *Lobbying Restrictions.* The Recipient agrees that neither it nor any Third Party Participant will use federal assistance to influence any officer or employee of a federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve the Underlying Agreement, including any extension or modification, according to the following:
 - (1) *Laws, Regulations, Requirements, and Guidance.* This includes:
 - (i) The Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended;
 - (ii) U.S. DOT regulations, “New Restrictions on Lobbying,” 49 C.F.R. part 20, to the extent consistent with 31 U.S.C. § 1352, as amended; and
 - (iii) Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature; and

- (2) *Exception.* If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through the Recipient's or Subrecipient's proper official channels.

Clean Air and Clean Water - From 16(e.):

- (7) *Clean Air Act (42 U.S.C. §§ 7401 – 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 – 1388), as amended.* Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 – 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 – 1388). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Applicable with the Transfer of Property or Persons

Section 15. Preference for United States Products and Services.

Except as the Federal Government determines otherwise in writing, the Recipient agrees to comply with FTA's U.S. domestic preference requirements and follow federal guidance, including:

- (a) Buy America. The domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, "Buy America Requirements," 49 C.F.R. part 661, to the extent consistent with 49 U.S.C. § 5323(j);
- (b) Cargo Preference—Use of United States-Flag Vessels. The shipping requirements of 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference – U.S.-Flag Vessels," 46 C.F.R. part 381; and
- (c) Fly America. The air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 – 301-10.143.

Applicable to Construction Activities

Section 24. Employee Protections.

- a. Awards Involving Construction. The Subrecipient agrees to comply and assures that each Third Party Participant will comply with all federal laws, regulations, and requirements providing protections for construction employees involved in each Project or related activities with federal assistance provided through the Agreement, including the:
 - (1) Prevailing Wage Requirements of:
 - (a) Federal transit laws, specifically 49 U.S.C. § 5333(a), (FTA's "Davis-Bacon Related Act"),
 - (b) The Davis-Bacon Act, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147, and
 - (c) U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.
 - (2) Wage and Hour Requirements of:
 - (a) Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and
 - (b) U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.
 - (3) "Anti-Kickback" Prohibitions of:
 - (a) Section 1 of the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. § 874,
 - (b) Section 2 of the Copeland "Anti-Kickback" Act, as amended, 40 U.S.C. § 3145, and
 - (c) U.S. DOL regulations, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States," 29 C.F.R. part 3.
 - (4) Construction Site Safety of:
 - (a) Section 107 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3704, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and
 - (b) U.S. DOL regulations, "Recording and Reporting Occupational Injuries and Illnesses," 29 C.F.R. part 1904; "Occupational Safety and Health Standards," 29 C.F.R. part 1910; and "Safety and Health Regulations for Construction," 29 C.F.R. part 1926.

From Section 16

- (e) *Required Clauses in Third Party Contracts.* In addition to other applicable provisions of federal law, regulations, requirements, and guidance, all third party contracts made by the Recipient under the Federal award must contain provisions covering the following, as applicable:
- (4) *Davis-Bacon Act, as amended (40 U.S.C. §§ 3141 – 3148).* When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141 – 3144, and 3146 – 3148) as supplemented by Department of Labor regulations (29 C.F.R. part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of a public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency.
- (5) *Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701 – 3708).* Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. part 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer based on a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- (o) *Bonding.* The Recipient agrees to comply with the following bonding requirements and restrictions as provided in federal regulations and guidance:
- (1) *Construction.* As provided in federal regulations and modified by FTA guidance, for each Project or related activities implementing the Underlying Agreement that involve construction, it will provide bid guarantee bonds, contract performance bonds, and payment bonds.

From Section 23

- (b) *Seismic Safety.* The Recipient agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. § 7701 et seq., and U.S. DOT regulations, “Seismic Safety,” 49 C.F.R. part 41, specifically, 49 C.F.R. § 41.117.

Section 12 Civil Rights d.3

- (3) *Equal Employment Opportunity Requirements for Construction Activities.* Comply, when undertaking “construction” as recognized by the U.S. Department of Labor (U.S. DOL), with:
- (i) U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. chapter 60; and
- (ii) Executive Order No. 11246, “Equal Employment Opportunity in Federal Employment,” September 24, 1965, 42 U.S.C. § 2000e note (30 Fed. Reg. 12319, 12935), as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.

Applicable to Nonconstruction Activities

From Section 24. Employee Protections

- (b) *Awards Not Involving Construction.* The Recipient agrees to comply and assures that each Third Party Participant will comply with all federal laws, regulations, and requirements providing wage and hour

protections for nonconstruction employees, including Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. § 3702, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. part 5.

Applicable to Transit Operations

From Section 24. Employee Protections

- (d) *Public Transportation Employee Protective Arrangements.* As a condition of award of federal assistance appropriated or made available for FTA programs involving public transportation operations, the Recipient agrees to comply and assures that each Third Party Participant will comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):
- a. *U.S. DOL Certification.* When its Award, the accompanying Underlying Agreement, or any Amendments thereto involve public transportation operations and are supported with federal assistance appropriated or made available for 49 U.S.C. §§ 5307 – 5312, 5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, 5338(b), or 5339, or former 49 U.S.C. §§ 5308, 5309, 5312, or other provisions of law as required by the Federal Government, U.S. DOL must provide a certification of employee protective arrangements before FTA may provide federal assistance for that Award. The Recipient agrees that the certification issued by U.S. DOL is a condition of the Underlying Agreement and that the Recipient must comply with its terms and conditions.
 - b. *Special Warranty.* When its Underlying Agreement involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The Recipient agrees that its U.S. DOL Special Warranty is a condition of the Underlying Agreement and the Recipient must comply with its terms and conditions.
 - c. *Special Arrangements for Underlying Agreements for Federal Assistance Authorized under 49 U.S.C. § 5310.* The Recipient agrees, and assures that any Third Party Participant providing public transportation operations will agree, that although pursuant to 49 U.S.C. § 5310, and former 49 U.S.C. §§ 5310 or 5317, FTA has determined that it was not “necessary or appropriate” to apply the conditions of 49 U.S.C. § 5333(b) to any Subrecipient participating in the program to provide public transportation for seniors (elderly individuals) and individuals with disabilities, FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate.

Section 28. Charter Service.

- (a) *Prohibitions.* The Recipient agrees that neither it nor any Third Party Participant involved in the Award will engage in charter service, except as permitted under federal transit laws, specifically 49 U.S.C. § 5323(d), (g), and (r), FTA regulations, “Charter Service,” 49 C.F.R. part 604, any other federal Charter Service regulations, federal requirements, or federal guidance.
- (b) *Exceptions.* Apart from exceptions to the Charter Service restrictions in FTA’s Charter Service regulations, FTA has established the following additional exceptions to those restrictions:
 - (1) FTA’s Charter Service restrictions do not apply to equipment or facilities supported with federal assistance appropriated or made available for 49 U.S.C. § 5307 to support a Job Access and Reverse Commute (JARC)- type Project or related activities that would have been eligible for assistance under repealed 49 U.S.C. § 5316 in effect in Fiscal Year 2012 or a previous fiscal year, provided that the Recipient uses that federal assistance for FTA program purposes only; and
 - (2) FTA’s Charter Service restrictions do not apply to equipment or facilities supported with the federal assistance appropriated or made available for 49 U.S.C. § 5310 to support a New Freedom-type Project or related activities that would have been eligible for federal assistance under repealed 49 U.S.C. § 5317 in effect in Fiscal Year 2012 or a previous fiscal year, provided the Recipient uses that federal assistance for FTA program purposes only.
- (c) *Violations.* If it or any Third Party Participant engages in a pattern of violations of FTA’s Charter Service regulations, FTA may require corrective measures and remedies, including withholding an amount of federal assistance as provided in FTA’s Charter Service regulations, 49 C.F.R. part 604, appendix D, or barring it or the Third Party Participant from receiving federal assistance provided in 49 U.S.C. chapter 53, 23 U.S.C. § 133, or 23 U.S.C. § 142.

Section 32. Public Transportation Safety.

- (a) *Public Transportation Agency Safety Program.* The Recipient agrees to comply with applicable federal laws, regulations, and requirements and follow applicable guidance that implement the Public Transportation Safety Program provisions of 49 U.S.C. § 5329.
- (b) *State Safety Oversight of Rail Fixed Guideway Public Transportation Systems.* For a Recipient that is a state with a rail fixed guideway public transportation system, the Recipient agrees as follows:
 - (1) *Laws.* It will comply with State Safety Oversight requirements under 49 U.S.C. § 5329(e) and implementing regulations at 49 C.F.R. part 674, or 49 U.S.C. § 5330 and implementing regulations at 49 C.F.R. part 659.
 - (2) *State Safety Oversight Program.* A Recipient must have a State Safety Oversight Program certified under 49 C.F.R. part 674 no later than April 15, 2019.
 - (3) *Regulations.* The Recipient will comply with FTA regulations, “State Safety Oversight,” 49 C.F.R. part 659, until the Recipient has a certified State Safety Oversight Program under 49 C.F.R. part 674. A Recipient that has a certified State Safety Oversight Program will comply with the regulations at 49 C.F.R. part 674.

Section 29. School Bus Operations.

- (a) *Prohibitions.* The Recipient agrees that neither it nor any Third Party Participant that is participating in its Award will engage in school bus operations exclusively for the transportation of students or school personnel in competition with private school bus operators, except as permitted by federal transit laws, 49 U.S.C. § 5323(f) or (g), FTA regulations, “School Bus Operations,” 49 C.F.R. part 605, and any other applicable federal “School Bus Operations” laws, regulations, requirements, or applicable federal guidance.
- (b) *Violations.* If a Recipient or any Third Party Participant has operated school bus service in violation of FTA’s School Bus laws, regulations, or requirements, FTA may require the Recipient or Third Party Participant to take such remedial measures as FTA considers appropriate, or bar the Recipient or Third Party Participant from receiving federal transit assistance.

Section 35. Substance Abuse.

- (a) *Drug-Free Workplace.* The Recipient agrees to:
 - (1) Comply with the Drug-Free Workplace Act of 1988, as amended, 41 U.S.C. § 8103 et seq.;
 - (2) Comply with U.S. DOT regulations, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance),” 49 C.F.R. part 32; and
 - (3) Follow and facilitate compliance with U.S. OMB regulatory guidance, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance),” 2 C.F.R. part 182, particularly where the U.S. OMB regulatory guidance supersedes comparable provisions of 49 C.F.R. part 32.
- (b) *Alcohol Misuse and Prohibited Drug Use.*
 - (1) *Requirements.* The Recipient agrees to comply and assures that its Third Party Participants will comply with:
 - (i) Federal transit laws, specifically 49 U.S.C. § 5331;
 - (ii) FTA regulations, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations,” 49 C.F.R. part 655; and
 - (iii) Applicable provisions of U.S. DOT regulations, “Procedures for Transportation Workplace Drug and Alcohol Testing Programs,” 49 C.F.R. part 40.
 - (2) *Remedies for Non-Compliance.* The Recipient agrees that if FTA determines that the Recipient or a Third Party Participant receiving federal assistance under 49 U.S.C. chapter 53 is not in compliance with 49 C.F.R. part 655, the Federal Transit Administrator may bar that Recipient or Third Party Participant from receiving all or a portion of the federal transit assistance for public transportation it would otherwise receive.

Applicable to Planning, Research, Development, and Documentation Projects

Section 17. Patent Rights.

- (a) *General.* The Recipient agrees that:
 - (1) Depending on the nature of the Underlying Agreement, the Federal Government may acquire patent rights when the Recipient or Third Party Participant produces a patented or patentable invention, improvement, or discovery;
 - (2) The Federal Government’s rights arise when the patent or patentable information is conceived or reduced to practice with federal assistance provided through the Underlying Agreement; or

- (3) When a patent is issued or patented information becomes available as described in the preceding section 17(a)(2) of this Master Agreement, the Recipient will notify FTA immediately and provide a detailed report satisfactory to FTA.
- (b) *Federal Rights*. The Recipient agrees that:
 - (1) Its rights and responsibilities and each Third Party Participant's rights and responsibilities in that federally assisted invention, improvement, or discovery will be determined as provided in applicable federal laws, regulations, requirements, and guidance, including any waiver thereof; and
 - (2) Unless the Federal Government determines otherwise in writing, irrespective of its status or the status of any Third Party Participant as a large business, small business, state government, state instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, or individual, the Recipient will transmit the Federal Government's patent rights to FTA, as specified in 35 U.S.C. § 200 et seq., and U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. part 401.
- (c) *License Fees and Royalties*. Consistent with the applicable U.S. DOT Common Rules, the Recipient agrees that license fees and royalties for patents, patent applications, and inventions produced with federal assistance provided through the Underlying Agreement are program income, and must be used in compliance with applicable federal requirements.

Section 18. Rights in Data and Copyrights.

- (a) *Definition of "Subject Data."* As used in this section, "subject data" means recorded information, whether or not copyrighted, that is delivered or specified to be delivered as required by the Underlying Agreement. Examples of subject data include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Underlying Agreement.
- (b) *General Federal Restrictions*. The following restrictions apply to all subject data first produced in the performance of the Underlying Agreement:
 - (1) Prohibitions. The Recipient may not publish or reproduce any subject data, in whole, in part, or in any manner or form, or permit others to do so.
 - (2) Exceptions. The prohibitions do not apply to publications or reproductions for the Recipient's own internal use, an institution of higher learning, the portion of subject data that the Federal Government has previously released or approved for release to the public, or the portion of data that has the Federal Government's prior written consent for release.
- (c) *Federal Rights in Data and Copyrights*. The Recipient agrees that:
 - (1) General. It must provide a license to its subject data to the Federal Government that is royalty-free, non-exclusive, and irrevocable. The Federal Government's license must permit the Federal Government to reproduce, publish, or otherwise use the subject data or permit other entities or individuals to use the subject data provided those actions are taken for Federal Government purposes; and
 - (2) U.S. DOT Public Access Plan – Copyright License. The Recipient grants to U.S. DOT a worldwide, non-exclusive, non-transferable, paid-up, royalty-free copyright license, including all rights under copyright, to any and all Publications and Digital Data Sets as such terms are defined in the U.S. DOT Public Access plan, resulting from scientific research funded either fully or partially by this funding agreement. The Recipient herein acknowledges that the above copyright license grant is first in time to any and all other grants of a copyright license to such Publications and/or Digital Data Sets, and that U.S. DOT shall have priority over any other claim of exclusive copyright to the same.
- (d) *Special Federal Rights in Data for Research, Development, Demonstration, Deployment, Technical Assistance, and Special Studies Programs*. In general, FTA's purpose in providing federal assistance for a research, development, demonstration, deployment, technical assistance, or special studies program is to increase transportation knowledge, rather than limit the benefits of the Award to the Recipient and its Third Party Participants. Therefore, the Recipient agrees that:
 - (1) *Publicly Available Report*. When an Award providing federal assistance for any of the programs described above is completed, it must provide a report of the Underlying Agreement that FTA may publish or make available for publication on the Internet.
 - (2) *Other Reports*. It must provide other reports related to the Award that FTA may request.
 - (3) *Availability of Subject Data*. FTA may make available its copyright license to the subject data, and a copy of the subject data to any FTA Recipient or any Third Party Participant at any tier, except as the Federal Government determines otherwise in writing.

- (4) *Identification of Information.* It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA.
- (5) *Incomplete.* If the Award is not completed for any reason whatsoever, all data developed with federal assistance for the Award becomes subject data and must be delivered as the Federal Government may direct.
- (6) *Exception.* This section does not apply to an adaptation of any automatic data processing equipment or program that is both for the Recipient's use, and acquired with FTA capital program assistance.
- (e) *License Fees and Royalties.* Consistent with the applicable U.S. DOT Common Rules, the Recipient agrees that license fees and royalties for patents, patent applications, and inventions produced with federal assistance provided through the Underlying Agreement are program income, and must be used in compliance with federal applicable requirements.
- (f) *Hold Harmless.* Upon request by the Federal Government, the Recipient agrees that if it intentionally violates any proprietary rights, copyrights, or right of privacy, and if its violation under the preceding section occurs from any of the publication, translation, reproduction, delivery, use or disposition of subject data, then it will indemnify, save, and hold harmless the Federal Government against any liability, including costs and expenses of the Federal Government's officers, employees, and agents acting within the scope of their official duties. The Recipient will not be required to indemnify the Federal Government for any liability described in the preceding sentence, if the violation is caused by the wrongful acts of federal officers, employees or agents, or if indemnification is prohibited or limited by applicable state law.
- (g) *Restrictions on Access to Patent Rights.* Nothing in this section of this Master Agreement pertaining to rights in data either implies a license to the Federal Government under any patent, or may be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent.
- (h) *Data Developed Without Federal Assistance or Support.* The Recipient agrees that in certain circumstances it may need to provide to FTA data developed without any federal assistance or support. Nevertheless, this section generally does not apply to data developed without federal assistance, even though that data may have been used in connection with the Award. The Recipient agrees that the Federal Government will not be able to protect data developed without federal assistance from unauthorized disclosure unless that data is clearly marked "Proprietary," or "Confidential."
- (i) *Requirements to Release Data.* The Recipient understands and agrees that the Federal Government may be required to release data and information that the Recipient submits to the Federal Government as required under:
 - (1) The Freedom of Information Act (FOIA), 5 U.S.C. § 552;
 - (2) The U.S. DOT Common Rules;
 - (3) The U.S. DOT Public Access Plan, which provides that the Recipient agrees to satisfy the reporting and compliance requirements as set forth in the U.S. DOT Public Access plan, including, but not limited to, the submission and approval of a Data Management Plan, the use of Open Researcher and Contributor ID (ORCID) numbers, the creation and maintenance of a Research Project record in the Transportation Research Board's (TRB) Research in Progress (RiP) database, and the timely and complete submission of all required publications and associated digital data sets as such terms are defined in the DOT Public Access plan. Additional information about how to comply with the requirements can be found at <http://ntl.bts.gov/publicaccess/howto comply.html>; or
 - (4) Other federal laws, regulations, requirements, and guidance concerning access to records pertaining to the Award, the accompanying Underlying Agreement, and any Amendments thereto.

Miscellaneous Special Requirements

From Section 12. Civil Rights.

- a. Disadvantaged Business Enterprise (and Prompt Payment and Return of Retainage).
 - (e) *Disadvantaged Business Enterprise.* To the extent authorized by applicable federal laws, regulations, or requirements, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Underlying Agreement as follows:
 - a. *Statutory and Regulatory Requirements.* The Recipient agrees to comply with:
 - i. Section 1101(b) of the FAST Act, 23 U.S.C. § 101 note;
 - ii. U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26; and
 - iii. Federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement.

- b. *DBE Program Requirements.* A Recipient that receives planning, capital and/or operating assistance and that will award prime third party contracts exceeding \$250,000 in a federal fiscal year must have a DBE program that is approved by FTA and meets the requirements of 49 C.F.R. part 26.
- c. *Special Requirements for a Transit Vehicle Manufacturer (TVM).* The Recipient agrees that:
 - i. *TVM Certification.* Each TVM, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26; and
 - ii. *Reporting TVM Awards.* Within 30 days of any third party contract award for a vehicle purchase, the Recipient must submit to FTA the name of the TVM contractor and the total dollar value of the third party contract, and notify FTA that this information has been attached in TrAMS. The Recipient must also submit additional notifications if options are exercised in subsequent years to ensure that the TVM is still in good standing.
- d. *Assurance.* As required by 49 C.F.R. § 26.13(a):
 - i. *Recipient Assurance.* The Recipient agrees and assures that:
 - 1. It must not discriminate based on race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted contract, or in the administration of its DBE program or the requirements of 49 C.F.R. part 26;
 - 2. It must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted contracts;
 - 3. Its DBE program, as required under 49 C.F.R. part 26 and as approved by U.S. DOT, is incorporated by reference and made part of the Underlying Agreement; and
 - 4. Implementation of its DBE program approved by U.S. DOT is a legal obligation and failure to carry out its terms shall be treated as a violation of this Master Agreement.
 - ii. *Subrecipient/Third Party Contractor/Third Party Subcontractor Assurance.* The Recipient agrees and assures that it will include the following assurance in each subagreement and third party contract it signs with a Subrecipient or Third Party Contractor and agrees to obtain the agreement of each of its Subrecipients, Third Party Contractors, and Third Party Subcontractors to include the following assurance in every subagreement and third party contract it signs:
 - 1. The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must not discriminate based on race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, and third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 C.F.R. part 26;
 - 2. The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted subagreements, third party contracts, and third party subcontracts, as applicable;
 - 3. Failure by the Subrecipient and any of its Third Party Contractors or Third Party Subcontractors to carry out the requirements of this subparagraph 12.e(4)(b) is a material breach of this subagreement, third party contract, or third party subcontract, as applicable; and The following remedies, or such other remedy as the Recipient deems appropriate, include, but are not limited to, withholding monthly progress payments, assessing sanctions, liquidated damages, and/or disqualifying the Subrecipient, Third Party Contractor, or Third Party Subcontractor from future bidding as non-responsible.
- e. *Remedies.* Upon notification to the Recipient of its failure to carry out its approved program, FTA or U.S. DOT may impose sanctions as provided for under 49 C.F.R. part 26, and, in appropriate cases, refer the matter for enforcement under either or both 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.

From Section 12. Civil Rights.

- (h) *Nondiscrimination on the Basis of Disability.* The Recipient agrees to comply with the following federal prohibitions against discrimination based on disability:
 - a. Federal laws, including:
 - i. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination based on disability in the administration of federally assisted Programs, Projects, or activities;
 - ii. The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities:
 - A. For FTA Recipients generally, Titles I, II, and III of the ADA apply; but

- B. For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of “employer;”
 - iii. The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities;
 - iv. Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination; and
 - v. Other applicable federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.
- b. Federal regulations and guidance, including:
- i. U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. part 37;
 - ii. U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. part 27;
 - iii. Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. part 1192 and 49 C.F.R. part 38;
 - iv. U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 C.F.R. part 39;
 - v. U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. part 35;
 - vi. U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. part 36;
 - vii. U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. part 1630;
 - viii. U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 C.F.R. part 64, subpart F;
 - ix. U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. part 1194;
 - x. FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. part 609;
 - xi. FTA Circular 4710.1, “Americans with Disabilities Act: Guidance;” and
 - xii. Other applicable federal civil rights and nondiscrimination regulations and guidance.

Section 16. Procurement. For Assignability

- (a) *Federal Laws, Regulations, Requirements, and Guidance.* The Recipient agrees:
- a. To comply with the requirements of 49 U.S.C. chapter 53 and other applicable federal laws, regulations, and requirements in effect now or later that affect its third party procurements;
 - b. To comply with the applicable U.S. DOT Common Rules; and
 - c. To follow the most recent edition and any revisions of FTA Circular 4220.1, “Third Party Contracting Guidance,” to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

State Requirements

Section 37. Special Notification Requirements for States.

- (a) *Types of Information.* To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:
- (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
 - (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
 - (3) The amount of federal assistance FTA has provided for a State Program or Project.
- (b) *Documents.* The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

EXHIBIT E, VERIFICATION OF PAYMENT

This checklist is to assist the Subrecipient in preparation of its billing packets to CDOT. This checklist is provided as guidance and is subject to change by CDOT. CDOT shall provide notice of any such changes to Subrecipient. All items may not apply to your particular entity. CDOT's goal is to reimburse Subrecipients as quickly as possible and a well organized and complete billing packet helps to expedite payment.

Verification of Payment –

- ✓ General Ledger Report must have the following:
 - Identify check number or EFT number
 - If no check number is available, submit Accounts Payable Distribution report with the General Ledger
 - In-Kind (must be pre-approved by CDOT) and/or cash match
 - Date of the report
 - Accounting period
 - Current period transactions
 - Account coding for all incurred expenditures.
- ✓ If no General Ledger Report, all of the following are acceptable
 - copies of checks
 - check registers
 - paycheck stub showing payment number and:
 - showing the amount paid, the check number or electronic funds transfer (EFT) and the date paid.
- ✓ CDOT needs to ensure that expenditures incurred by the local agencies have been paid by Party ***before*** CDOT is invoiced by Party.
- ✓ Payment amounts should match the amount requested on the reimbursement. Additional explanation and documentation is required for any variances.

In-Kind or Cash Match – If an entity wishes to use these types of match, they must be approved by CDOT prior to any work taking place.

- ✓ If in-kind or cash match is being used for the local match, the in-kind or cash match portion of the project must be included in the project application and the statement of work attached to the agreement or purchase order. FTA does not require pre-approval of in-kind or cash match, but CDOT does.
- ✓ General ledger must also show the in-kind and/or cash match.

Indirect costs – If an entity wishes to use indirect costs, the rate must be approved by CDOT prior to applying it to the reimbursements.

- ✓ If indirect costs are being requested, an approved indirect letter from CDOT or your cognizant agency for indirect costs, as defined in 2 CCR §200. 19, must be provided. The letter must state what indirect costs are allowed, the approved rate and the time period for the approval. The indirect cost plan must be reconciled annually and an updated letter submitted each year thereafter.

Fringe Benefits- Considered part of the Indirect Cost Rate and must be reviewed and approved prior to including these costs in the reimbursements.

- ✓ Submit an approval letter from the cognizant agency for indirect costs, as defined in 2 CCR §200. 19, that verifies fringe benefit or
- ✓ Submit the following fringe benefit rate proposal package to CDOT Audit Division:
 - Copy of Financial Statement
 - Personnel Cost Worksheet
 - State of Employee Benefits
 - Cost Policy Statement.

Attachment 4-4. Sample Personal Services RFP



SOLICITATION AND RESPONSE COVER SHEET
HAA (BID NUMBER), TITLE

Per the attached specifications, terms and conditions.

INSTRUCTIONS: Offeror (bidder) must complete this cover sheet, and attach it with their proposal. **Offerors are urged to read the solicitation document thoroughly before submitting a proposal.**

Submit Proposal to:	CDOT Supplier Self Service (SuSS) Portal SuSS Portal Help Desk 303-757-9848	Purchasing Agent:	Name, Phone, Email
Due Date:	mm/dd/yyyy, Xxxday	Time Due:	2:00 PM Mountain Time

OFFEROR INFORMATION

Offeror F.E.I.N.:	_____	
DUNS Number	_____	
Delivery Date:	_____	Payment Terms: (Minimum of Net 30) _____
Authorized Signature:	_____	
<small>Signature acknowledges acceptance of all terms and conditions of the solicitation.</small>		
Typed/Printed Name and Title:	_____	
Legal Company Name:	_____	
Doing Business As:	_____	
Address:	_____	
City:	State: _____	Zip: _____
Phone Number:	Fax Number: _____	
Contact for Clarifications:	_____	
Title:	_____	
Phone Number:	Fax Number: _____	
E-mail Address:	_____	

CDOT Supplier Self Service (SuSS) Portal and Registration: This solicitation is published using the SuSS Portal. Suppliers must be registered on the SuSS Portal in order to download solicitation documents and information (including any amendments or modifications) and to be considered responsive at the time of submission of the response. **Interested suppliers who have not registered in SuSS Portal must initiate registration immediately to ensure a responsive bid response.** Information may be accessed through the CDOT public web link: www.codot.gov/business/procurement-and-contract-services Registration assistance is provided by our Help Desk at 303-757-9848 or by email: dot_hq_srm_help@state.co.us

Offeror to answer and acknowledges by its signature above:

- Confirm that you are aware that the award notice will be published on [CDOT website](#): ____ Yes
- My company is registered on CDOT's SuSS Portal: ____Yes / ____No
- Proprietary Information: is in my response and as segregated pages: ____Yes / ____No
- Registered with the Colorado Secretary of State ____No / ____Yes, and # _____
- Offeror proposes using Subcontractors for this project: ____Yes / ____No
- Offeror has reviewed Modifications made to this RFP – list the Modification # last reviewed: _____
- If claiming SDVOSB (Service Disabled Veteran Owned Small Business) attach proof of certification: ____Yes / ____NA
- Offeror has reviewed Section 1.19, Protested Solicitations and Awards: ____Yes

Colorado Revised Statutes Title 24, Article 109, Entitlement to Cost, in part states: "When a protest is sustained administratively or upon administrative or judicial review and the protesting bidder or offeror should have been awarded the contract under the solicitation but, due to defect in the solicitation, was not, the protestor shall be entitled to the reasonable costs incurred in connection with the solicitation, including bid preparation costs. No other costs shall be permitted and reasonable costs shall not include attorney fees."

Please read this Request for Proposal (RFP) thoroughly before responding. Illegible responses may be rejected as non-responsive.

The Colorado Department of Transportation (CDOT) reserves the right to reject any and all proposals or parts thereof, and to waive informalities or irregularities. By submission of a proposal, proposer agrees to the State of Colorado terms and conditions.

By submission of a proposal, bid and/or quote, proposer agrees as follows:

- Except as replaced, modified, or supplemented by CDOT for this solicitation, all items in the State of Colorado Solicitation Instructions/Terms and Conditions are considered part of, and are incorporated by reference into this document.
- Proposer testifies that bid prices were arrived at independently and there was no collusion involved.
- The Bidder/Proposer/Vendor guarantees to the State that they understand and agree to the terms and conditions of this RFP and that they will not default from performance by virtue of a mistake or misunderstanding. Proposers shall seek clarification from CDOT of any specifications, terms and/or conditions that they determine to be unclear. The failure of a proposer to seek clarification may be deemed a waiver of any such clarification.
- If applicable, low tie bids/proposals shall be decided in accordance with the provision of C.R.S. Section 24-103-202.5, as it currently exists or is hereafter amended, which gives a preference to resident bidders. Any bidder who wishes to be considered a "resident bidder" for purposes of the tie bid procedure provided in C.R.S. Section 24-103-202.5 shall include with their bid, proof that they meet the definition of resident bidder as set forth in either C.R.S. Section 24-103-101(6)(a) or C.R.S. Section 24-103-101(6)(b).
- Pursuant to CRS 24-30-202.4 (as amended), the state controller may withhold debts owed to state agencies under the vendor offset intercept system for: (a) unpaid child support debt or child support arrearages; (b) unpaid balance of tax, accrued interest, or other charges specified in Article 22, Title 39, CRS; (c) unpaid loans due to the student loan division of the Colorado Division of Higher Education; (d) owed amounts required to be paid to the unemployment compensation fund; and (e) other unpaid debts owing to the state or any agency thereof, the amount of which is found to be owing as a result of final agency determination or reduced to judgment as certified by the controller.

NOTE: Results will be posted on <https://www.codot.gov/business/procurement-and-contract-services/awards-1> or sent via postal system but will not be discussed by phone except as noted in the RFP document.

**REQUEST FOR PROPOSAL
THE COLORADO HIGH PERFORMANCE TRANSPORTATION ENTERPRISE**

**SECTION 1
ADMINISTRATIVE INFORMATION**

1.1 ISSUING OFFICE AND INQUIRIES:

This request for proposal is issued for the State of Colorado, the Colorado Department of Transportation, Center for Procurement and Contract Services.

Prospective proposers may make written inquiries concerning this RFP to obtain clarification of requirements. No inquiries will be accepted after the date and time specified in the Schedule of Activities, Prospective proposer's inquiry deadline. All contacts regarding this RFP is to be directed to:

(name),
Purchasing Agent & Contract Administrator
Colorado Department of Transportation
Center for Procurement and Contract Services
4201 East Arkansas Avenue, Room 200
Denver, CO 80222
(email)

Phone: Fax:

Subject line of the e-mail shall clearly state "**Questions for RFP [number]**" to facilitate handling and distribution. Inquiries sent by fax will be accepted (fax number (303) 757-9669). An addendum responding to questions submitted regarding the RFP will be published on the Supplier Self Service (SuSS) portal.

1.2 PURPOSE:

The purpose of this Request for Proposal (RFP) is to obtain competitive bid proposals from qualified firms interested in providing _____.

This RFP provides prospective proposers with sufficient information to enable them to prepare and submit proposals for consideration by CDOT to satisfy the needs as outlined in this RFP's Statement of Work.

1.3 SCHEDULE OF ACTIVITIES:	DATE:	TIME (MST)
1. RFP published on SuSS	_____	N/A
2. Prospective proposer's inquiry deadline (No questions accepted after this date)	Date _____	5:00 P.M.
3. Response to proposer questions	Date _____	5:00 P.M.
4. Proposal submission deadline	Date _____	2:00 P.M.
5. Top consultants selected and notified of interview (<u>estimate</u>), if appropriate	Date _____	TBD
6. Oral interviews with a short list of consultants (<u>estimate</u>), if required – week of	Date _____	TBD
7. Firms selected (<u>estimate</u>)	Date _____	N/A
8. <i>Desired</i> date of executed contract	Date _____	N/A

- 1.4 ELECTRONIC PROPOSAL SUBMISSION THROUGH SuSS:**
Suppliers must upload their proposal to SuSS. CDOT procurement will distribute your uploaded proposal and any attachments to the evaluation panel.
- 1.5 AMENDMENTS TO RFP:**
In the event it should be necessary to revise any portion of this RFP, addenda will be published on the SuSS. It is the proposer's responsibility to monitor the SuSS at the Internet site www.codot.gov/business/procurement-and-contract-services , and comply with all addenda to this RFP.
- 1.7 RESPONSE MATERIAL OWNERSHIP:**
All material submitted regarding this RFP becomes the property of the State of Colorado. Proposals may be reviewed by any person after the "Notice of Intent to Make an Award" letter has been issued, subject to the terms of Section 24-72-201 et. seq., C.R.S., as amended, Public (open) Records.
- 1.8 PROPRIETARY INFORMATION:**
All material submitted in response to this RFP will become public record and open to inspection after the Notice of Intent to Award notice is issued. Any material requested to be treated as proprietary or confidential must be clearly identified and easily separable from the rest of the proposal, *i.e.*, uploaded to SuSS in a separate file. Such a request must include the proposer's justification for the material to be treated as proprietary or confidential. The request will be reviewed and either approved or denied by the CDOT Purchasing Director. If denied, the proposer will have the opportunity to withdraw its entire proposal, or to remove the proprietary restrictions. **NEITHER COST NOR PRICING INFORMATION NOR A TOTAL PROPOSAL WILL BE CONSIDERED PROPRIETARY.** If any of the materials submitted by the Vendor to CDOT are clearly and prominently labeled trade secret, privileged information, or confidential commercial, financial, geological, or geophysical data by the Contractor, CDOT will endeavor to advise the Contractor of any request for the disclosure of such materials prior to making any such disclosure. Under no circumstances, however, will CDOT be responsible or liable to the Contractor or any other Person for the disclosure of any such labeled materials, whether the disclosure is required by law, by court order or occurs through inadvertence, mistake or negligence on the part of CDOT. CDOT will inform Vendor if a request for the information is made by a third party and will give Vendor a chance to defend against any action seeking the materials.
- 1.9 REJECTION OF PROPOSALS:**
CDOT reserves the right to reject any or all proposals received in response to this RFP, or to cancel this RFP if it is in the best interest of the State to do so. Failure to furnish all information or to follow the proposal format requested in this RFP may disqualify the proposal. Any exceptions to the Statement of Work must be clearly identified in the proposal. Inclusion of exceptions does not guarantee acceptance by the State of such variation, and may instead lead to rejection of the proposal as non-responsive. (See further Section 1.12 of this RFP.)
- 1.10 INCURRING COSTS:**
Notwithstanding the statute, CDOT is not liable for any costs incurred by proposers prior to issuance of a legally executed contract. All costs to prepare and submit a response to this solicitation shall be borne solely by the proposer.
- 1.11 EVALUATION CRITERIA:**
An evaluation will be made by a committee selected to evaluate the merits of all proposals received according to the evaluation criteria defined herein (Section 3). The recommendations of this group will be forwarded to the Purchasing Director for approval.
- 1.11.1 Failure of the proposer to provide in his/her proposal any information requested in this RFP may result in disqualification of the proposal. It is the sole responsibility of the proposing individual or firm to ensure all information requested in the RFP is included.
- 1.11.2 During the evaluation process, discussions/interviews may be scheduled with proposers who submit proposals determined to be reasonably competitive for selection for award. It will be upon the recommendation of the evaluation committee if discussions/interviews for clarification are needed.

1.11.3 The sole objective of the evaluation committee will be to recommend the proposer(s) whose proposal(s) is/are most responsive to CDOT's needs within the available resources. The specifications within this RFP represent the minimum performance necessary for response.

1.11.4 Specific evaluation criteria are outlined in Section 3 of this RFP, entitled Evaluation Criteria.

1.12 ACCEPTANCE OF RFP TERMS:

A proposal submitted in response to the RFP shall constitute a binding offer. Acknowledgment of this condition shall be indicated by the autographic signature of the proposer, or an officer of the proposer, legally authorized to execute contractual obligations. A submission in response to the RFP acknowledges acceptance by the proposer of all terms and conditions including compensation, as set forth herein. Any exceptions and/or variations to the terms and conditions presented in the RFP may be submitted as part of the proposal, with each such exception and/or variation identified clearly and thoroughly. Failure to identify any exceptions and/or variations in the submitted proposal shall be deemed a waiver of any rights to subsequently modify the terms of performance, except as outlined or specified in the RFP, and may result in cancellation of the award and such vendor may be removed from future solicitations. Submission of a proposal containing exceptions and/or variations does not guarantee of acceptance of such variations by CDOT, and may instead lead to the rejection of the proposal as non-responsive if the requested variations are determined to be extensive or unreasonable, by the evaluation committee assigned to this RFP solicitation.

1.13 PROVISION FOR REQUIRED INSURANCE:

Award of a contract will be contingent upon the successful proposer submitting certificates of insurance in accordance with the provisions of the sample contract, **Attachment B**.

1.14 CONSULTANT CERTIFICATION:

Proposers must submit a signed Consultant Certification Form, CDOT Form #637, with their proposal, **Attachment A** to this RFP.

1.15 CONFLICT OF INTEREST:

By submission of a proposal, proposer agrees that, at the time of contracting, the proposer has no interest, direct or indirect, that would conflict in any manner or degree with the performance of the required services. The proposer shall further covenant that, in the performance of the contract, it shall not employ any person having any such known interest. Any firm affiliated or related to an employee of CDOT shall be ineligible to submit a proposal for the required services.

1.16 REQUEST FOR PROPOSAL:

The Request for Proposal Form - the cover page for this RFP - must be signed, by a person authorized to bind the proposer, and returned with the proposal.

1.17 AUDIT OF THE SELECTED PROPOSER:

Prior to final contract award, an audit may be conducted by the CDOT's External Audit Branch of the selected proposer. This audit will be for the purpose of ensuring that the selected firm is financially capable of performing the contract, that the cost information and prices quoted are reasonable, and that the selected proposer has adequate accounting practices to assure accurate tracking of contract costs.

Prior to final acceptance of the contract work, a closing audit of the proposer may be performed by the CDOT External Audit Branch. This final closeout audit will be performed upon completion of the contract to verify the accuracy of the billings and compliance with the contract provisions.

1.18 BUDGETED FUNDS:

The funds available for this solicitation are \$_____. OR CDOT is not disclosing the funds available for this solicitation at this time.

1.19 INTENT TO AWARD:

After a proposer is selected, an "Intent to Award" on <https://www.codot.gov/business/procurement-and-contract-services/awards-1> . After intent to award has been issued, interested parties may review any/all the proposals by making an appointment with:

(name),

HAA (BID NUMBER), TITLE

Purchasing Agent & Contract Administrator
Colorado Department of Transportation
Center for Procurement and Contract Services
4201 East Arkansas Avenue, Room 200
Denver, CO 80222
[\(email\)](#)
Phone: Fax:

1.20 PROTESTED SOLICITATIONS AND AWARDS:

Any actual or prospective proposer or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to a Procurement Official at dot_procurement@state.co.us. The protest shall be submitted in writing within ten (10) business days after such aggrieved person knows, or should have known, of the facts giving rise thereto. Protests received after the ten-business-day period shall not be considered.

The written protest shall include, as a minimum, the following:

- A. The name and address of the protestor;
- B. Appropriate identification of the procurement by bid, RFP, or award number;
- C. A statement of the reasons for the protest; and
- D. Any available exhibits, evidence or documents substantiating the protest.

1.21 CONTRACT:

CDOT has provided as **Attachment B a Sample Contract** that it expects to enter into with the successful proposer. **Although submittal of a proposal is agreement to the entire contract without exception, under certain circumstances CDOT may be agreeable to negotiating minor modifications to the Sample Contract. Any modifications requested must be submitted concurrently and clearly labeled as *Suggested Contract Exceptions* in the bid response. CDOT makes no guarantees that the proposed exceptions will be accepted or negotiated.** If the Bidder is awarded a contract and refuses to sign the contract as provided in this solicitation, CDOT may reject the Bidder proposal for this work. Under no circumstances shall the Bidder submit its own boilerplate of terms and conditions.

The initial term of the Contract shall be 1 year. Initial term of the Contract shall be from date of execution through the initial term of the award. If a contract, at its sole discretion, the State, upon written notice to the Contractor, may unilaterally renew the term of the Contract for **four (4)** additional terms of 1 year, including, but not limited to prices, rates and service delivery requirements. Bidder agrees to deliver under this solicitation for the full initial term and any renewals.

CDOT may elect to renew services annually contingent upon: (1) the results and recommendations generated through this contract; (2) the State's satisfaction and acceptance of the selected vendor's services and deliverables upon completion of each anticipated contract year; and (3) availability of funding to continue services.

1.22 SELECTION OF PROPOSAL:

All proposers will be notified in writing regarding the results of the RFP evaluation. Upon review and approval of the evaluation committee's recommendation for award(s), the CDOT Procurement Office will issue a "Notice of Intent to Make an Award" letter to the apparent successful proposer(s). Provided, however, that all proposers understand that such letter, by itself, does not grant any property interest or right of any nature in the RFP work/services or to a contract for the performance of such work/services. A contract must then be completed and signed by all parties and the State Controller, before any such right exists. Therefore, the apparent successful proposer(s) that receive a "Notice of Intent to Make an Award" letter shall not rely on that letter to make commitments to third parties, and the apparent successful proposer(s) shall not take any actions(s) to prepare for or start the performance of the RFP work/services until a contract is so negotiated and executed. In addition, a contract must be completed and signed by all parties concerned on or before the date indicated in the Schedule of Activities.

1.23 AWARD OF CONTRACT:

The award will be made to that proposer(s) whose proposal conforms to the RFP, and is/are judged to be the most advantageous to the State of Colorado and CDOT, price and other factors considered, subject to negotiation and execution of an acceptable contract as described above.

CDOT will award this solicitation and enter into a contract with the winning Proposer(s) through an executed State of Colorado, Department of Transportation Contract. CDOT intends to award to Offerors capable of fulfilling CDOT's current anticipated volume needs. However, should CDOT determine, at any time during the term of the resulting contract(s), that the number of awarded contractors is not adequate to properly fill CDOT's needs, CDOT reserves the right to make awards to Offerors who submitted responses to the original solicitation but were not awarded, or to re-issue the solicitation and make additional awards as necessary. If the solicitation is re-issued, current contractors in good standing will not be required to respond.

1.24 It is the intent of CDOT to select a vendor within 30 days of the deadline for receipt of proposals. However, bid proposals must be firm and valid for award for at least 120 days after the deadline for receipt of proposals.

1.25 NEWS RELEASES:

News releases pertaining to this RFP shall NOT be made prior to execution of a contract, and then will be made only with the approval of CDOT.

1.26 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION:

1.26.1. By submission of this proposal each proposer thereto certifies as to its own organization, that in connection with this procurement:

- (a) The prices in this proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor;
- (b) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the proposer and will not knowingly be disclosed by the proposer prior to opening, directly or indirectly to any other proposer or to any competitor; and
- (c) No attempt has been made by the proposer to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

1.26.2 Each person signing the Invitation for Bid form of this RFP certifies that:
He/she is the person in the proposer's organization responsible within that organization for the decision as to the prices being offered herein and that he/she has not participated, and will not participate, in any action contrary to 1.26.1 (a) through (c) above.

or
He/she is not the person in the proposer's organization responsible within that organization for the decision as to the prices being offered herein but that he/she has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to 1.26.1 (a) through (c) above, and as their agent does hereby so certify; and he/she has not participated, and will not participate, in any action contrary to 1.26.1 (a) through (c) above.

1.26.3 A proposal will not be considered for award where 1.26.1 (a) and (c), and 1.26.2 above, have been deleted or modified. Where 1.26.1 (b) above has been deleted or modified, the proposal will not be considered for award unless the proposer furnishes with the proposal a signed statement which sets forth in detail the circumstances of the disclosure and the head of the CDOT's Purchasing Office, or designee, determines that such disclosure was not made for the purpose of restricting competition.

1.27 TAXES

The State of Colorado, as purchaser, is exempt from all Federal taxes under Chapter 32 of the Internal Revenue Code (Registration No. 84-730123K), and from all State and Local Government Use Taxes (Ref.

Colorado Revised Statutes Chapter 39-26.114[a]). Proposer is hereby notified that when materials are purchased in certain political subdivisions the seller may be required to pay sales tax even though the ultimate product or service is provided to the State of Colorado. This sales tax will not be reimbursed by the State.

1.28 FUNDS AND COMPENSATION:

The funds payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. In the event funds are not appropriated, any resulting contract will become null and void, without penalty to the State of Colorado or CDOT.

1.29 BACKGROUND, OVERVIEW, GOALS:

Project Purpose

1.30 STATEMENT OF WORK:

See attached Statement of Work – Attachment C. **CDOT is not guaranteeing the award of any work.**

1.31 RESPONSIBILITIES

Responsibilities

1.32 SUBMISSION OF CONFIDENTIAL/PROPRIETARY INFORMATION

The State neither requests nor encourages the submission of confidential/proprietary information in response to this RFP. Information submitted will be open for public inspection. However, written requests for confidentiality can be submitted to the CDOT Purchasing Official, provided that the submission must be in STRICT accordance with the following procedures. The submission of information in strict accordance with such procedures shall be the SOLE RESPONSIBILITY of the proposer.

PROCEDURE FOR SUBMISSION:

- A. A written request for confidentiality shall be submitted, by the proposer with the proposal documents.
- B. The written request will be enclosed in an envelope marked "REQUEST FOR CONFIDENTIALITY", and attached to the cover of the ORIGINAL copy of the proposer's proposal that contains the invitation for proposal page with the proposer's ORIGINAL autographic signature.
- C. The written request must state SPECIFICALLY, AND IDENTIFY BY PAGE NUMBER, what elements of the proposal are to remain confidential. The request must also IDENTIFY THE BASIS for the claim of confidentiality, OTHER than a recitation of a SPECIFIC State or Federal statute.
- D. Confidential/proprietary information MUST be readily IDENTIFIED, MARKED and SEPARATED/PACKAGED from the rest of the proposal. Co-mingling of confidential/proprietary information and other information is NOT acceptable.
- E. The CDOT Purchasing Official will make a written determination as to the apparent validity of any request for confidentiality. The written determination of the Purchasing Official will be sent to the proposer.
- E. Proposals that are determined to be at variance with this procedure may be declared non-responsive by the Purchasing Official, and not given further consideration.

1.33 ORAL PRESENTATION/SITE VISITS:

Proposers may be asked to make oral presentations or to make their facilities available for a site inspection by the evaluation committee. Such presentations and/or site visits will be at the proposer's expense and for the total evaluation committee and the Purchasing Agent.

1.34 PROPOSAL PRICES:

Estimated proposal prices/amounts are not acceptable. Best and final offers may be considered in determining the apparent successful proposer, if requested, by the evaluation committee after oral presentations.

1.35 RFP CANCELLATION:

The State reserves the right to cancel this Request for Proposal at any time, without penalty.

1.36 PARENT COMPANY:

If a proposer is owned or controlled by a parent company, the name, main office address and parent company's tax identification number shall be provided in the proposal.

1.37 ASSIGNMENT AND DELEGATION:

Except for assignment of antitrust claims, neither party to any resulting contract may assign or delegate any portion of the agreement without the prior written consent of the other party.

1.38 VENUE:

The laws of the State of Colorado shall govern in connection with the formation, performance and the legal enforcement of any resulting contract. Further, Title 24, C.R.S. as amended, Article 101 through 112 and Rules adopted to implement the statutes govern this procurement.

1.39 COOPERATIVE PURCHASING AGREEMENT:

In accordance with 24-110-201 CRS, this solicitation may be issued to establish a cooperative purchasing agreement. The prices and rates from the awarded vendor's bid/proposal resulting from the solicitation may be used by the issuing entity, other state agencies, institutions of higher education, political subdivisions (i.e., cities, counties, schools) and eligible non-profit agencies. Each entity will be responsible for costs incurred by their entity and may use a commercial card or issue a purchase order/contract as appropriate by the ordering agency or entity.

1.40 COLORADO PROCUREMENT MODERNIZATION ACT:

As of August 9, 2017 the Colorado Procurement Modernization Act is in effect. As a result the following terms for all existing and future contracts will be void as a matter of law under Colorado Revised Statute 24-106-109:

- A. Any term that requires the State to indemnify or hold harmless the vendor or a 3rd party.
- B. Any term that requires the State to agree to binding arbitration or any other binding extra-judicial dispute resolution process.
- C. Any limitation of liability that includes bodily injury, death or damage to tangible property.
- D. Any term that requires legal disputes to be handled by any laws other than those of the state of Colorado. All contracts shall be governed by Colorado law.

All contracts containing terms 1.40 A-D above shall otherwise be enforceable as if they did not contain such terms.

1.41 EQUAL OPPORTUNITY AND NON-DISCRIMINATION:

CDOT, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

1.42 SUBCONTRACTING :

CDOT may award a single contract or multiple contracts. Subcontracting will be allowed under the Resulting award(s). Awarded vendors will be the Prime Contractor and will be fully accountable to CDOT for assuring that its subcontractors comply with all terms of the contract between CDOT and the Prime Contractor. All Subcontractors will be subject to the same State and Federal Laws,

Assurances and Certifications as the Prime Consultant.

1.43 COMPLIANCE WITH FEDERAL REQUIREMENTS

When a procurement involves the expenditure of federal assistance or federal contract funds, the Procurement Official shall comply with the appropriate federal law and the rules and regulations promulgated pursuant to such laws which are mandatorily applicable.

FEDERAL CLAUSES AND CERTIFICATIONS

1.44 Awarded Vendor(s) will be required to complete Federal Clauses and Certifications attached as Exhibit D prior to final award and execution of the contract.

1.45 RESPONSIBILITY OF VENDORS AND CONTRACTORS :

A determination of responsibility or non-responsibility shall be governed by these rules (R-24-103-401).

Standards of Responsibility

- (a) Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective contractor or vendor:
 - (i) has or can obtain the appropriate financial, material, equipment, facility, personnel resources and expertise to indicate the capability to meet all contractual requirements;
 - (ii) has a satisfactory record of performance;
 - (iii) has a satisfactory record of integrity;
 - (iv) does not appear on any debarred lists;
 - (v) is qualified legally to contract with the state; and
 - (vi) has supplied all necessary information in connection with the inquiry concerning responsibility.
- (b) The prospective contractor or vendor shall supply information requested by the procurement official concerning the responsibility of such contractor. If such contractor or vendor fails to supply the requested information, the chief procurement officer or procurement official shall base the determination of responsibility upon any available information.

Ability to Meet Standards

The prospective contractor or vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

- (a) Evidence that such contractor possesses such necessary items;
- (b) Acceptable plans to subcontract for such necessary items; or
- (c) A documented commitment from, or explicit arrangement with a satisfactory source to provide the necessary items.

Written Determination of Non-Responsibility Required

If a prospective contractor or vendor who otherwise would have been awarded a contract is found to be non-responsible, a written determination of non-responsibility setting forth the basis of the finding shall be prepared by the procurement official. A copy of the determination shall be sent promptly to the non-responsible prospective contractor or vendor. The determination shall be made part of the procurement record.

SECTION 2.0
INFORMATION REQUIRED FROM PROPOSERS
General Proposer Response Format

2.1 BACKGROUND:

This section of the proposal, should demonstrate the proposer's understanding of, and approach to, the described services, specifically addressing how *each element* of the Statement of Work will be accomplished using the _____ as an example. The proposal should include details of the following:

2.2 CONFLICT IDENTIFICATION:

Proposals must identify all current and former contract activity with any existing State agency or transportation authority, reasonably related to the work described in this RFP. Indicate when involvement occurred and length such involvement, the specific type of activity with identified agency and/or transportation authority, and indicate the extent of involvement with such entities.

2.3 WORK EXPERIENCE:

Using the _____ as an example of how expertise will be applied, the proposal should list and describe all relevant work experience and qualifications, including but not limited to:

- a. Describe why your firm is well qualified to provide the services that have been described in this RFP.
- b. Describe your firms experience and capabilities in _____
- c. Other _____

2.4 FORMAT FOR PROPOSALS – Submissions must be electronic and submitted through the CDOT SUSS vendor portal in one file. If file size does not permit one file, then clearly mark the sections of your submittal. Firms responding to this RFP should address the following items in no more than 16 pages, double sided (excluding appendices: resumes, sample reports, charts, graphs, or other supporting documentation), 11 pt. font, 8.5 x 11 letter size paper, 1.5 inch margins per submission. Do not leave pages blank. All pages must be clearly numbered and sections labeled. 11x17 formatting can be used if it's necessary to properly display charts, maps, or similar information and will be counted as a single page. Text should not be presented in 11x17 format. The Cover Letter will be included towards the page count.

COVER LETTER

A cover letter (separate from the RFP signature form) must be included that generally introduces the Project Team and the approach to completing various work items outlined in the statement of work under sections 1.30 & 1.31. It must be signed by a person with full authority to enter into a contract between the Contractor and CDOT.

2.5 FEES AND EXPENSES

Cost Proposal

Contractor shall complete the work identified in this **Exhibit C – Scope of Work** based on the following Cost Proposal:

A. Labor Costs

Employee Classification	Labor Rate	Total Hours	Total Cost
1.			
2.			
3.			

Total Labor Costs: \$ _____

B. Materials, Equipment, and Other Costs

Item Description	Quantity	Total Cost
1.		
2.		
3.		

Total Materials/Equip/Other Costs: \$ _____

C. Total Project Cost

The total project cost and Task Order Maximum Amount Payable is \$ _____.

The above project budget includes all fees, costs, and expenses, including, but not limited to, labor costs, travel expenses, parts, service, repair, removal, replacement, mileage charges, supplies, mailing charges, installation, testing, communications, order and order tracking, reporting, debugging, analysis, delivery charges, and other expenses.

OR

PRICES AND RATES

The total price of a Project shall be determined based on the following prices and rates:

A. Labor Rates

Employee Classification	Rate/Hour
1.	
2.	
3.	

B. Materials, Equipment, and Other Costs

Item Description	Unit Cost
1.	
2.	
3.	

The above rates shall include all fees, costs, and expenses, including, but not limited to, labor costs, travel expenses, parts, service, repair, removal, replacement, mileage charges, supplies, mailing charges, installation, testing, communications, order and order tracking, reporting, debugging, analysis, delivery charges, and other expenses. The State is not required to execute any minimum number of Task Orders under the Contract. Only one price/rate increase will be considered during any Renewal Term following the Initial Term.

2.6 VETERANS PREFERENCE:

A. Pursuant to C.R.S. 24-50-511, the State shall give consideration to proposers utilizing a preference for hiring veterans of military service *only* in the following manner:

- To break a tie between proposals following review, scoring and ranking by the evaluation committee. Such tie shall be broken by awarding the resulting contract to the proposer utilizing the greatest quantitative (numerical) preference for veterans in the hiring of its employees.

Veterans' preference will not be used as a scored criterion in the evaluation and ranking of proposals received in response to this RFP solicitation.

B. Proposers should be aware of the provisions of the recently enacted House Bill 14-1224 which sets Service Disabled Veteran Owned Small Business(SDVOSB) goal of at least 3% of all contracts by dollar value be awarded to SDVOSBs, who must be incorporated or organized in Colorado or they must maintain a place of business or have an office in Colorado and who are officially registered and verified as a SDVOSB by the **Center for Veteran Enterprise within the U.S. Department of Veteran Affairs**.(www.vip.vetbiz.gov)

Service Disabled Veteran Owned Small Business (SDVOSB), In accordance with Procurement Code C.R.S. 24-103-211; An Offeror claiming status as a service disabled veteran owned small business must identify itself as such in its proposal and provide documentation of its certification from the United States Department of Veteran Affairs with its bid response.

SDVOSB preference will be used as a scored criterion in the evaluation and ranking of proposals received in response to this RFP solicitation.

2.7 MBE/WBE PARTICIPATION:

The State encourages its agencies to utilize minority-owned and women-owned businesses to the greatest extent possible without sacrificing adequate competition. Proposer's are reminded of the illegality of discrimination, and the provisions of Procurement Code Section 24-111-102.

In accordance with 49 CFR Parts 23 and 26 and 14 CFR Part 152, the Colorado Department of Transportation and the contractors, subcontractors, cities, counties and other local entities with whom it does business will take all necessary and reasonable steps to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and participate in contracts and subcontracts financed with state and federal funds. This policy specifically upholds the Transportation Commission's commitment to fair and equitable business practices and is supported by CDOT's DBE program.

SECTION 3 EVALUATION CRITERIA

3.1 AWARD OF BID:

This section will outline the evaluation criteria to be used by the evaluation committee in the review, rating, and selection of submitted proposals. After evaluation of the written proposals, CDOT *may* request oral presentations from top-ranked proposers. The highest ranked proposals will be given fair and equal treatment during the second (optional) phase of the evaluation. Oral presentations will not be scored separately as part of this solicitation. Oral presentations will only be used to adjust the proposal scores accordingly (per the same evaluation criteria), based upon the information discussed at the presentation. The top-ranked proposal(s) (following conclusion of all phases of the evaluation) shall be recommended, by the evaluation committee, to enter into contract negotiations. The contract(s) will be awarded to those proposer(s) whose proposal (conforming to the RFP) is/are deemed to be the most advantageous to the State of Colorado, price and other factors considered.

3.2 EVALUATION PROCESS:

- 3.2.1 Each member of the evaluation committee will first independently evaluate the merit of proposals received in accordance with the evaluation factors defined in the RFP, followed by panel discussion and final scores ranking. The recommendations of this committee will then be forwarded by the purchasing agent, to the CDOT Procurement Director for review and final approval.
- 3.2.2 Failure of the proposer to provide any information requested in the RFP may result in disqualification of the proposal as nonresponsive. It is the responsibility of the proposer to provide all information required by this RFP.
- 3.2.3 The sole objective of the evaluation committee will be to recommend the proposal most responsive to the State of Colorado's needs. The specifications detailed in this RFP represent the minimum performance necessary for such response.
- 3.2.4 The top ranked proposal(s) (highest score(s)), following independent review and panel discussion, will be recommended either for award or, if the evaluators deem in appropriate, to make an oral presentation.
- 3.2.5 Proposal Scoring: The sole objective of the evaluation committee will be to score the responses and recommend the proposer(s) whose proposal is/are most advantageous to the State of Colorado, taking into consideration all evaluation factors set forth herein. Following independent review and panel discussion, the successful proposer(s) will be the one(s) accumulating the highest number of points (of a maximum 100) at the conclusion of the final stage of the selection process and whose proposal(s) is/are deemed most advantageous to the State, and who successfully negotiates the ensuing contract.

3.3 EVALUATION CRITERIA:

The complete proposal package will include, *but not be limited to*, evaluation using the factors listed below. These factors are designed to incorporate specific evaluation of the items presented in Section 1.30 and Section 2 of this RFP.

As stated in Section 2.1, proposals should not simply repeat what is written in Section 1.30 of this RFP – the Statement of Work, but rather evidence the proposer's understanding of the State's requirements and its ability to provide the services needed within a clearly defined and cost-effective budget. (Refer to Section 2 of this RFP).

1. **Understanding and Project Approach - describes clear understanding of CDOT goals and proposal and contains all required information including certifications and specific information about task in Scope of Work: (40%)**

- a.
- b.

c. .

2. **Overall Experience & Capabilities - describes relevant experience of the firm, proposed staff and team experience and clearly demonstrate expertise for this contract: (30%)**
 - a. .
 - b. .
 - c. .
3. **Qualifications and Ability to Provide Services - Sufficient staff/availability to perform in a timely manner, clear description of ability to respond and complete projects in a timely manner: (15%)**
 - a. Qualification and commitment of personnel.
4. **Budget and Narrative - describes cost effective and efficient staffing/procedures that demonstrate quality value of final product: (10%) (can be more, but not less)**
 - a. Information is provided as requested in Section 2.5 and no unacceptable modifications to the terms and conditions outlined in this RFP are proposed.
5. **Feasibility and Completeness: (5%)**
 - a. The proposal is both adequate and complete, as defined through the RFP.
 - b. The proposal inspires confidence in production of a quality-required product, solicited under the RFP.
6. **Service Disabled Veteran Owned Small Business (SDVOSB) Certification: (5% preference if applicable)**
 - a. Proposers should be aware that there is a Service Disabled Veteran Owned Small Business (SDVOSB) goal of at least 3% of all contracts by dollar value be awarded to SDVOSBs, who must be incorporated or organized in Colorado or they must maintain a place of business or have an office in Colorado and who are officially registered and verified as a SDVOSB by the *Center for Veteran Enterprise within the U.S. Department of Veteran Affairs*. (www.vip.vetbiz.gov)
 - b. Service Disabled Veteran Owned Small Business (SDVOSB), In accordance with Procurement Code C.R.S. 24-103-905; An Offeror claiming status as a service disabled veteran owned small business must identify itself as such in its proposal and provide documentation of its certification from the United States Department of Veteran Affairs with its bid response.

Attachment 4-5. DTR Quick Procurement Guide



COLORADO
Department of Transportation

DIVISION OF
TRANSIT AND RAIL

QUICK PROCUREMENT GUIDE 2019





This guide includes tools and guidelines for a subrecipient conducting a third-party procurement.

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BASIC REQUIREMENT

Organizations use their own procurement procedures that reflect applicable state and local laws and regulations, provided that the process ensures competitive procurement and the procedures conform to applicable Federal law, including 2 CFR Part 200 (specifically Sections 200.317-200.326), and FTA Circular 4220.1F, "Third Party Contracting Guidance."

LIST OF ABBREVIATIONS

A&E	Architectural and Engineering
ADA	Americans with Disabilities Act
CASTA	Colorado Association of Transit Agencies
CDOT	Colorado Department of Transportation
DBE	Disadvantaged Business Enterprise
EEO	Equal Employment Opportunity
FMVSS	Federal Motor Vehicle Safety Standards
FTA	Federal Transit Administration
ICE	Independent Cost Estimate
IFB	Invitation for Bid
ITS	Information Technology Solutions
NA	Notice of Acceptance
PA	Purchase Authorization
PCR	Procurement Concurrence Request
RFP	Request for Proposals
RFQ	Request for Quotation
SA	Security Agreement
TVM	Transit Vehicle Manufacturer

PROCUREMENT THRESHOLDS



STATE

\$0 to \$4,999	Micro- Purchase
\$5,000 to \$24,999	Documented Quote
\$25,000 to \$150,000	Quick Bid
≥ \$150,000	IFB/RFP/QBS



FEDERAL

\$0 to \$10,000	Micro-Purchase
\$10,001 to \$250,000	Small Purchase (Documented Quotes)
> \$250,000	Above Small Purchase (RFP)

METHOD OF PROCUREMENT DECISION MATRIX

To determine which method of procurement is best suited, classify the situation by checking off the applicable boxes in each of the procurement methods below. All elements must apply to justify use of the method.

I. Micro-purchase

- Amount is under the Micro-purchase threshold
- Three or more vendor quotes available

II. Small Purchase (Documented Quote)

- Amount is within the Documented Quote Threshold
- Two or more vendor quotes available (Competitive Procurement)

III. Competitive Procurement

- Amount is above the Documented Quote Threshold
- Multiple sources available
- Not an Emergency Procurement



IV. Sole Source (not all elements need to apply for this category)

- Emergency Procurement (Subset of Sole Source)
- Original Equipment Manufacturer, Custom Item
- Only one source available
- Approved by CDOT - Sole Source
- Public exigency issue/emergency
- Competition is inadequate after public solicitation
(If all elements apply, continue to Emergency Procurement below)
- This is a health and safety issue that prohibits delay

V. Sealed Bid—Invitation For Bid (IFB)

- Complete & adequate specifications or purchase description
- Two or more responsible bidders willing to compete
- Selection can be made on basis of price
- Procurement suitable for firm, fixed price

VI. Informal Competitive Bidding—Request for Quotation (RFQ)

- Complete & adequate specifications or purchase description
- Does not require complicated solicitation evaluation

VII. Competitive Proposals—Request for Proposal (RFP)

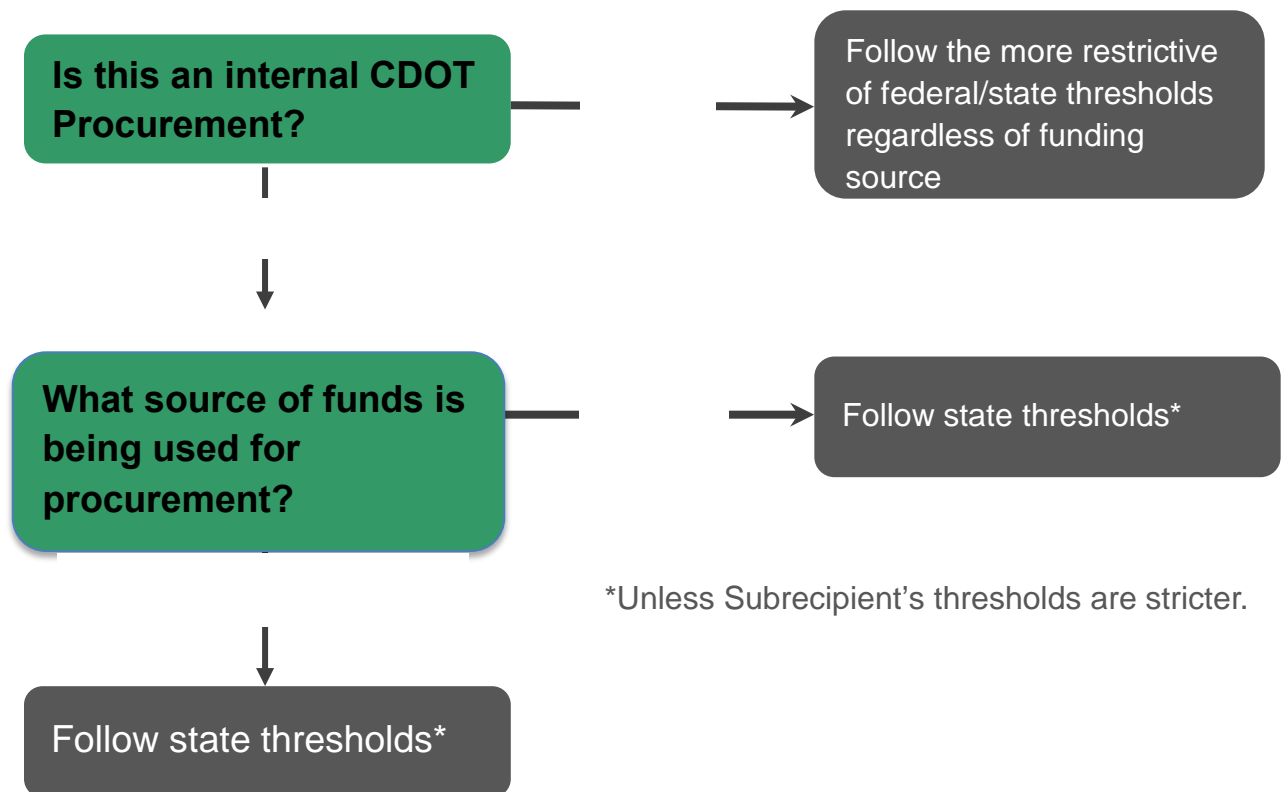
- Complete specification not feasible
- Bidder input needed for specification
- Two or more responsible bidders willing to compete
- Discussion needed with bidder after receipt of proposals, prior to award

VIII. Procurement for Architectural/Engineering Professional Services - Qualification Based Solicitation (QBS)

- Complete specification not feasible
- Bidder input needed for specification
- Two or more responsible bidders willing to compete
- Discussion needed with bidder after receipt of proposals, prior to award

Note: You cannot divide or reduce the size of the procurement to avoid the additional procurement requirements. Avoid unreasonable qualifications, specifying brand names, or exhibiting geographic preference. The successful bidder can be selected on the basis of price only.

DETERMINATION OF STATE OR FEDERAL FUNDING





DEFINITIONS USED IN DTR's PROCUREMENT PROCESSES

1

PCR Procurement Concurrence Request

The PCR is made for the purpose of reviewing the request to ensure that it avoids duplicative or unnecessary purchases and considers opportunities for intergovernmental or inter-entity sharing of goods/services. The Project Coordinator reviews the rationale for the request and procurement method, and then approves or rejects the PCR in COTRAMS.

2

PA Purchase Authorization

Subrecipients must prepare this form and submit it for approval prior to finalizing its agreement with the vendor for goods or services purchased with federal/state funding. The Project Coordinator reviews the required documentation (as seen in Procurement Documentation Requirement chart) and approves or rejects the PA in COTRAMS.

3

NA Notice of Acceptance

Subrecipients submit the NA after they have accepted any equipment or rolling stock. The NA also includes a Vehicle Inspection Checklist and allows for the Post Delivery Audit to be reported to the Project Coordinator. Post Delivery Audit includes: Buy America Certification (as applicable), Purchaser's Requirements Certification, Federal Motor Vehicle Safety Standards Certification, and Altoona Testing as applicable.

4

SA Security Agreement

The SA is made for the purpose of securing the State or Federal interest in transit vehicles purchased with State or Federal funds awarded by CDOT to the subrecipient. This form is taken to the agency's county DMV to register and title the vehicle. In order to ensure proper use of vehicles throughout the useful life, CDOT holds a first lien on all vehicles in the amount of the Federal or State share of the vehicle cost.

FTA AND FASTER CERTIFICATIONS AND ASSURANCES

FTA ANNUAL CERTIFICATIONS AND ASSURANCES CLAUSES

CLAUSE	Above Small Purchase (Greater than \$250,000)					Small Purchase (\$10,001 - \$250,000)					Micro-Purchase (\$0 - \$10,000)				
	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase/ Refurbishments	Construction	Equipment, Materials and Supplies	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase/ Refurbishments	Construction	Equipment, Materials and Supplies	Professional Services/ A&E	Operations/ Management	Rolling Stock Purchase/ Refurbishments	Construction	Equipment, Materials and Supplies
A&E = Architectural and Engineering; ADA = Americans with Disabilities Act; DBE = Disadvantaged Business Enterprise; EEO = Equal Employment Opportunity															
Fly America	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air	Involving foreign transport or travel by air				Construction contracts over \$2,000	
Buy America			All	All	All			>\$150,000	>\$150,000	>\$150,000 (for steel, iron, manufactured products)					
Charter Bus Service Operations		All					All							Construction contracts over \$2,000	
School Bus Operations		All					All							Construction contracts over \$2,000	
Cargo Preference			Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel			Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel	Involving property that may be transported by ocean vessel				Involving property that may be transported by ocean vessel	
Seismic Safety	A&E for new buildings and additions			New buildings and additions		A&E for new buildings and additions			New buildings and additions					Construction contracts over \$2,000	
Energy Conservation	All	All	All	All	All	All	All	All	All	All				Construction contracts over \$2,000	
Clean Water	All	All	All	All	All	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000					
Bus Testing (not minivans)			All					All							
Pre-Award and Post Delivery Audit Requirements			All					All							
Lobbying	All	All	All	All	All	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000					
Access to Records and Reports	All	All	All	All	All	All	All	All	All	All				Construction contracts over \$2,000	
Federal Changes	All	All	All	All	All	All	All	All	All	All				Construction contracts over \$2,000	

FTA ANNUAL CERTIFICATIONS AND ASSURANCES CLAUSES

CLAUSE	Above Small Purchase (Greater than \$250,000)					Small Purchase (\$10,001 - \$250,000)					Micro-Purchase (\$0 - \$10,000)				
	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase/ Refurbishments	Construction	Equipment, Materials and Supplies	Professional Services/A&E	Operations/ Management	Rolling Stock Purchase/ Refurbishments	Construction	Equipment, Materials and Supplies	Professional Services/ A&E	Operations/ Management	Rolling Stock Purchase/ Refurbishments	Construction	Equipment, Materials and Supplies
A&E = Architectural and Engineering; ADA = Americans with Disabilities Act; DBE = Disadvantaged Business Enterprise; EEO = Equal Employment Opportunity															
Bonding (not required of states)				All (including ferry vessels)											
Clean Air	All	All	All	All	All	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000					
Recycled Products		All		All	All		Contracts for items designated by EPA, when procuring \$10,000 or more per year		Contracts for items designated by EPA, when procuring \$10,000 or more per year	Contracts for items designated by EPA, when procuring \$10,000 or more per year					
Davis-Bacon and Copeland Anti-Kickback Act				All (including ferry vessels)					All (including ferry vessels)					Section 1: All Section 2: >\$2,000 (including ferry vessels)	
Contract Work Hours and Safety Standards Act		All	All	All (including ferry vessels)			>\$100,000	>\$100,000	>\$100,000 (including ferry vessels)						
No Government Obligations to Third Parties	All	All	All	All	All	All	All	All	All	All				Construction contracts over \$2,000	
Program fraud and false or fraudulent statements and related acts	All	All	All	All	All	All	All	All	All	All				Construction contracts over \$2,000	
Termination Provisions	All	All	All	All	All	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000					
Gov't-wide Debarment and Suspension	All	All	All	All	All	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000					
Privacy Act	All	All	All	All	All	All	All	All	All	All					
Civil Rights (Title VI, Equal Employment Opportunity (EEO), Americans with Disability Act (ADA))	All	All	All	All	All	All	All	All	All	All	All	All	All	All	All
Breaches and Dispute Resolution	All	All	All	All	All	>\$150,000	>\$150,000	>\$150,000	>\$150,000	>\$150,000					
Patent Rights and Rights in Data (& Copyrights Requirements)	Research & development					Research & development					Research & development			Construction contracts over \$2,000	

FTA ANNUAL CERTIFICATIONS AND ASSURANCES CLAUSES

CLAUSE	Above Small Purchase (Greater than \$250,000)					Small Purchase (\$10,001 - \$250,000)					Micro-Purchase (\$0 - \$10,000)				
	Professional Services/A&E	Operations/Management	Rolling Stock Purchase/Refurbishments	Construction	Equipment, Materials and Supplies	Professional Services/A&E	Operations/Management	Rolling Stock Purchase/Refurbishments	Construction	Equipment, Materials and Supplies	Professional Services/A&E	Operations/Management	Rolling Stock Purchase/Refurbishments	Construction	Equipment, Materials and Supplies
A&E = Architectural and Engineering; ADA = Americans with Disabilities Act; DBE = Disadvantaged Business Enterprise; EEO = Equal Employment Opportunity															
Transit Employee Protective Arrangements		Transit operations funded with Section 5307, 5309, 5311, 5316 funds					Transit operations funded with Section 5307, 5309, 5311, 5316 funds							Construction contracts over \$2,000	
Disadvantaged Business Enterprises (DBE)	All	All	All	All	All	All	All	All	All	All	All	All	All	All	All
Prompt Payment	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met	All if threshold for DBE program met				All if threshold for DBE program met	
Incorporation of FTA Terms	All	All	All	All	All	All	All	All	All	All				Construction contracts over \$2,000	
Drug and Alcohol Testing		Transit operations funded with Section 5307, 5309, 5311 funds					Transit operations funded with Section 5307, 5309, 5311 funds					Transit operations funded with Section 5307, 5309, 5311 funds		Construction contracts over \$2,000	

FASTER CERTIFICATIONS AND ASSURANCES CLAUSES

CLAUSE	IFB/RFP/QBS (>\$100,000)		Quick Bid (\$25,000 - \$99,999)		Documented Quote (\$5,000 - \$24,999)		Micro-Purchase (\$0 - \$4,999)	
	FASTER		FASTER		FASTER		FASTER	
	Rolling Stock	Other (Operating, Planning/Professional Services, Equipment Purchases, ITS)	Rolling Stock	Other (Operating, Planning/Professional Services, Equipment Purchases, ITS)	Rolling Stock	Other (Operating, Planning/Professional Services, Equipment Purchases, ITS)	Rolling Stock	Other (Operating, Planning/Professional Services, Equipment Purchases, ITS)
A&E = Architectural and Engineering; ADA = Americans with Disabilities Act; DBE = Disadvantaged Business Enterprise; EEO = Equal Employment Opportunity								
Fly America								
Buy America								
Charter Bus Service Operations								
School Bus Operations								
Cargo Preference								
Seismic Safety								
Energy Conservation								
Clean Water								
Bus Testing (not minivans)	All		All		All		All	
Pre-Award and Post Delivery Audit Requirements								
Lobbying	>\$150,000	>\$150,000						
Access to Records and Reports	All	All	All	All	All	All	All	All
Federal Changes								
Bonding (not required of states)								
Clean Air								
Recycled Products								
Davis-Bacon and Copeland Anti-Kickback Act								
Contract Work Hours and Safety Standards Act		>\$150,000 (Construction)						
No Government Obligations to Third Parties	All	All	All	All	All	All	All	All
Program fraud and false or fraudulent statements and related acts								
Termination Provisions	All	All	All	All	>\$10,000	>\$10,000		
Gov't-wide Debarment and Suspension (#22)	All	All	All	All				
Privacy Act (#23)								
Civil Rights (Title VI, Equal Employment Opportunity (EEO), Americans with Disability Act (ADA))	All	All	All	All	All	All	All	All
Breaches and Dispute Resolution								
Patent and Rights in Data								
Transit Employee Protective Arrangements								
Prompt Payment								
Incorporation of FTA Terms								
Drug and Alcohol Testing								



PROCUREMENT DOCUMENTATION REQUIREMENTS

Subrecipients must maintain sufficient records that detail the significant history of a procurement. At a minimum, such records must include:



Rationale for the method of procurement (i.e., Request for Proposals, Invitation for Bids, sole source)



Selection of contract type (i.e., fixed price, cost reimbursement)



Reason for contractor selection or rejection



Basis for the contract price (i.e., cost/price analysis)



The extent of documentation should be reasonable. Documents included in a procurement history should be commensurate with the size and complexity of the procurement itself. FTA recognizes that these written records will vary greatly for different procurements.

PROCUREMENT DOCUMENTATION REQUIREMENTS

Procurement Type	Description	PCR (see additional required documentation)	PA (see additional required documentation)	NA & Post Delivery Audit (Altoona Testing, Purchasers Requirements, FMVSS, \$150K or More [Buy America])	SA (for rolling stock, property and buildings only)	PCR Required Documentation (to be submitted in COTRAMS)	PA Required Documentation (Certifications in COTRAMS to be completed by Subrecipients)	Reimbursement Documentation
FMVSS = Federal Motor Vehicle Safety Standards; ICE = Independent Cost Estimate; IFB = Invitation for Bid; NA = Notice of Acceptance; PA = Purchase Authorization; PCR = Procurement Concurrence Request; RFP = Request for Proposals; SA = Security Agreement; TVM = Transit Vehicle Manufacturer								
CDOT Price Agreements	Procurement using CDOT/DTR's negotiated price agreements for commonly purchased buses and transit vehicles.	X	X	X	X	<ul style="list-style-type: none"> Independent Cost Estimate (ICE) 	<ul style="list-style-type: none"> Cost and Price Analysis* Check SAM.GOV for vendor registration and eligibility - Screenshot or Print out* Signed Transit Vehicle Manufacturer (TVM) Certification* Bus Testing Certification* Federal Motor Vehicle Safety Standards (FMVSS) Certification* Purchasers Requirement Certification* More than \$100k Lobby Certification* More than \$150k Buy America Certification* Price Agreement Vendor Quotes* *Obtained from CDOT Price Agreement Contractor for vehicle procurement Additional: TVM Survey Monkey - CDOT Staff	<ul style="list-style-type: none"> Independent Cost Estimate Procurement Concurrence Request Purchase Authorization Notice of Acceptance Security Agreement Application for Title or Title Invoice Proof of Payment Post Delivery Certifications
State Price Agreements (State funds only)	Procurements using State of Colorado State Commodity & Service Agreements. Agreements generally run for a year, with the option for renewal. The State's current contracts can be found at https://www.colorado.gov/pacific/osc/price-agreements .	X	X	X	X	<ul style="list-style-type: none"> ICE 	<ul style="list-style-type: none"> Cost and Price Analysis Check SAM.GOV for vendor registration and eligibility - Screenshot or Print out* Signed TVM Certification (vehicles only) Bus Testing Certification (vehicles only) FMVSS Certification (vehicles only) Purchasers Requirement Certification (vehicles only) More than \$100k Lobby Certification More than \$150k Buy America Certification Price Agreement Vendor Quotes Additional: TVM Survey Monkey (FTA funds only) - CDOT Staff	
Piggybacking (Non-federal funds)	A post award practice that allows a party that was not included in the original procurement to purchase supplies or equipment through the contract. Piggybacking is only allowed under certain circumstances.	X	X	X	X	<ul style="list-style-type: none"> ICE 	<ul style="list-style-type: none"> All official correspondence related to the procurement Written approval from original agency Supporting documentation for Piggybacking Worksheet Self-certifications for Buy America and Purchaser's Requirements Additional: TVM Survey Monkey (FTA funds only) - CDOT Staff	

PROCUREMENT DOCUMENTATION REQUIREMENTS

Procurement Type	Description	PCR (see additional required documentation)	PA (see additional required documentation)	NA & Post Delivery Audit (Altoona Testing, Purchasers Requirements, FMVSS, \$150K or More [Buy America])	SA (for rolling stock, property and buildings only)	PCR Required Documentation (to be submitted in COTRAMS)	PA Required Documentation (Certifications in COTRAMS to be completed by Subrecipients)	Reimbursement Documentation
FMVSS = Federal Motor Vehicle Safety Standards; ICE = Independent Cost Estimate; IFB = Invitation for Bid; NA = Notice of Acceptance; PA = Purchase Authorization; PCR = Procurement Concurrence Request; RFP = Request for Proposals; SA = Security Agreement; TVM = Transit Vehicle Manufacturer								
Micro-Purchases	Purchases under \$10,000. Do not require competitive quotes.	--	--	--	--	<ul style="list-style-type: none"> ICE 	<ul style="list-style-type: none"> Documentation that the price is reasonable 	
Documented Quotes	Purchases between \$10,000 and \$250,000. Require a minimum two quotes.	X	X	X	X	<ul style="list-style-type: none"> ICE 	<ul style="list-style-type: none"> Cost and Price Analysis Check SAM.GOV for vendor registration and eligibility - Screenshot or Print out* Signed TVM Certification (vehicles only) Bus Testing Certification (vehicles only) FMVSS Certification (vehicles only) Purchasers Requirement Certification (vehicles only) More than \$100k Lobby Certification More than \$150k Buy America Certification Vendor Quotes Additional: TVM Survey Monkey (FTA funds only) - CDOT Staff	
Invitation for Bid (IFB)/ Request for Proposal (RFP)	Purchases over \$250,000. Competitive procurement with defined rules and procedures.	X	X	X	X	<ul style="list-style-type: none"> ICE RFP with applicable clauses* *To be downloaded from Procurement Pro 2.0	<ul style="list-style-type: none"> Cost and Price Analysis Check SAM.GOV for vendor registration and eligibility - Screenshot or Print out* Signed TVM Certification (vehicles only) Bus Testing Certification (vehicles only) FMVSS Certification (vehicles only) Purchasers Requirement Certification (vehicles only) More than \$100k Lobby Certification More than \$150k Buy America Certification Additional: TVM Survey Monkey (FTA funds only) - CDOT Staff	
Qualification-based (Brooks Act)	Used for procuring architectural/engineering professional services.	X	X	--	X	<ul style="list-style-type: none"> ICE RFP with applicable clauses* *To be downloaded from Procurement Pro 2.0	<ul style="list-style-type: none"> Cost and Price Analysis Check SAM.GOV for vendor registration and eligibility - Screenshot or Print out* More than \$100k Lobby Certification More than \$150k Buy America Certification Additional: TVM Survey Monkey (FTA funds only) - CDOT Staff	

PROCUREMENT DOCUMENTATION REQUIREMENTS

Procurement Type	Description	PCR (see additional required documentation)	PA (see additional required documentation)	NA & Post Delivery Audit (Altoona Testing, Purchasers Requirements, FMVSS, \$150K or More [Buy America])	SA (for rolling stock, property and buildings only)	PCR Required Documentation (to be submitted in COTRAMS)	PA Required Documentation (Certifications in COTRAMS to be completed by Subrecipients)	Reimbursement Documentation
FMVSS = Federal Motor Vehicle Safety Standards; ICE = Independent Cost Estimate; IFB = Invitation for Bid; NA = Notice of Acceptance; PA = Purchase Authorization; PCR = Procurement Concurrence Request; RFP = Request for Proposals; SA = Security Agreement; TVM = Transit Vehicle Manufacturer								
Sole Source	Procurements soliciting proposal from one source. Also used for a contract change not within scope of the original contract.	X	X	X	X	<ul style="list-style-type: none"> • ICE 	<ul style="list-style-type: none"> • Cost and Price Analysis • Check SAM.GOV for vendor registration and eligibility - Screenshot or Print out* • Signed TVM Certification (vehicles only) • Bus Testing Certification (vehicles only) • FMVSS Certification (vehicles only) • Purchasers Requirement Certification (vehicles only) • More than \$100k Lobby Certification • More than \$150k Buy America Certification • Sole Source Justification • Proposed contract with applicable clauses <p>Additional: TVM Survey Monkey (FTA funds only) - CDOT Staff</p>	



LINKS & TIPS

FTA Procurement Website

<https://www.transit.dot.gov/funding/procurement/procurement>

FTA Circular C 4220.1F: Third Party Contracting Guidance provides contracting guidance for recipients of federal assistance awarded by the FTA when using that federal assistance to finance its procurements (third-party contracts)

<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance>

FTA Best Practices Procurement Manual includes procedures, methods, and examples of procurement practices covering the entire procurement cycle

<https://www.transit.dot.gov/funding/procurement/third-party-procurement/best-practices-procurement-manual>

Federal Title 49 – Part 18 Subpart C, Section 18.36 Procurement

<https://www.gpo.gov/fdsys/pkg/CFR-1999-title49-vol1/pdf/CFR-1999-title49-vol1-sec18-36.pdf>

National RTAP ProcurementPRO website—especially helpful for managing RFP's

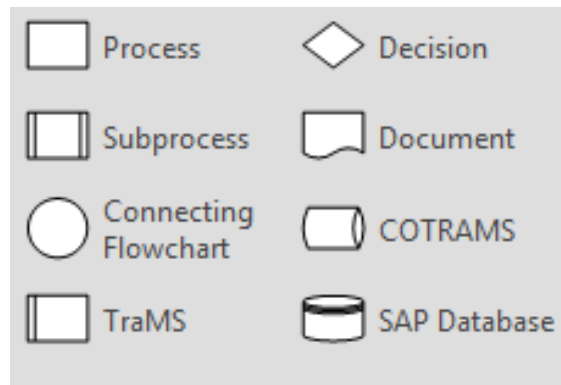
<http://www.nationalrtap.org/Web-Apps/ProcurementPRO-20>

RTAP Procurement Assistance is available to rural agencies by contacting Colorado Association of Transit Agencies (CASTA)

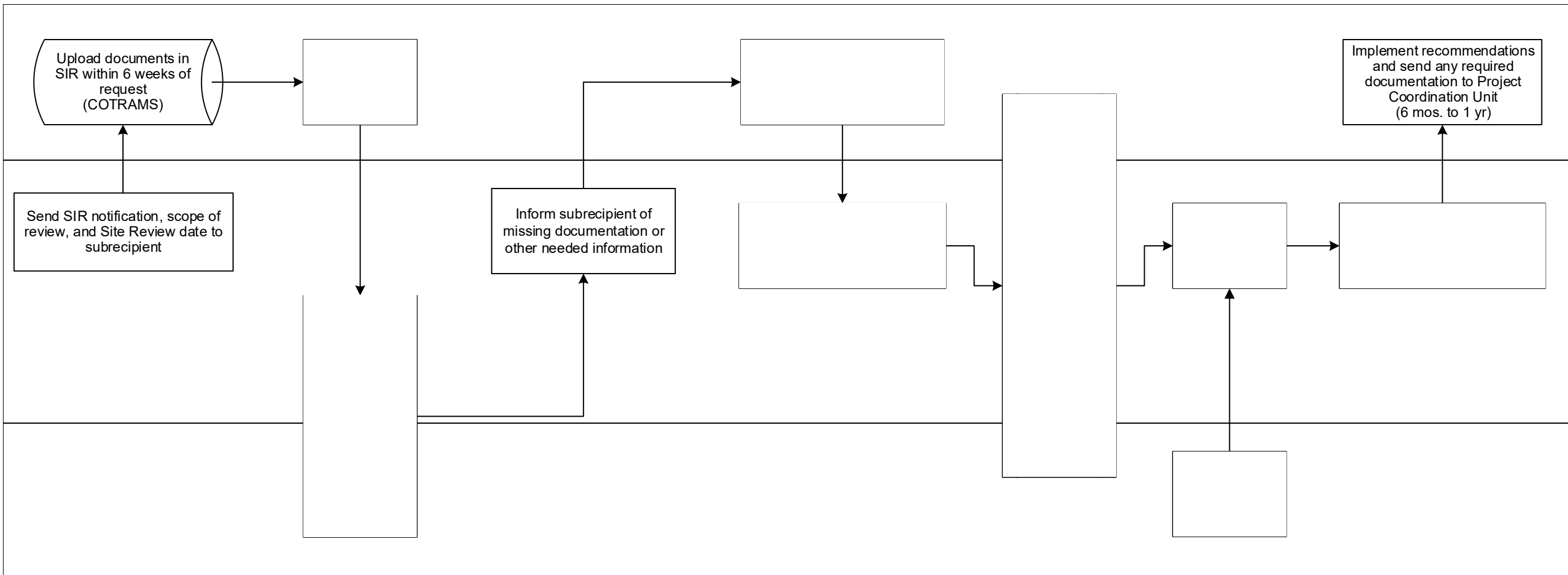
<https://coloradotransit.com/>

CHAPTER 4 FLOWCHARTS

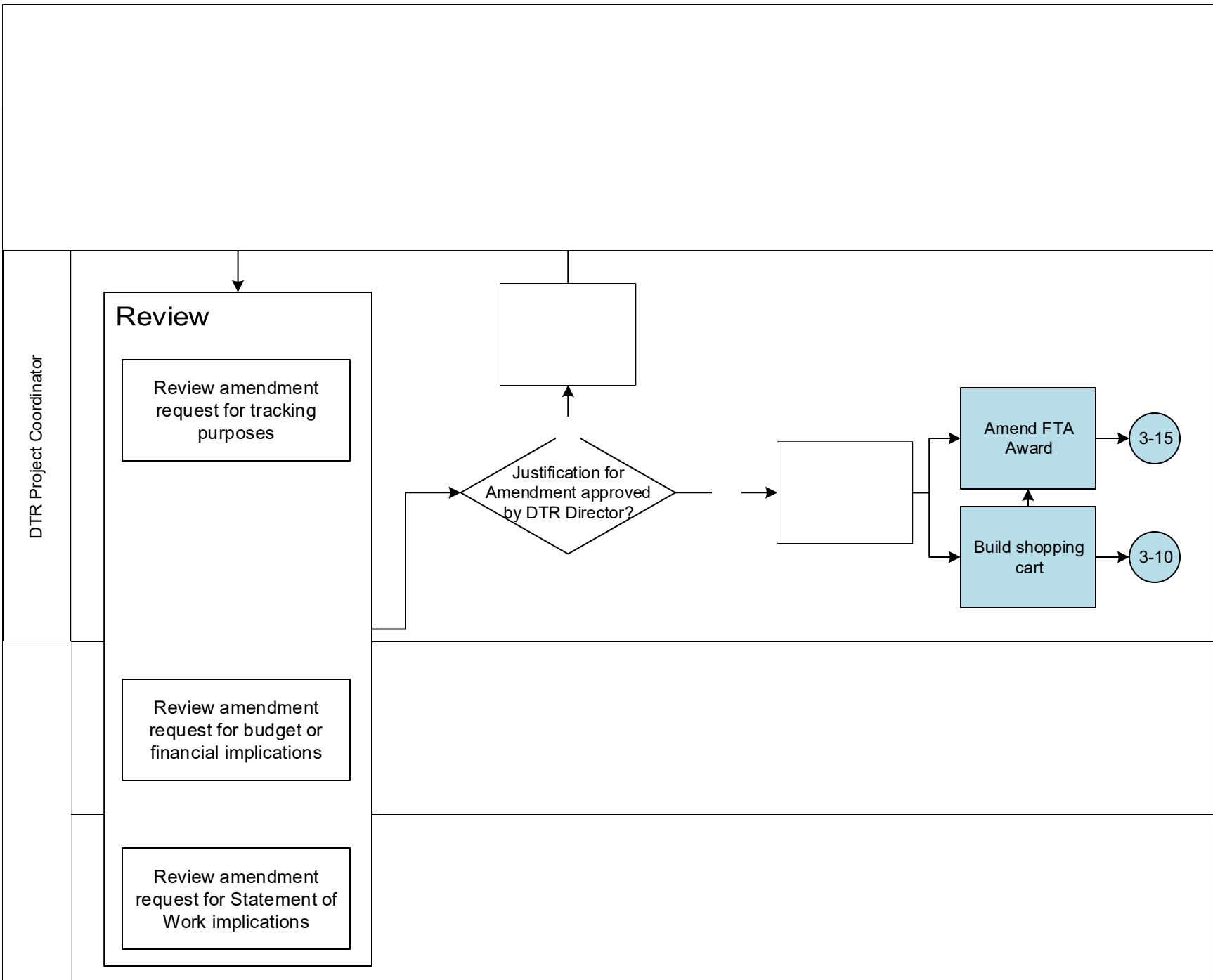
Flowchart Shapes/Key



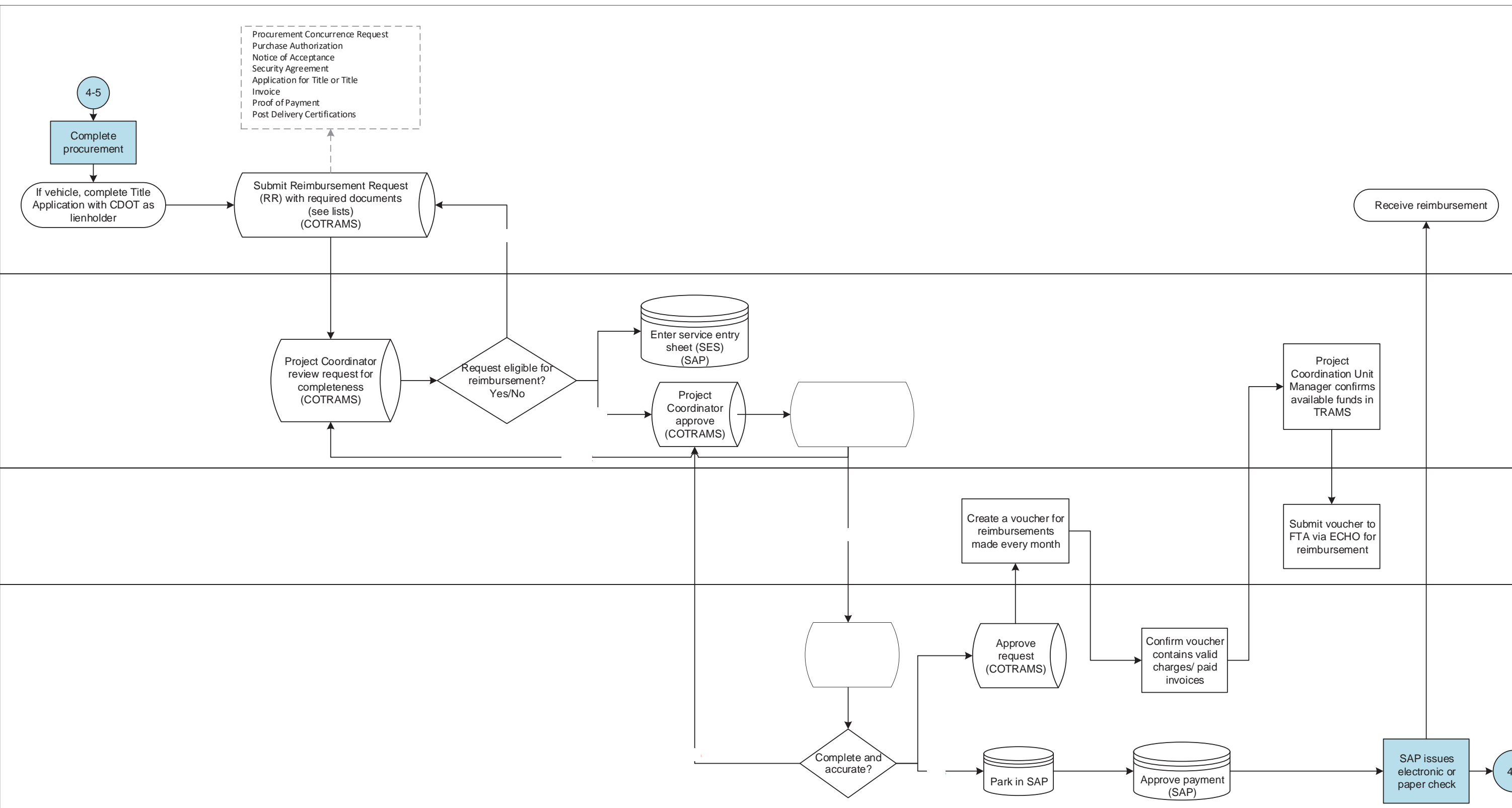
Flowchart 4-1. Subrecipient Information Request (SIR) and Site Review Process



Flowchart 4-2. Amendment for Capital Project

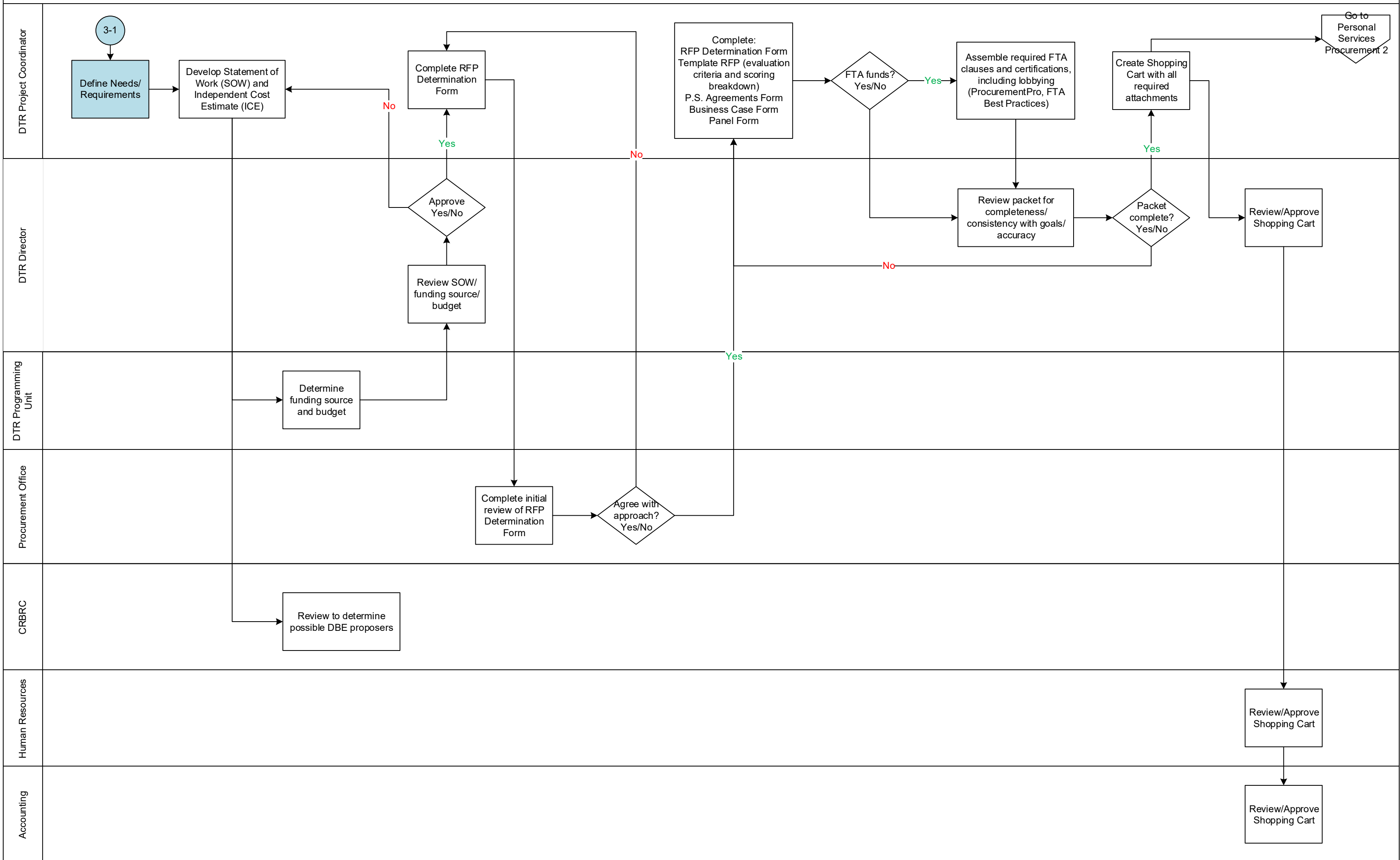


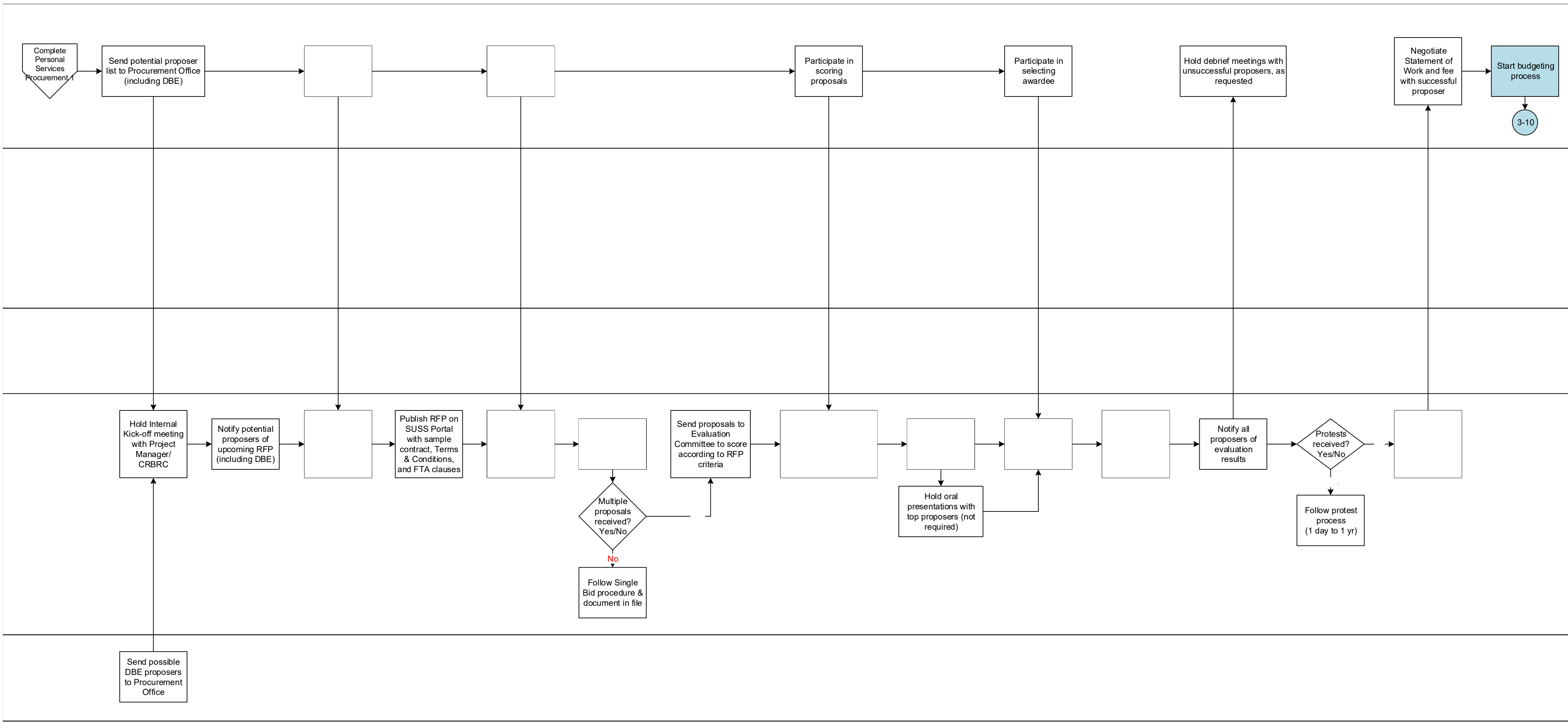
Flowchart 4-3. Capital Project Reimbursement Request



Flowchart 4-4. Personal Services Procurement

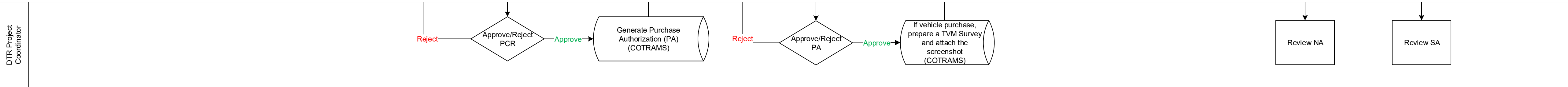
4-4 DTR Personal Services Procurement - 1



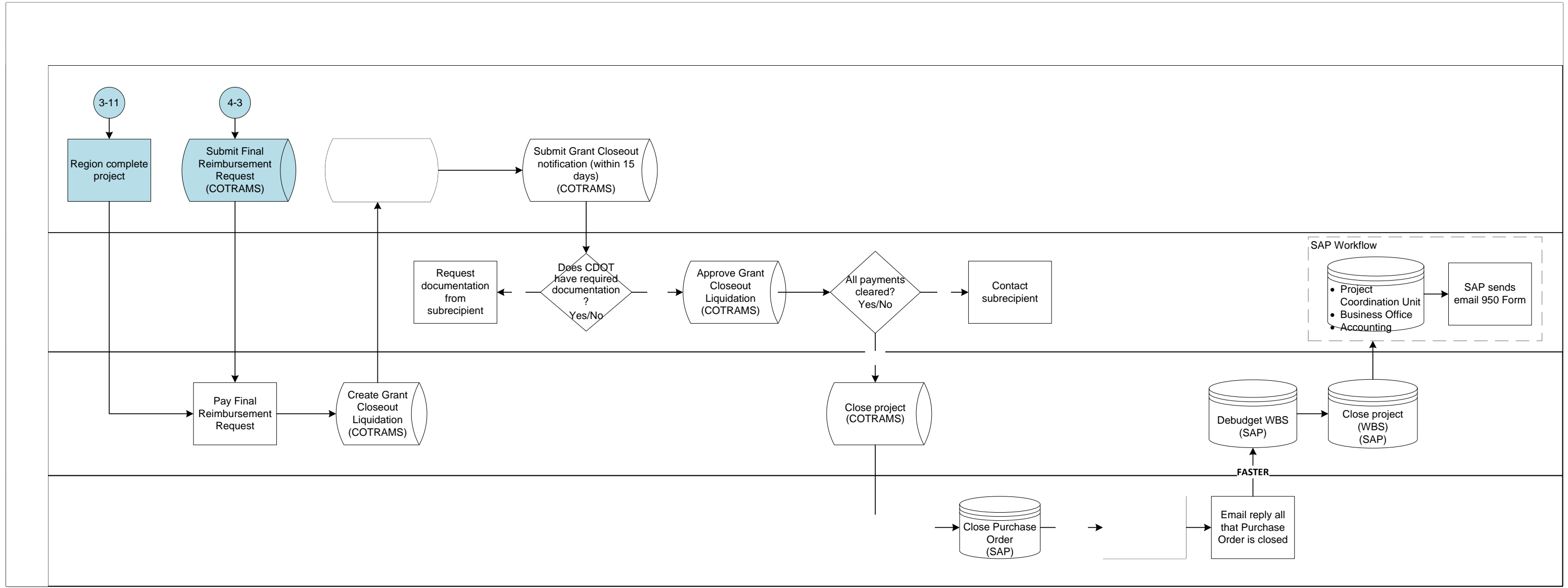


Flowchart 4-5. Third-Party Procurement

4-5 Third-Party Procurement



Flowchart 4-6. Project Closeout





COLORADO
Department of Transportation

**DIVISION OF
TRANSIT AND RAIL
STATE MANAGEMENT PLAN**

CHAPTER 5
Civil Rights

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- Attachment 5-2. Title VI Requirements-Title VI Program Contents
- Attachment 5-3. DTR Title VI Program
- Attachment 5-4. DTR LEP Plan
- Attachment 5-5. USDOT Standard Assurances
- Attachment 5-6. CDOT FTA DBE Goal
- Attachment 5-7. DBE Program Subrecipient MOU
- Attachment 5-8. DBE Q&A
- Attachment 5-9. FTA EEO Program Review Checklist
- Attachment 5-10. **CDOT's ADA Guide**
- Attachment 5-11. ADA FAQ Sheet
- Attachment 5-12. ADA Review Checklist
- Attachment 5-13. Title VI and Environmental Justice Comparison Chart

Chapter 5 Flowcharts

- Flowchart 5-1. Title VI Program Submittal
- Flowchart 5-2. DBE Triennial DBE Participation Goal (FTA)
- Flowchart 5-3. DBE Semiannual Report to FTA
- Flowchart 5-4. EEO Tracking and Reporting
- Flowchart 5-5. ADA Complaint Process

5 CIVIL RIGHTS

5.1 Introduction

CDOT's Civil Rights and Business Resource Center's (CRBRC) mission is to promote equal access to and participation in CDOT programs and activities. Additionally, the CRBRC collaborates with regional Civil Rights Offices and various Colorado Department of Transportation (CDOT) program staff to **foster equality in CDOT's transportation contracting** processes. The Division of Transit and Rail (DTR) is responsible for incorporating equal access to programs and activities during the planning, development, operation, and integration of transit and rail into the statewide transportation system.

Within the CRBRC is the role of the Title VI Specialist/Civil Rights Liaison for DTR. This position works with DTR to implement and monitor compliance with the Federal Transit Administration's (FTA) civil rights requirements.

5.2 Title VI of the Civil Rights Act of 1964 (Title VI)

Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code (U.S.C.) 2000d, 49 Code of Federal Regulations (CFR) part 21, prohibits discrimination on the basis of race, color and national origin in programs and activities receiving federal financial assistance or receiving any funding from FTA or CDOT. Failure to provide Limited English Proficiency (LEP) language assistance may constitute national origin discrimination in violation of Title VI.

FTA Circular 4702.1B, Title VI Requirements and Guidelines for FTA Recipients, outlines Title VI requirements for recipients of FTA funds, including fixed-route providers, states, and Metropolitan Transportation Planning Organizations (MPO)

(https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA_Title_VI_FINAL.pdf).

Additionally, CDOT is required to **maintain "racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving federal financial assistance."**

A Language Assistance Plan (or Limited English Proficiency [LEP] Plan) is required as part of the Title VI Program in accordance with Executive Order No. 13166, Improving Access to Services for Persons with Limited English Proficiency, August 11, 2000; 42 U.S.C. § 2000d-1 note; and United States Department of Transportation (DOT) Notice, DOT Policy Guidance **Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons, 70 Fed. Reg. 74087, December 14, 2005.**

Reasonableness of the language assistance provided by CDOT and its subrecipients is determined by the following Four-Factor analysis:

- Factor 1: Number/proportion of LEP persons eligible to be served or likely to be encountered by the agency receiving FTA funding.
- Factor 2: Frequency with which LEP persons encounter the transit program or service.
- Factor 3: Nature and importance of the program, activity, or service provided by the agency to LEP persons.
- Factor 4: Local resources available to respond to LEP outreach and identify needs, as well as costs.

An agency's Language Assistance Plan is developed based on the results of the Four-Factor analysis and must include the agency's current procedures and steps it plans to take in the future to ensure meaningful access to transit programs by LEP persons.

5.2.1 Title VI Program Requirements

Appendix A of FTA Circular 4702.1B is a checklist of Title VI Program requirements, depending on the type of recipient/subrecipient (https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA_Title_VI_FINAL.pdf). A summary of this is outlined in Attachment 5-1 Title VI Requirements-Activities. The required program contents vary for fixed-route service providers (including deviated fixed-route service), states, and MPOs. These are outlined in Attachment 5-2 Title VI Requirements-Title VI Program Contents.

5.2.1.1 DTR Title VI Program

CDOT's Policy Directive 604.0 Policy on Non-Discrimination outlines CDOT's general non-discrimination policy for all CDOT programs and activities (<https://www.codot.gov/business/civilrights/titlevi/title-vi-assets/policy-directive-604-0-policy-on-non-discrimination>).

DTR's Title VI Program, developed in collaboration between DTR and the CRBRC, contains information on how DTR implements Title VI requirements. CDOT is required to maintain a Title VI Program that is updated and submitted every 3 years for FTA concurrence.

Information about CDOT's Title VI Program is available at <https://www.codot.gov/business/civilrights/your-rights>. **DTR's Title VI Program Plan and LEP Plan** are available at <https://www.codot.gov/business/civilrights/DTR>. Both of these documents are included as Attachment 5-3 DTR Title VI Program and Attachment 5-4 DTR LEP Plan.

5.2.1.2 FTA Direct Recipient Title VI Program

Transit service providers, including MPOs, that are direct recipients of FTA funding are required to update **the agency's Title VI Program** every 3 years. The updated program, with

the FTA concurrence letter, must be uploaded to Colorado Transit & Rail Awards Management System (COTRAMS). CRBRC tracks the plans and monitors the submissions through COTRAMS.

5.2.1.3 Subrecipient Title VI Program

In accordance with 49 CFR Part 21, all subrecipients that receive federal financial assistance are required to develop and implement a Title VI Program (including a Language Assistance Plan) **that has been approved by the agency's board with signatures**. In accordance with 49 CFR 21.9(b), CDOT, as the primary recipient passing through FTA funds to a subrecipient is **charged with reviewing and monitoring a subrecipient's Title VI Program** to ensure its compliance with the regulations. **As agents of CDOT's DTR program**, a subrecipient that does not receive federal assistance is **still subject to CDOT's non-discrimination policy** and shall not discriminate on the basis of race, color or nation origin in the administration of the project. If a subrecipient is not in compliance with Title VI requirements, then the primary recipient (CDOT) is also not in compliance. The Title VI Program must be approved and kept current prior to a subrecipient receiving FTA funds.

As agents of CDOT's DTR transit program, a subrecipient that does not receive federal assistance is still subject to Title VI requirements as administered by DTR and shall not discriminate on the basis of race, color or nation origin in the administration of a project from CDOT.

CDOT and its subrecipients must include the following notice in all advertisements for federally funded contracts:

"(Agency name) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 {78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

In addition, CDOT and its subrecipients must also assure that their contracts and subcontracts include certain Title VI non-discrimination clauses and terms, depending on the type of contract (see Attachment 5-5 USDOT Standard Assurances).

For a facility construction project, CDOT and its subrecipients must also complete a Title VI equity analysis during a project planning stage with regard to where a project is located or sited to ensure the location is selected without regard to race, color, or national origin. CDOT and its subrecipients must engage in outreach to persons potentially impacted by the siting of facilities. The Title VI equity analysis must compare the equity impacts of various siting alternatives, and the analysis must occur before the selection of the preferred site.

When CDOT and subrecipients are evaluating locations of facilities, they should give attention to other facilities with similar impacts in the area to determine if any cumulative adverse impacts might result. Analysis should be done at the Census tract or block group, where appropriate, to ensure that proper perspective is given to localized impacts. If CDOT or its subrecipients determine that the location of the project will result in a disparate impact on the basis of race, color, or national origin, they may only locate the project in that location if there is a substantial legitimate justification for locating the project there, and where there are no alternative locations that would have a less disparate impact on the basis of race, color, or national origin. They must demonstrate how both tests are met; it is important to understand that in order to demonstrate this, they must consider and analyze alternatives to determine whether those alternatives would have less impact.

5.2.2 DTR and CRBRC Oversight of Subrecipient Title VI Program

DTR and CRBRC jointly oversee a subrecipient's implementation of its Title VI Program and that it is including Title VI requirements in its advertisements and third-party contracting documents. Oversight also includes CRBRC's review of **a subrecipient's website to ensure** the following information is posted: Title VI public notice, Title VI complaint procedures, and Title VI complaint form. Examples of these documents are included in **DTR's Title VI Program**, and they can be found at <https://www.codot.gov/business/civilrights/your-rights>.

A new recipient must submit a Title VI Program prior to receiving FTA funds. The Title VI Program must be updated every 3 years unless the subrecipient is no longer receiving federal funds, is not still expending federal award, and does not have any federally funded equipment in operation. If the subrecipient has become a direct recipient of FTA funds, the agency is required to submit its Title VI Program to FTA and provide a copy to CRBRC, as described in Section 5.2.1.2.

When a subrecipient first submits its Title VI Program to COTRAMS, under the Programs Documents section, an expiration date that is 3 years after the creation of the submitted Title VI Program is entered. Expiration dates are tracked in COTRAMS, and the subrecipient is notified of upcoming expiration dates after the first submission. COTRAMS automatically **generates a response to the subrecipient's** Title VI submission.

Every year, DTR reviews a select number of subrecipients' Title VI Programs—with the ones expiring as the priority. This process is shown in Flowchart 5-1 Title VI Program Submittal.

In addition, CRBRC participates in the Subrecipient Information Request (SIR) and Site Review Process every 3 years. **A subrecipient's Title VI Program is part of this review.** DTR's SIR and Site Review checklist is included in Chapter 4 (Attachment 4-2 Subrecipient Information Request and Site Review Checklist). The CRBRC conducts a Desk Review of **a subrecipient's** Title VI Program and the Title VI portion of the SIR prior to the Site Visit.

5.2.3 Title VI Technical Support for Subrecipients

Templates for a subrecipient Title VI Program and LEP Plan are available at <https://www.codot.gov/business/civilrights/DTR>. The CRBRC Title VI Specialist is available to assist a subrecipient to prepare its Title VI Program and correct any deficiencies. Deficiencies identified during the Site Review are reported to the CRBRC within approximately 30 days of the review and may result in an additional program area review.

5.3 Disadvantaged Business Enterprise

Disadvantaged Business Enterprise (DBE) regulation 49 CFR Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs (<https://www.ecfr.gov/cgi-bin/text-idx?SID=53cd5c89e0e9bdcfc93bae3ae3efb10c&mc=true&node=pt49.1.26&rgn=div5>) seeks to ensure nondiscrimination in the award and administration of DOT-assisted contracts, create a level playing field on which DBEs can compete fairly for DOT-assisted contracts, help remove barriers to the participation of DBEs in DOT-assisted contracts, promote the use of DBEs in all types of federally assisted contracts and procurement activities conducted by recipients, and assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

Recipients that meet the threshold requiring a DBE Program must ensure that its chief executive officer designate a DBE liaison officer (DBELO) who has direct and independent access to the chief executive officer concerning DBE matters.

5.3.1 CDOT DBE Program and Triennial DBE Participation Goal

In accordance with 49 CFR Part 26, CDOT seeks to ensure non-discrimination in the award and administration of DOT-assisted contracts and to create a level playing field on which DBEs can compete fairly for DOT-assisted contracts. CDOT and its subrecipients shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. In administering its DBE Program CDOT shall not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, sex, or national origin.

CDOT is required to have an FTA-approved DBE Program on file with the FTA. Significant changes to the Program must be **submitted to FTA for approval**. CDOT's DOT-approved DBE Program is managed by the CRBRC and is available at <https://www.codot.gov/business/civilrights/smallbusiness/assets/cdot-dbe-program-manual-revised-2016.pdf>.

Every 3 years, CDOT is required to submit a transit-specific DBE participation goal to FTA for all contracting opportunities funded in whole or in part with FTA funds. This Triennial DBE

Goal is developed based on a survey of subrecipients, research conducted by CRBRC, and stakeholder input. It is submitted to FTA in Transit Award Management System (TrAMS) and **communicated to CDOT's transit stakeholders**. The process that CRBRC uses to set the goal is shown in Flowchart 5-2 DBE Triennial DBE Participation Goal (FTA).

A copy of CDOT's current Triennial DBE Goal can be found as Attachment 5-6 CDOT FTA DBE Goal. CDOT has a race-neutral FTA DBE program because it has reached its goal continuously without contract goals. CDOT is required to submit semiannual DBE reports to FTA on CDOT and subrecipient DBE participation in FTA-assisted contracts by June 1 and December 1 (Section 5.3.4).

CDOT, as a direct recipient of FTA funds, requires that each transit vehicle manufacturer certify that it has complied with the requirements of 49 CFR 26.49, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements. CDOT does not include FTA assistance used for procurements from transit vehicle manufacturers in the **base amount from which CDOT's overall goal is calculated**. **Within 30 days of making an award**, DTR submits the name of the successful bidder, and the total dollar value of the contract in the manner prescribed in its agreement with FTA.

5.3.2 Direct Recipient DBE Program

An agency must have a written DBE program approved by FTA and a designated DBELO if it meets the threshold of receiving planning, capital, and/or operating assistance that will have contracting opportunities (excluding transit vehicle purchases) with those funds exceeding \$250,000 in a federal fiscal year. Contracting opportunities are counted in the aggregate, and include FTA-funded purchase orders, capital projects, professional services, Transportation Infrastructure Finance and Innovation Act (TIFIA) loan-funded projects, and contracting activities of subrecipients. Small and micro-purchases are also counted toward this threshold.

A direct recipient of federal funds with an approved DBE Program may enter into an agreement (Memorandum of Understanding [MOU]) with CDOT to include funds received from CDOT in **the agency's** direct reporting to the federal agency. This MOU allows the direct recipient to incorporate FTA requirements into its existing DBE program. A template for the MOU is included as Attachment 5-7 DBE Program Subrecipient MOU.

A direct recipient with an approved DBE Program must submit the plan to CDOT with a copy **of the Federal Operating Administration's** concurrence (FTA, Federal Aviation Administration, or Federal Highway Administration [FHWA]). Additionally, a direct recipient with an approved DBE program **must submit a copy of the agency's DBE report** and **FTA's** concurrence to CRBRC on a semiannual basis, concurrent with its submittal to the FTA by June 1 and December 1.

5.3.3 Subrecipient DBE Program

A subrecipient that is not a direct recipient of DOT funds is **covered by CDOT's DBE Program** and must comply with its requirements. Those requirements are outlined in Attachment 5-8

DBE Q&A. Because DTR has adopted a race-neutral program to meet its DBE triennial goal, a subrecipient of federal funds from CDOT does not need to set DBE goals on contracting opportunities, but must comply with **CDOT's** DBE Program and report all DBE participation on contracting opportunities.

Subrecipients shall not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering CDOT's DBE Program or, if applicable, a subrecipient DBE program, subrecipients shall not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the Program with respect to individuals of a particular race, color, sex, or national origin. Subrecipients must shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. CDOT and its subrecipients must include contract provisions required by 49 CFR Part 26 regarding nondiscrimination, prompt payment, and release of retainage in all federally assisted project advertisements and contracts.

Subrecipients are expected to include DBEs in the competition for contracting opportunities to the fullest extent practicable through outreach and recruitment. In addition, subrecipients must include nondiscrimination language in procurement documents and agency contracts. Required language is included in Attachment 5-8 DBE Q&A.

5.3.4 DTR and CRBRC Oversight of Subrecipient DBE Program

DTR and CRBRC jointly oversee subrecipient implementation of the DBE Program. In addition to tracking and reporting DBE participation, CDOT verifies that DBEs reported by subrecipients meet the criteria of 49 CFR Part 26 and are certified by the Colorado Unified Certification Program agency (CDOT or the City and County of Denver). A list of currently certified DBE firms is provided at www.coloradodbe.org.

A subrecipient that receives federal assistance must track and report all bidders and contractors and subcontractors, including DBEs, that participate and seek to participate in its contracting opportunities. This information is reported to CRBRC twice a year, and CRBRC compiles the data for a report to FTA that tracks **CDOT's** progress on meeting its triennial DBE goal. CRBRC sends a survey every six months to subrecipients to report DBE participation in all contracting opportunities in the previous six-month period (October-March and April-September), including participation in the procurement process and contracts awarded, in progress, and completed. The survey is due back to CRBRC on May 15 and November 15. CDOT may conduct random audits to verify the contracting data reported by subrecipients. CRBRC compiles the data from the surveys and submits the Semiannual DBE Report (Uniform Report of Awards or Commitments and Payments) to FTA in TrAMS by June 1 and December 1 each

year. FTA responds with a concurrence letter that CRBRC and DTR keep on file. This process is shown in Flowchart 5-3 DBE Semiannual Report to FTA.

5.3.5 DBE Technical Support for Subrecipients

CRBRC and DTR are available to assist a subrecipient in meeting the requirements of 49 CFR Part 26. They have prepared a Question and Answer (Q&A) document that outlines subrecipient responsibilities regarding DBE participation (Attachment 5-8 DBE Q&A). CRBRC and DTR staff provide technical assistance to subrecipients in the following ways:

- To help remove barriers to the participation of DBEs in DOT-assisted contracts.
- To promote the use of DBEs in all types of federally assisted contracts and procurement activities conducted by recipients.
- To provide DBE-specific and periodic training through Colorado Association of Transit Agencies (CASTA).
- To assist the development of agencies that can compete successfully in the marketplace outside the DBE Program.
- To provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs.

5.4 Equal Employment Opportunity

The FTA Master Agreement requires all applicants, recipients, subrecipients, and contractors receiving FTA funding to comply with applicable federal civil rights laws and regulations and to follow applicable federal guidance. Equal Employment Opportunity (EEO) requirements apply to nondiscrimination as related to employment. EEO guidance is outlined in FTA Circular 4704.1, Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients

(<https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/regulations-and-guidance/civil-rights-ada/56501/eo-circular-c-47041a.pdf>).

CDOT and its subrecipients shall not discriminate ensuring nondiscrimination in employment on the basis of race, color, religion, national origin, sex, age, genetic information, disability, veteran status, or retaliation.

5.4.1 CDOT EEO Program

CDOT's internal EEO policy is different than, **but consistent with FTA's EEO requirements**. It applies to all CDOT employees and is set forth in Policy Directive 600.0.

5.4.2 Direct Recipient EEO Program

A direct recipient of FTA funds and a contractor to DTR that meet the EEO threshold, must submit its EEO Program and FTA concurrence letter through COTRAMS every 4 years. CRBRC tracks these programs through COTRAMS.

5.4.3 Subrecipient EEO Program

5.4.3.1 Full EEO Program

Any subrecipient, subrecipient of a CDOT subrecipient, or contractors that meet the following thresholds must implement all of the EEO Program elements.

- Employs 100 or more transit-related employees. (When calculating the total number of transit-related employees, agencies are required to include all part-time employees and employees with collateral duties that support the transit program. For example, a budget analyst who processes payments for the transit program would be considered a transit-related employee.)
- Requests or receives capital or operating assistance in excess of \$1 million in the previous federal fiscal year, or requests or receives planning assistance in excess of \$250,000 in the previous federal fiscal year.

Requirements for a full EEO Program are outlined in an attachment to FTA Circular 4704.1 and included here as Attachment 5-9 FTA EEO Program Review Checklist.

5.4.3.2 Subrecipient Abbreviated EEO Program

Any subrecipient, subrecipient of a CDOT subrecipient, or contractor that meets the following threshold requirements must prepare, maintain, and submit, if requested by CDOT, an abbreviated EEO Program:

- Employs between 50 and 99 transit-related employees. (When calculating the total number of transit-related employees, agencies are required to include all part-time employees and employees with collateral duties that support the transit program. For example, a budget analyst who processes payments for the transit program would be considered a transit-related employee.)
- Requests or receives capital or operating assistance in excess of \$1 million in the previous federal fiscal year, or requests or receives planning assistance in excess of \$250,000 in the previous federal fiscal year.

Requirements for an abbreviated EEO Program are outlined in an attachment to FTA Circular 4704.1.

5.4.4 DTR and CRBRC Oversight of Subrecipient EEO Requirements

All subrecipients and contractors that cross the EEO Program thresholds must submit EEO Programs to the transit agency or the state DOT from which they receive funds. Subrecipients that have subrecipients or contractors that meet the EEO thresholds must collect or provide oversight to ensure **the contractor's compliance with EEO Program responsibilities**. EEO programs can be submitted through COTRAMS under the Program Documents tab. Comments from CDOT will be under the Submit tab.

CDOT is responsible for ensuring and documenting that subrecipients and contractors that receive funds directly from FTA, receive funds as a contractor to DTR, or receive FTA funds from DTR comply with EEO statutes and regulations.

DTR and CRBRC jointly oversee subrecipient compliance with FTA's EEO requirements. The process for collecting and reviewing subrecipient EEO Programs through COTRAMS is shown in Flowchart 5-4 EEO Tracking and Reporting. Subrecipients are responsible for reporting EEO complaints filed against them to CDOT. CDOT then reviews and tracks resolution of the complaints.

In addition, CRBRC participates in the SIR and Site Review Process every 3 years. A **subrecipient's EEO** Program is part of this review.

5.4.5 EEO Technical Support for Subrecipients

CRBRC and DTR are available to assist a subrecipient in meeting EEO Program requirements and in resolving EEO complaints.

5.5 Americans with Disabilities Act

FTA is charged with ensuring public transit providers comply with the DOT regulations implementing the transportation-related provisions of the Americans with Disabilities Act (ADA) of 1990 as amended (42 U.S.C. 12101 et seq.), and Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) (Section 504). The ADA affords equal opportunity for employment, transportation, telecommunications, and places of public accommodation for people with disabilities. In accordance with Section 504, CDOT and its subrecipients shall not discriminate on the basis of handicap by recipients of federal financial assistance.

In order to receive federal funds, recipients, and subrecipients of FTA funds must comply with Section 504; in order to **comply with DOT's Section 504 regulations, recipients and subrecipients** must comply with the DOT ADA regulations.

The regulations in 49 CFR Parts 27, 37, 38, and 39 set specific requirements transit providers must follow to ensure their services, vehicles, and facilities are accessible to and usable by individuals with disabilities.

- Part 27 contains general nondiscrimination requirements (which largely overlap with the more recent nondiscrimination requirements in Part 37), along with subrecipient local complaint process requirements and DOT compliance and enforcement provisions.
- Part 37 contains the service-related requirements for fixed-route bus, complementary paratransit, demand responsive service, and rail systems.
- Part 38 contains the design specifications for various types of buses, vans, and rail cars.
- Part 39 sets forth the general nondiscrimination and service-related requirements for passenger vessel operators that provide ferry and other water transportation services.

The ADA guidance outlined in FTA Circular 4710.1, Americans with Disabilities Act (ADA): Guidance

(https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Final_FTA_ADA_Circular_C_4710.1.pdf) addresses the ADA requirements for the following types of public transit services:

- Fixed route bus.
- Complementary paratransit.
- Demand responsive.
- Rail (rapid, light, and commuter).
- Water transportation/passenger ferries.

5.5.1.1 ADA Complaints

FTA requires all agencies to have procedures in place to specifically address complaints alleging ADA violations. The DTR Civil Rights Liaison is responsible for coordinating ADA compliance as delegated by the CRBRC Director (ADA Coordinator). CRBRC reviews and responds to ADA complaints according to the process shown in Flowchart 5-5 ADA Complaint Process.

5.5.2 CDOT Accessibility Program

Public entities are required by Title II of the ADA to provide accessible services to persons with disabilities. For CDOT, "accessible services" means curb ramps, rest stops, building facilities, and public information. Regulations pertaining to ADA Title II can be found in 28 CFR Part 35. Design and construction standards can be found in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) (<https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-ada-standards/background/adaag>) and Public Right of Way Accessibility Guidelines (PROWAG) (<https://www.access-board.gov/guidelines-and-standards/streets-sidewalks/public-rights-of-way>).

CDOT's ADA Compliance Transition Plan is a living document that assesses accessibility across all programs and projects, highlighting compliance efforts and charting a course for

improvements. The Plan was approved by CDOT Leadership and FHWA in fall of 2017 (<https://www.codot.gov/business/civilrights/ada/transition-plan>).

5.5.3 Subrecipient ADA Accessibility

The regulations in 49 CFR Parts 27, 37, 38, and 39, and Section 504 apply broadly to both public and private entities and to almost all types of transportation services. Recipients are responsible for ensuring that subrecipients of FTA funding meet the ADA requirements.

“[Part 37 § 37.21(a)] applies to the following entities, whether or not they receive Federal financial assistance from the Department of Transportation:

- (1) Any public entity that provides designated public transportation or intercity or commuter rail transportation;
- (2) Any private entity that provides specified public transportation; and
- (3) Any private entity that is not primarily engaged in the business of transporting people but operates a demand responsive or fixed route system.”

In addition, newly constructed facilities, including joint use stops and depots for intercity bus transportation, must comply with ADA accessibility standards.

5.5.4 DTR and CRBRC Oversight of Subrecipient ADA Accessibility

DTR and CRBRC jointly oversee subrecipient compliance with ADA requirements. They must ensure that all vehicles acquired with FTA funds are equipped, maintained, and operated in accordance with 49 CFR Parts 27, 37 and 38, unless Certification of Equivalent Service is filed annually, and that service provided does not discriminate against individuals with disabilities. Newly constructed facilities, including joint use stops and depots for intercity bus transportation, must comply with ADA accessibility standards. **CDOT’s ADA Guide for Bus and Transit Operations** is included as Attachment 5-10 **CDOT’s ADA Guide**.

Agencies receiving FTA funding under Section 5307, Section 5310, or Section 5311 that provide demand responsive service are required to submit a Certification of Equivalent Service to DTR prior to procuring any inaccessible vehicle, which DTR must file with FTA. The certification is valid for 1 year. A sample Certification is available as an attachment to FTA Circular 4710.1. If DTR and CRBRC determine that a subrecipient presents a risk in this category, an ADA review may be performed.

In addition, CRBRC participates in the SIR and Site Review Process every 3 years. A **subrecipient’s** ADA Program is part of this review. A sample SIR and Civil Rights Site Review Checklist with required ADA documentation is included in Chapter 4.

5.5.5 ADA Technical Support for Subrecipients

DTR and CRBRC have prepared a Q&A document that outlines subrecipient responsibilities regarding ADA requirements (Attachment 5-11 ADA FAQ Sheet). More information is available in Attachment 5-12 ADA Review Checklist.

5.6 Environmental Justice

As stated in FTA Circular 4703.1, Environmental Justice Policy Guidance for Federal Transit Administration Recipients (https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA_EJ_Circular_7.14-12_FINAL.pdf), “**Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations**, requires the U.S. Department of Transportation (DOT) and FTA to make environmental justice part of our mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of our programs, policies, and activities on minority populations and/or low-income populations (collectively “**EJ populations**”). **Environmental justice at FTA** includes incorporating environmental justice and non-discrimination principles into transportation planning and decision-making processes, as well as project-specific **environmental review.**” DOT Order 5610.2(a) sets forth the DOT policy to consider environmental justice principles in all DOT programs, policies, and activities.

The environmental justice Orders and Circular set forth steps to prevent disproportionately high and adverse effects to minority or low-income populations not only through environmental analyses conducted as part of federal transportation planning and National Environmental Policy Act (NEPA) provisions, but also through Title VI analyses.

While Title VI is a federal statute that applies to recipients and subrecipients of federal financial assistance, environmental justice is addressed in an Executive Order that applies to federal agency (DOT and FTA) actions. Title VI is one of the tools used by federal agencies to implement the environmental justice directive. FTA Circular 4703.1 further explains how Title VI and environmental justice work together. This is summarized in Attachment 5-13 Title VI and Environmental Justice Comparison Chart, taken from the Circular.

The overarching objective for environmental justice is that there be a fair distribution of benefits and burdens associated with federal programs, policies, and activities. The guiding environmental justice principles followed by the DOT and FTA are summarized as follows:

- Avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority populations and low-income populations.
- Ensure the full and fair participation by all potentially affected communities in the transportation decision-making process.

- Prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

5.6.1 CDOT Environmental Justice Commitments

As a recipient of federal funding, CDOT follows the environmental justice principles adopted by the DOT and FTA to help ensure the fair distribution of the benefits and burdens associated with CDOT programs and activities, including federally funded projects.

CDOT and its subrecipients shall include and consider environmental justice principles at every stage of a project, including transit planning, decision-making, and project-specific environmental review. CDOT and its subrecipients can satisfactorily demonstrate that environmental justice was integrated into decision-making through a variety of ways, including:

- Ensuring that the level and quality of public transportation service is provided in a non-discriminatory manner. For example, when considering transit routes and service options, subrecipients should take into account the challenges faced by low-income and minority households who are dependent on transit for accessing employment and other services.
- Promoting full and fair participation in transportation decision-making without regard to race, color, national origin, or income. For example, subrecipients should (and MPOs must) be able to demonstrate how they seek out and consider the needs of those traditionally underserved by existing transportation systems and should periodically review the effectiveness of the procedures, strategies, and desired outcomes contained in their public participation plan to ensure a full and open participation process, which considers the needs of low-income and minority households.
- Ensuring meaningful access to public transportation-related programs and activities by persons with limited English proficiency. For example, agencies can prepare additional literature in the languages which are predominant in their service areas.
- Making public involvement an integral part of decision-making so that all populations within a community have an opportunity to be heard and policy-makers understand community needs, perceptions, and goals.
- Ensuring that public involvement activities identify and involve minority and low-income populations when making transportation decisions.
- Avoiding, minimizing, or mitigating disproportionately high and adverse effects on minority and low-income populations.
- Demonstrating the opportunity has been provided for public involvement in the identification of potential projects when applying for discretionary funds.

At the planning level, activities should be supplemented by data collection through both national services (e.g., Census Bureau, American Community Survey) and locally developed and administered data collection (e.g., finance department data, community impact assessments, and customer surveys). Local data can be derived from local surveys and recordkeeping. Places where surveys may be used include churches, farmers markets, transit stations and centers, senior centers, and various local community organizations and social groups. This data will permit a comparative assessment of accessibility, travel times, travel mode usage, and other travel attributes across environmental justice and non-environmental justice populations.

CDOT projects that require a federal action must comply with NEPA. During the NEPA review process, CDOT evaluates possible adverse human health and environmental effects of a project on minority and low-income communities. Chapter 9.15 of the CDOT NEPA Manual describes how CDOT staff analyze environmental justice issues during the NEPA process (<https://www.codot.gov/programs/environmental/nepa-program/nepa-manual>).

5.6.2 Subrecipient Environmental Justice Responsibilities

FTA requires recipients and subrecipients of FTA funds to facilitate its compliance with Executive Order 12898 and DOT Order 5610.2(a) by incorporating environmental justice principles into transportation decision-making process and environmental review documents. The following responsibilities related to environmental justice are summarized from FTA Circular 4703.1

(https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA_EJ_Circular_7.14-12_FINAL.pdf).

- Consider transportation needs of the public, including minority and low-income populations, in all transportation planning processes, including mobility issues; access to jobs and services; level of service; and service equity.
- Conduct an environmental justice analysis as part of any Environmental Impact Statement when triggered by an action (e.g., construction, fare, route, service change, etc.).
- With major changes to routes, services, or fares, conduct a modified equity analysis to identify if a disproportionate impact of changes was experienced by minority or low-income populations.
- When determining a site or location of a constructed facility, complete a Title VI equity analysis.

This is not intended to be an all-inclusive list—recipients must familiarize themselves with the details of how to integrate environmental justice into their transit decision-making processes that are included in the Circular.

5.6.3 DTR and CRBRC Oversight of Subrecipients

DTR and CRBRC jointly oversee how a subrecipient integrates environmental justice into its decision-making processes. CRBRC participates in the SIR and Site Review Process every 3 years and evaluates environmental justice as part of the Title VI Program review. CRBRC is then responsible for resolving findings from the Site Review Process. A sample SIR and Civil Rights Site Review Checklist with required Title VI documentation is included in Chapter 4.

5.6.4 Environmental Justice Technical Support

CRBRC is responsible for providing technical assistance and training for DTR staff and subrecipients. This includes helping subrecipients understand environmental justice-related outreach to minority and low-income populations. Additional resources can be found on the FTA website at <https://www.transit.dot.gov/regulations-and-guidance/environmental-programs/environmental-justice/environmental-justice> and the Environmental Justice Frequently Asked Questions at <https://www.transit.dot.gov/regulations-and-guidance/environmental-programs/environmental-justice/environmental-justice-faqs>.

CHAPTER 5 ATTACHMENTS

Attachment 5-1. Title VI Requirements-Activities

Exhibit 11.1

Requirement	Transit Providers that operate fixed-route service	Transit Providers that operate 50 or more fixed-route vehicles in peak service and are located in a UZA of 200,000 or more in population	States	Metropolitan Planning Organizations
General Requirements in Chapter III	Required	Required	Required	Required
Set system-wide standards and policies	Required	Required	Required if fixed route service provided	Required if MPO is a <i>direct recipient</i> and provides fixed route service
Collect and report data	Not required	Required: <ul style="list-style-type: none"> • Demographic and service profile maps and charts • Survey data regarding customer demographic and travel patterns 	Required of all States: <ul style="list-style-type: none"> • Demographic profile and maps of the State showing minority populations • Analysis charts of distribution impact of State and Federal transportation funds • Analysis of disparate impacts of funding distribution 	
			Required if fixed route service provided and meets the peak vehicle and UZA threshold: <ul style="list-style-type: none"> • Service profile maps and charts • Survey data regarding customer demographic and travel patterns 	
Evaluate service and fare equity changes	Not required	Required	Required if fixed route service provided and meets the peak vehicle and UZA threshold	Required if fixed route service provided and meets the peak vehicle and UZA threshold

Monitor transit service	Not required	Required	Required if fixed route service provided and meets the peak vehicle and UZA threshold	Required if fixed route service provided and meets the peak vehicle and UZA threshold
Planning	Not required	Not required	Required	Required
Subrecipients	Monitoring required, unless subrecipient is also a direct recipient	Monitoring required, unless subrecipient is also a direct recipient	<p>Required:</p> <ul style="list-style-type: none"> • Procedures to pass through funding in non-discriminatory manner • Procedures to provide assistance to potential subrecipients <p>Monitoring required, unless subrecipient is also a direct recipient</p>	<p>Monitoring required, unless subrecipient is also a direct recipient</p> <p>Required if MPO is a <i>primary recipient</i>:</p> <ul style="list-style-type: none"> • Procedures to pass through funding in non-discriminatory manner <p>Procedures to provide assistance to potential subrecipients</p>
Program Administration	Not required	Not required	Required	Required

Attachment 5-2. Title VI Requirements-Title VI Program Contents

Exhibit 11.2

The chart below summarizes the required elements for contents of a Title VI Program based on recipient category.

Type of Transit Provider	Title VI Program Contents
Demand Responsive Transit Provider	<ul style="list-style-type: none"> • A copy of the recipient's Title VI notice to the public • A copy of the recipient's instructions to the public regarding how to file a Title VI discrimination complaint, including a copy of the complaint form • A list of any public transportation-related Title VI investigations, complaints, or lawsuits filed with the recipient since the time of the last submission • A public participation plan (PPP) that includes an outreach plan to engage minority and limited English proficient populations, as well as a summary of outreach efforts made since the last Title VI Program submission • A copy of the recipient's plan for providing language assistance to persons with limited English proficiency, based on the DOT LEP Guidance • For recipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar bodies, the membership of which is selected by the recipient, the recipient must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees or councils • Narrative or description of efforts the primary recipient uses to ensure subrecipients are complying with Title VI, as well as a schedule of subrecipient Title VI program submissions • If the recipient has constructed a facility, such as a vehicle storage facility, maintenance facility, operation center, etc., a copy of the Title VI equity analysis conducted during the planning stage with regard to the location of the facility
Fixed Route Transit Provider	<ul style="list-style-type: none"> • All elements listed above for Demand Responsive Transit Providers • System-wide service standards, including vehicle load, vehicle headway, on time performance, and service availability for each mode • System-wide service policies, including transit amenities and vehicle assignment for each mode

Type of Transit Provider	Title VI Program Contents
<p>Fixed Route Transit Provider that:</p> <ul style="list-style-type: none"> operates 50 or more fixed route vehicles in peak service and is located in an Urbanized Area (UZA) of 200,000 or more in population; or has been placed in this category at the discretion of the Director of Civil Rights in consultation with the FTA Administrator. 	<ul style="list-style-type: none"> All elements listed above for Fixed Route Transit Providers and Demand Responsive Transit Providers A demographic analysis of the transit provider's service area. This shall include demographic maps and charts completed since submission of the last Title VI Program that contains demographic information and service profiles Data regarding customer ridership demographics and travel patterns, collected from passenger surveys Results of the monitoring program of service standards and policies and any action taken, including documentation (e.g., a resolution, copy of meeting minutes, or similar documentation) to verify the board's or governing entity or official(s)'s consideration, awareness, and approval of the monitoring results A description of the public engagement process for setting the "major service change policy," disparate impact policy, and disproportionate burden policy A copy of board meeting minutes or a resolution demonstrating the board's or governing entity or official(s)'s consideration, awareness, and approval of the major service change policy and disparate impact policy Results of equity analyses for any major service changes and/or fare changes implemented since the last Title VI Program submission A copy of board meeting minutes or a resolution demonstrating the board's or governing entity or official(s)'s consideration, awareness, and approval of the equity analysis for any service or fare changes required by the circular

Type of Transit Provider	Title VI Program Contents
States	<ul style="list-style-type: none"> • A copy of the recipient’s Title VI notice to the public • A copy of the recipient’s instructions to the public regarding how to file a Title VI discrimination complaint, including a copy of the complaint form • A list of any public transportation-related Title VI investigations, complaints, or lawsuits filed with the recipient since the time of the last submission • A public participation plan that includes an outreach plan to engage minority and limited English proficient populations, as well as a summary of outreach efforts made since the last Title VI Program submission • A copy of the recipient’s plan for providing language assistance to persons with limited English proficiency, based on the DOT LEP Guidance • For recipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar bodies, the membership of which is selected by the recipient, the recipient must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees or councils • Narrative or description of efforts the recipient uses to ensure subrecipients are complying with Title VI, as well as a schedule of subrecipient Title VI Program submissions • If the recipient has constructed a facility, such as a vehicle storage facility, maintenance facility, operation center, etc., a copy of the Title VI equity analysis conducted during the planning stage with regard to the location of the facility • A demographic profile of the state that includes identification of the locations of minority populations in the aggregate • Demographic maps that overlay the percent minority and non-minority populations as identified by Census or American Community Survey data at Census tract or block group level, and charts that analyze the impacts of the distribution of State and Federal funds in the aggregate for public transportation purposes, including Federal funds managed by the State as a designated recipient • An analysis of impacts identified in the demographic maps that identifies any disparate impacts on the basis of race, color, or national origin, and, if so, determines whether there is a substantial legitimate justification for the policy that resulted in the disparate impacts, and if there are alternatives that could be employed that would have a less discriminatory impact • A description of the statewide transportation planning process that identifies the transportation needs of minority populations

Type of Transit Provider	Title VI Program Contents
MPO	<ul style="list-style-type: none"> • A copy of the recipient’s Title VI notice to the public • A copy of the recipient’s instructions to the public regarding how to file a Title VI discrimination complaint, including a copy of the complaint form • A list of any public transportation-related Title VI investigations, complaints, or lawsuits filed with the recipient since the time of the last submission • A public participation plan that includes an outreach plan to engage minority and limited English proficient populations, as well as a summary of outreach efforts made since the last Title VI Program submission • A copy of the recipient’s plan for providing language assistance to persons with limited English proficiency, based on the DOT LEP Guidance • For recipients that have transit-related, non-elected planning boards, advisory councils or committees, or similar bodies, the membership of which is selected by the recipient, the recipient must provide a table depicting the racial breakdown of the membership of those committees, and a description of efforts made to encourage the participation of minorities on such committees or councils • Narrative or description of efforts the primary recipient uses to ensure subrecipients are complying with Title VI, as well as a schedule of subrecipient Title VI Program submissions • If the recipient has constructed a facility, such as a vehicle storage facility, maintenance facility, operation center, etc., a copy of the Title VI equity analysis conducted during the planning stage with regard to the location of the facility • A demographic profile of the metropolitan area that includes identification of the locations of minority populations in the aggregate • A description of the procedures by which the mobility needs of minority populations are identified and considered within the planning process • Demographic maps that overlay the percent minority and non-minority populations as identified by Census or ACS data, at Census tract or block group level, and charts that analyze the impacts of the distribution of State and Federal funds in the aggregate for public transportation purposes, including Federal funds managed by the MPO as a designated recipient

Type of Transit Provider	Title VI Program Contents
	<ul style="list-style-type: none"> • An analysis of impacts that identified any disparate impacts on the basis of race, color, or national origin, and, if so, determines whether there is a substantial legitimate justification for the policy that resulted in the disparate impacts, and if there are alternatives that could be employed that would have a less discriminatory impact • A description of the procedures the MPO uses to pass through FTA financial assistance to subrecipients in a nondiscriminatory manner • A description of the procedures the MPO uses to provide assistance to potential subrecipients applying for funding, including its efforts to assist applicants that would serve predominantly minority populations

Attachment 5-3. DTR Title VI Program

COLORADO DEPARTMENT OF TRANSPORTATION



Division of Transit and Rail Title VI Program

Colorado Department of Transportation Civil
Rights and Business Resource Center
November 2016

I. Introduction

The Colorado Department of Transportation (CDOT)'s mission is to provide the best multi-modal transportation system for Colorado that most effectively and safely moves people, goods, and information. To further this mission, the state legislature authorized the creation of the Division of Transit and Rail (DTR) in 2009, which is responsible for the planning, development, operation, and integration of transit and rail into the statewide transportation system. DTR works in coordination with other transit and rail providers to plan, promote, and implement investments in transit and rail services statewide. The primary functions of DTR include:

- Administration of the Federal Transit Administration Grant Programs
- Administration of the State Grant Program (FASTER)
- Transit and Rail Planning
- Agency and Stakeholder Coordination
- Compliance with Federal Requirements
- Transit Performance Measurement and Asset Management
- Management of CDOT's interregional bus service (Bustang)

The Civil Rights & Business Resource Center (CRBRC) works with DTR to maintain compliance with federal civil rights requirements. Together, DTR and the CRBRC seek to ensure nondiscrimination in federally funded programs and activities, provide access for Limited English Proficient (LEP) persons, and uphold the principles of environmental justice. CDOT's policy against discrimination is attached hereto as **Appendix A**.

II. Program Approval

CDOT's Division of Transit and Rail's Title VI Program has been developed in accordance with FTA Circular 4702.1B, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients." This program has been approved by the State of Colorado Transportation Commission. The resolution of approval is attached as **Appendix B**.

III. Contents

a. Requirement to Notify Beneficiaries of Protection under Title VI

In accordance with 49 CFR 21.9(d), CDOT apprises the members of the public of the protections against discrimination afforded to them by Title VI of the Civil Rights Act of 1964 (Title VI). CDOT's Title VI notice is available in English and Spanish on the CRBRC website at <https://www.codot.gov/business/civilrights/accessibility/titlevi>. A copy of the notice in English is attached as **Appendix C** and the Spanish version is attached as **Appendix D**.

CDOT provides public transit services through Bustang and notices have been placed on all transit vehicles. Notices are also currently posted in the lobby of the CDOT headquarters building and will be posted in all public buildings by the end of the year. CDOT recently had to update its public notices to include the most recent address and contact information for the regional FTA office. CDOT is currently in the process of printing new notices containing this updated information.

CDOT's subrecipients that provide public transit services are required to post a similar notice at stations, stops and on transit vehicles. Subrecipients have been provided templates of notices and are reminded of the requirement to post such notices during site visits and at transit conferences and trainings.

b. Complaint Procedures and Complaint Form

In accordance with 49 CFR 21.9(b), CDOT has developed procedures for investigating and tracking Title VI complaints filed against the agency and its subrecipients. CDOT's complaint procedure and complaint form are available in English and Spanish on the CRBRC website at <https://www.codot.gov/business/civilrights/accessibility/titlevi> .

The English version of the complaint form is attached as **Appendix E** and the Spanish version is included as **Appendix F**. The English version of the complaint procedure is attached as **Appendix G** and the Spanish version is included as **Appendix H**.

These documents were drafted with the intention of serving as a universal complaint form and procedure for all external discrimination complaints. Complaints are screened by CDOT civil rights staff to determine if a complaint falls under Title VI or another civil rights law.

c. Transit-Related Title VI Investigations, Complaints and Lawsuits

In accordance with 49 CFR Section 21.9(b), CDOT prepares and maintains a list of all complaints, investigations and lawsuits that allege discrimination on the basis of race, color or national origin. In the last three years, CDOT has received two Title VI related complaints. To maintain applicant confidentiality, the complaint log will be provided to FTA concurrent with the submission of this plan.

d. Inclusive Public Participation

DTR seeks public participation in decision-making during the statewide planning process, which is conducted every four to five years. In order to facilitate inclusive public involvement, DTR follows CDOT's "A Guide to the Transportation Planning and Programming Public Involvement Process" available at <https://www.codot.gov/programs/planning/documents/planning-process/PubInvolvementGuide2015.pdf/view>. This guidance document integrates the principles of Title VI, environmental justice, and access for LEP persons into the public involvement process. The guidance document addresses specific barriers for minority, low-income, and LEP persons to the transportation planning process. Examples of methods discussed in the guidance document for overcoming cultural and language barriers include cultural training for staff, connecting with local community leaders, and providing web content and documents in Spanish.

In the development of Statewide Transit Plan, DTR utilized several approaches for public involvement. CDOT held three Transit Working Group meetings and two open houses were held in each of the transportation planning regions around the state. Outreach varied from website materials, press releases to English and Spanish media, and mailings. Materials (flyers, presentations, comment forms, etc.) were prepared in English and Spanish, translation services for language and hearing impaired were offered, meeting locations were held in ADA accessible facilities, and contact information was provided for those needing assistance.

The Statewide Transit Plan was adopted and finalized in March of 2015. It is currently available on CDOT's website at <http://coloradotransportationmatters.com/other-cdot-plans/transit/plan-documents/>. The website provides the option for translating all material into other several languages other than English. The executive summary of the plan is also available in Spanish and English. Also available on

the website are the public comments received when it was released.

CDOT also seeks public participation when making changes to the Bustang fares and schedules. Although Bustang is a fixed route service, CDOT currently only operates thirteen buses and is therefore not subject to the public participation requirements of Chapter IV of the FTA Title VI Circular. Nonetheless, CDOT uses Facebook, Twitter and the public comment form located on the Bustang website at <http://www.ridebustang.com/customer-feedback-form> to collect public commentary which has influenced operating decisions.

e. Meaningful Access to LEP Persons

CDOT's plan for providing language assistance to individuals with limited English proficiency is attached as **Appendix I**. Additionally, CDOT has provided each subrecipient with a template for completing its LEP plan, which included a breakdown of the Census data applicable to the subrecipient. These resources can be found at <https://www.codot.gov/business/civilrights/DTR>.

f. Minority Representation on Planning and Advisory Boards

The state's transportation system is managed by the Colorado Department of Transportation under the direction of the Transportation Commission. The commission is comprised of 11 commissioners who represent specific districts. Each commissioner is appointed by the Governor, confirmed by the Senate, and serves a four-year term. To provide continuity, the commissioners' term expiration dates are staggered every two years.

Under state law, the powers and duties of the Transportation Commission include:

- Formulating general policy with respect to the management, construction, and maintenance of public highways and other transportation systems in the state;
- Advising and making recommendations to the Governor and the General Assembly relative to transportation policy; and promulgating and adopting CDOT's budgets and programs, including construction priorities and approval of extensions of abandonments of the state highway system. (The General Assembly appropriates the administrative budget for the Department.

The following is the racial breakdown of the commission membership:

DISTRICT	COMMISSIONER	RACIAL BREAKDOWN	TERM
1	Shannon Gifford	Caucasian	7/13 - 7/17
2	Ed Peterson, Chairman	Caucasian	10/11 - 7/19
3	Gary Reiff	Caucasian	8/09 - 7/17
4	Heather Barry	African American	7/07- 7/17
5	Kathy Gilliland	Caucasian	7/11 – 7/19
6	Kathy Connell	Caucasian	7/11 – 7/19

7	Kathy Hall	Caucasian	7/15-7/19
8	Sidny Zink	Caucasian	7/13 - 7/17
9	VACANT	VACANT	
10	William Thiebaut	Caucasian	4/09 - 7/17
11	Steven Hofmeister	Caucasian	5/12 - 7/19

As part of the transit planning process, the Division convened a Statewide Steering Committee (SSC) to advise the Division during the development of the Statewide Transit Plan. The SSC met five times during the course of the plan development with the final meeting of the group held in June 2014. The following is a breakdown of the SCC:

Name	Agency	Racial Breakdown
Ann Rajewski	CASTA	Caucasian
Jim Souby	ColoRail	Caucasian
Jacob Riger	DRCOG	Caucasian
Matthew Helfant	DRCOG (Alternate)	Caucasian
Vince Rogalski	Gunnison Valley TPR and STAC	Caucasian
Danny Katz	CoPIRG	Caucasian
Craig Blewitt	Mountain Metro Transit	Caucasian
Brian Vitulli	Mountain Metro Transit	Caucasian
Jonathan Hutchinson	Amtrak	African American
Bill Van Meter	RTD	Caucasian
Larry Worth	Former Rural Transit	Caucasian
Suzette Mallette	NFRMPO	Caucasian
Nate Vander Broek	NFRMPO	Caucasian
Jasper Butero, Jr	SC COG AAA	Caucasian
Priscilla "Pete" Frasier	SC COG (Alternate)	Hispanic – Spanish origin
Darren Glover	Prowers County Transit	Caucasian
David Johnson	RFTA	Caucasian

David Peckler	Snowmass Village	Caucasian
Larry Squires / Jennifer Stewart	FTA	Caucasian
Bill Haas	FHWA	Caucasian
Ernest House, Jr.	CO Commission of Indian Affairs	Native American
Eric Bergman	CCI	Caucasian
Mark Radtke	CML	Caucasian
Loren Furman	CO Assoc. of Commerce & Industry	Caucasian
Joan Shaffer	FRONT (Rail advocacy)	Caucasian
Brent Belisle	Via Mobility (Disabled)	Caucasian
Karen Schneiders	CDOT Region 4	Caucasian
Cecilia Garcia/Erik Lacayo	CDOT CRBRC	Hispanic/Hispanic
Michelle Scheuerman	CDOT DTD	Caucasian
Angela Graham	CDOT DTR	Caucasian
Tracey MacDonald	CDOT DTR	Caucasian

Bonnie Peterson	Club 20	Caucasian
Aaron Fodge	CSU	Caucasian

CDOT's Transit and Rail Advisory Committee was created by state statute to provide advice to CDOT and the Division. The committee is appointed by the Executive Director and "shall include such representatives of industries and other groups interested in transit and rail issues and such other individuals as the executive director, in consultation with the commission, deems appropriate; except that the committee shall include, at a minimum, one or more:

- representatives of transit operators
- representatives of class I railroads
- representatives of short line railroads
- representatives of entities or interest groups involved in promotion, planning, or development of passenger rail systems."

The following is a breakdown of the Transit and Rail Advisory Committee:

Name	Agency	Racial Breakdown
Terri Binder	Club 20	Caucasian
Craig Blewitt	Mountain Metro Transit	Caucasian
Sara Cassidy	Union Pacific RR	Caucasian
Steve Hurlbert	Central 70 Coalition/local jurisdictions	Caucasian
Rob Eaton	Amtrak	Caucasian
David Johnson	Roaring Fork Transportation Authority	Caucasian
Danny Katz	CoPIRG	Caucasian
Bill Van Meter	RTD	Caucasian
Mike Ogborn	OmniTrax	Caucasian
Ann Rajewski	CASTA	Caucasian
Kurt Ravenschlag	TransFort	Caucasian
Peter Rickershauser	Burlington Northern Santa Fe RR	Caucasian
Matthew Helfant	DRCOG	Caucasian
Vince Rogalski	STAC	Caucasian
Jim Souby	ColoRail	Caucasian
Will Jones	Greely Evans Transit/Small urban areas	Caucasian
Larry Worth	Rural Transit	Caucasian

Additionally, the CDOT Inter-agency Advisory Committee is responsible for reviewing grant applications for Capital projects and selecting the grant recipients. While the committee members vary from year to year, the following is the breakdown of the 2016 committee:

Name	Agency	Racial Breakdown
David Averill	CDOT DTR	Caucasian
Tom Mauser	CDOT DTR	Caucasian
Rob Andresen	CDOT DTR	Caucasian
Kathleen Collins	CDOT DTD	Caucasian

Aaron Greco	CDOT Policy	Caucasian
Katherine Williams*	CDOT CRBRC	Caucasian

*Ebony Younger Riehl will replace Katherine Williams in December 2016.

g. Subrecipient Assistance and Monitoring

As a state agency, pursuant to Chapter V of the Circular, CDOT is responsible for the oversight of the Title VI programs of its subrecipients. CDOT provides subrecipients with guidance on complying with Title VI requirements by attending grant partner meetings and conferences and providing templates and data to grant partners. This information can be found on CDOT’s website at <https://www.codot.gov/business/civilrights/DTR>.

During FFY 2016, CDOT collected Title VI plans from almost all subrecipients and, to date, forty have received concurrence. CDOT is still in the process of reviewing the remainder of Title VI plans and expects to be completed by December 31, 2016. Additionally, during 2016 CRBRC staff attended several site visits to verify Title VI compliance by grant partners. In addition to providing compliance information in the grant partner manual and state management plan, the CRBRC is currently working on standard operating procedures to ensure grant partner compliance.

CDOT recently changed its three year Title VI Program submission schedule, so that it is on the same schedule as the Grantee Information Request. The Grantee Information Request were sent out earlier in 2017 and the subrecipients that receive this request will also have to submit their Title VI Plans by the date listed in the Grantee Information Request, March 31, 2017. This schedule is attached as **Appendix J**. Subrecipient programs will be reviewed by CDOT’s Title VI staff in the CRBRC. Copies of all programs, approval dates, and due dates are maintained by the CRBRC.

h. Analysis of Site or Location of Facilities

CDOT is not currently installing a new site or location. CDOT will plan to perform an equity analysis should plans to build new facilities arise. The CRBRC is working with DTR to ensure that all subrecipients timely submit an equity analysis for federally funded projects.

i. Fixed Route Service

In the spring of 2015, CDOT began the operation of its new interregional bus service, Bustang. This service is provided along fixed routes. The purpose of this bus service is to provide transportation for commuters along the I70 and I25 corridors. In September of 2016, Bustang expanded its routes to include a route from Vail, Colorado to Denver, Colorado.

Bustang is considered a “program or activity” of DTR subjecting CDOT to Chapter IV of the FTA circular 4702.1B. Pursuant to this chapter, CDOT has set system-wide service standards and policies to ensure non-discrimination in the criteria of administration of Bustang. Bustang’s system-wide standards and policies are attached as **Appendix K**.

j. Demographic Profile of the State, Demographic Maps that Overlay the Distribution of Funds,

and an Analysis of the Impacts on the Basis of Race, Color or National Origin

During the development of the Statewide Transit Plan, CDOT developed a demographic profile and a map of the state that includes the locations of minority populations at the Census tract/block level. CDOT also developed a map showing those minority populations overlaid with the amount of funding received by each county. The demographic profile and maps are attached as **Appendix L**.

CDOT distributes FTA funds and state funds (FASTER) to transit and rail services throughout Colorado. Therefore, demographic data in the 2010-2014 comparison charts are presented at the county level. The demographic maps were built using demographic data at the census tract and/or block group level. The data shows a few counties with larger minority populations that receive a lower percentage of FTA and FASTER funds from CDOT. The reasons for these funding levels are explained below.

Adams County: Adams County has a 46% minority population, which represents 13.6% of Colorado's total minority population. From 2011 to 2013, Adams County, as part of Denver Regional Mobility and Access Council (DRMAC) received \$73,520 in FTA funds from CDOT and received \$1,077,314 in FASTER funds, which represents 1.9% of the total FTA and FASTER funds distributed by CDOT across the state. Western Adams County, which contains the highest percentage of the county's overall minority population is part of the Regional Transportation District's (RTD) service area and receives funds directly from FTA. FTA funds distributed through CDOT are primarily used for rural operators. Adams County received FASTER funds for an RTD park-and-ride facility in the City of Thornton.

Arapahoe County: Arapahoe County has a 36% minority population, which represents 13.8% of Colorado's total minority population. From 2011 to 2013, Arapahoe County, as part of DRMAC, also received \$73,520 in FTA funds from CDOT and received \$516,765 in FASTER funds, which represents 1.0% of the total FTA and FASTER funds distributed by CDOT across the state. Just like Adams County, the western portion of Arapahoe County, which contains the highest percent of the overall minority population, falls within the RTD service area. FASTER funds were used for several light rail station improvements in the county.

Pueblo County: Pueblo County has a 46% minority population, which represents 4.9% of Colorado's total minority population. From 2011 to 2013, Pueblo County received \$377,977 in FTA funds from CDOT and received \$807,438 in FASTER funds, which represents 2.0% of the total FTA and FASTER funds distributed by CDOT across the state. Most of the transit-related activity in the county takes place in the City of Pueblo, which is a small urbanized area. Pueblo Transit, the largest provider in the county, receives money directly from FTA. CDOT provided FTA and FASTER funds to the Pueblo Senior Resource Development Agency for transit vehicles. CDOT also provided \$20,000 in FASTER funds to Pueblo Transit for renovations of their bus terminal.

Weld County: Weld County has a 32% minority population, which represents 5.4% of Colorado's total minority population. From 2011 to 2013, Weld County received \$162,000 in FTA funds from CDOT and received \$387,703 in FASTER funds, which represents 0.9% of the total FTA and FASTER funds distributed by CDOT across the state. Weld County received FTA funds from CDOT until the Weld County transportation program was cut several years ago. Funds that once went to Weld County's transportation program have gone to Greeley-Evans Transit. Also, a portion of Weld County is serviced by RTD, which directly receives FTA funding.

El Paso County: El Paso County has a 28% minority population, which represents 11.5% of Colorado's

total minority population. From 2011 to 2013, El Paso County received \$1,528,595 in FTA funds from CDOT and received \$3,532,626 in FASTER funds, which represents 8.3% of the total FTA and FASTER funds distributed by CDOT across the state. A large portion of El Paso County falls within the Pikes Peak area MPO, which is served by Mountain Metropolitan Transit, which receives direct FTA funding.

The majority of the state's minority population is located in the Denver metro area, which is serviced by RTD. Similarly, El Paso and Pueblo counties are serviced by agencies that also receive direct FTA funding. CDOT does not track the amount of funding that these other agencies receive directly from FTA.

There are several rural counties in Colorado that have a relatively low total population but have a minority population above 40%. These counties are Alamosa, Bent, Conejos, Costilla, Crowley, Dolores, Huerfano, Lake, Las Animas, Otero, Rio Grande, and Saguache. These counties receive a low percentage of the total FTA and FASTER funds distributed by CDOT statewide. Traditionally, these rural communities rarely apply for grants. A likely reason is that many of these communities do not have established transit programs that would qualify for FTA grants from CDOT.

In an effort to increase funding to the Alamosa area, CDOT recently funded a planning grant to Transit Alliance to conduct a "Transit 101" training in the San Luis Valley. CDOT also funds several mobility managers around the state whose job is to coordinate and maximize transit resources.

k. Planning Process to Identify the Needs of Minority Populations

In accordance with CDOT's public participation guidance document, the *Guide to the Transportation Planning and Programming Public Involvement Process*, DTR developed a specific public involvement plan to identify the transit needs of Colorado communities, including minority populations, during the statewide transit planning process. The plan includes (1) an engagement strategy with key milestones, (2) stakeholder outreach targeting other transportation officials, community service groups and relevant agencies and (3) public outreach focused on educating and receiving information from the public regarding statewide transit needs. Additionally, the plan identifies specific outreach methods for providing access to LEP persons.

During the planning process, CDOT conducted three Transit Working Group meetings and two open houses in each region. Outreach varied from website materials, mailings and surveys to identify the needs of minority, disabled, elderly, student and other population groups.

As a way of continuing outreach to minority, low-income, and LEP communities for the feedback and ongoing portions of the statewide planning process, CDOT implemented the *Together We Go* effort. This effort includes three phases: telephone town halls for each of the transportation commission districts, discussion based presentations with CDOT's traditional planning partners, and outreach to community partners that serve minority and low-income populations.

l. Pass Through of Financial Assistance in a Non-Discriminatory Manner

CDOT is a direct recipient for several FTA transit grant programs. CDOT accepts applications from grantees across the state every year for capital requests and every two years for administration and operating. Notices of Funding Availability (NOFAs) are emailed by CDOT to a list of agency contacts that include transit providers, non-profits, cities, and counties. An example of a NOFA from October

7, 2016 is attached as **Appendix M**.

To ensure that minority populations are made aware of funding availability, DTR and CRBRC are working together to develop a comprehensive list for distributing grant information to organizations that serve minority populations. The distribution list will also be expanded to include transit providers identified by the Statewide Transit Plan that do not currently receive or request CDOT administered FTA assistance.

Grant applications are reviewed and scored by the CDOT Inter-agency Advisory Committee, which determines who receives grant awards. Eligibility requirements and evaluation criteria for grant awards are described in the NOFA (see **Appendix M**). For the operating and administration grants, CDOT has only denied grant requests in instances in which the applicant did not meet federal program eligibility requirements. Civil rights staff participate as a scoring member of the advisory committee and often advocates for areas serving minority populations.

CDOT is currently looking into revising the distribution criteria for 5310 and 5311 grants in order to support the growing subrecipient numbers and the funding demands. Subrecipients serving rural and urban customers are included in these discussions, including two focus groups per grant and a presentation at the fall CASTA conference. It is projected by the next Federal Fiscal Year that CDOT will have a new way of distributing these particular grants.

It is possible that this redistribution may affect grant partners serving minority communities. The CRBRC and DTR have been working together to ensure disparate impacts do not fall on minority populations as a part of the redistribution. The civil rights staff have been invited and have participated in the discussions with DTR regarding the redistribution of funds to ensure potential Title VI issues are addressed.

m. Assistance for Potential Grantees

Most assistance provided by the Division to potential grantees occurs in a one-on-one technical assistance format. Division grant coordinators network with potential grantees and encourage applicants to apply. Additionally, when an agency is unable to meet the matching requirements of the federal grant, CDOT provides state FASTER grants to fulfill the match. This resource has been leveraged by many organizations throughout the state.

IV. Appendices

Appendix A:	Policy Directive 604.0 “Policy on Non-Discrimination”
Appendix B:	Colorado Transportation Commission Resolution (March 20, 2014)
Appendix C:	Notice to Beneficiaries (English)
Appendix D:	Notice to Beneficiaries (Spanish)
Appendix E:	Discrimination Complaint Form (English)
Appendix F:	Discrimination Complaint Form (Spanish)
Appendix G:	Discrimination Complaint Procedure (English)
Appendix H:	Discrimination Complaint Procedure (Spanish)
Appendix I:	CDOT DTR Limited English Proficiency Plan
Appendix J:	Subrecipient Submission Schedule
Appendix K:	System-Wide Service Standards and Policies

Appendix L:
Appendix M:

Minority Demographic Profile Data and Maps
Consolidated Call for Capital Projects Guidance

Appendix A

Policy Directive 604.0

COLORADO DEPARTMENT OF TRANSPORTATION		<input checked="" type="checkbox"/> POLICY DIRECTIVE <input type="checkbox"/> PROCEDURAL DIRECTIVE
Subject POLICY ON NON-DISCRIMINATION		Number 604.0
Supersedes 604 (7/1/04) 611 (4/15/10)	Effective 1.22.14	Originating Office Civil Rights & Business Resource Center, Division of Administrative Services

I. Purpose

To ensure that no person shall, on the ground of race, color, national origin, sex, disability, or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in the operations of the Colorado Department of Transportation ("CDOT") or of any department or agency to which CDOT extends federal financial assistance.

II. Authority

See Appendix A. This Policy Directive is intended to meet Federal Highway Administration and Federal Transit Authority requirements.

III. Applicability

This Policy Directive applies to all operations of CDOT, including all offices, divisions, regions, and branches of CDOT, its contractors and anyone who acts on CDOT's behalf. This Policy Directive also applies to the operations of any department or agency to which CDOT extends federal financial assistance. Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance.

IV. Policy

1. It is CDOT's policy that no person shall on the ground of race, color, national origin, sex, disability, or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any operation of CDOT or of any department or agency to which CDOT extends federal financial assistance.

A. Examples of prohibited types of discrimination based on race, color, national origin, sex, disability, or age include:

- (1) Denial to an individual any service, financial aid, or other benefit;
- (2) Distinctions in the quality, quantity, or manner in which a benefit is provided;
- (3) Segregation or separate treatment;
- (4) Restriction in the enjoyment of any advantages, privileges, or other benefits provided;

(5) Discrimination in any activities related to highway and infrastructure or facility built or repaired; and

(6) Discrimination in employment.

B. Prohibited discrimination may be intentional or unintentional. Seemingly neutral acts that have disparate impacts on individuals of a protected group and lack a substantial legitimate justification are a form of prohibited discrimination. Instances where seemingly neutral acts may result in discrimination include:

(1) Utilizing criteria or methods of administration that have the effect of subjecting persons to discrimination or have the purpose or effect of substantially reducing the likelihood that persons can benefit from the objectives of a program or activity with respect to persons;

(2) Using different standards or requirements for determining whether a person satisfies any admissions, enrollment, quota, eligibility, membership, or other requirement for any service, financial aid, or other benefit; and

(3) Determining the site or location of a facility that has the effect of excluding persons, denying them the benefits of, or otherwise subject to them discrimination.

C. Harassment and retaliation are also forms of discrimination. Harassment includes a wide range of abusive and humiliating verbal or physical behaviors that are directed against a particular person because of race, color, national origin, sex, disability, or age. This Policy Directive prohibits retaliation against any person because he or she has reported alleged discrimination under this Policy Directive or has testified, assisted or participated in any manner in an investigation of such report, or has opposed such discrimination. No one shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with their rights against discrimination.

D. As part of this Policy Directive, CDOT adheres to the following objectives, which shall not be interpreted in any way to limit the general policy stated above:

(1) Access for Persons with Disabilities – No qualified disabled person shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination. Aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for disabled and non-disabled persons, but must afford persons with disabilities equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting that is reasonably achievable. Even if separate or different aid, benefits, or services are available to handicapped persons, a qualified disabled person shall

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not be denied the opportunity to participate in the programs or activities that are not separate or different.

(2) Access for Persons with Limited English Proficiency – Individuals who have a limited ability to read, write, speak, or understand English are considered limited English proficient (“LEP”). Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by CDOT. Ignoring LEP populations may constitute discrimination on the basis of national origin. CDOT shall seek to communicate with LEP populations and provide LEP individuals meaningful access to CDOT programs and activities.

(3) Principles of Environmental Justice – CDOT will meaningfully engage all sectors of the public, including low-income and minority populations, potentially affected by CDOT projects. To help ensure the fair distribution of the benefits and burdens associated with CDOT programs and activities, CDOT will be guided by the following environmental justice principles:

- (a) To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority and low-income populations;
- (b) To ensure the full and fair participation by all potentially affected communities in CDOT’s decision-making process; and
- (c) To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

(4) Fair Competition for Federally-Funded Contracts – A Disadvantaged Business Enterprise (“DBE”) is a business that is owned and controlled by a socially and economically disadvantaged individual or individuals. The objectives of CDOT’s DBE program are to:

- (a) To ensure nondiscrimination in the award and administration of federally-assisted contracts in CDOT’s highway, transit, and airport programs;
- (b) To create a level playing field on which DBEs can compete fairly for federally-assisted contracts;
- (c) To ensure that CDOT’s DBE program is narrowly tailored in accordance with applicable law;
- (d) To ensure that only firms that fully meet this part’s eligibility standards are permitted to participate as DBEs;

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(e) To help remove barriers to the participation of DBEs in federally-assisted contracts; and

(f) To assist the development of firms that can compete successfully in the marketplace outside the DDE program.

V. Implementation Plan

1. This Policy Directive shall be effective immediately upon approval by the Transportation Committee.

2. The Civil Rights & Business Resource Center ("CRBRC") shall implement this Policy Directive and will coordinate education and training to ensure compliance with this Policy Directive. All CDOT employees, its contractors, and anyone who acts on behalf of CDOT, including any department or agency to which CDOT extends federal financial assistance, shall be responsible for assuring that the proscribed discrimination does not occur. Should the potential for discrimination be discovered, action to eliminate the potential shall be taken.

3. Notices informing individuals of their rights under this Policy Directive will be posted on CDOT's internal and external webpages, and be displayed in public office areas. These notices will also be consistent with CDOT's policy for communicating with LEP populations.

4. As required by federal law, the CRBRC and regional civil rights staff shall be responsible for acquiring non-discrimination assurances, investigating discrimination complaints, conducting reviews of program areas, and preparing required reports.

VI. Review Date

This Policy Directive shall be reviewed on or before January 2019.

Herman J. Hocking III
Secretary, Transportation Commission

1-22-14
Effective Date

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APPENDIX A: Authority for Policy Directive 604.0

Federal Statutes

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

Age Discrimination Act of 1975, 42 U.S.C. § 6101

Federal Aid Highway Act of 1970, 49 U.S.C. § 306

Federal Aid Highway Act of 1973, 23 U.S.C. § 324

Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, 102 Stat. 28

Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 – 12213

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

Federal Transit Laws, 49 U.S.C. § 5332

Federal Regulations

23 CFR §1.36 – Compliance with Federal laws and regulations

23 CFR pt. 200 – Title VI Program and Related Statutes – Implementation and Review Procedures

23 CFR pt. 771 – Environmental Impact and Related Procedures

28 CFR pt. 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services

28 CFR pt. 36 – Nondiscrimination on the Basis of Disability in Public Accommodations and in Commercial Facilities

28 CFR pt. 42, subpart C – Nondiscrimination in Federally Assisted Programs – Implementation of Title VI of the Civil Rights Act of 1964

49 CFR pt. 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964

49 CFR pt. 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs

49 CFR pt. 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance

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49 CFR § 37.5 – Nondiscrimination – Transportation Services for Individuals with Disabilities (ADA)

Executive Orders

Exec. Order No. 12898, 59 Fed. Reg. 7629 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Exec. Order No. 13166, 65 Fed. Reg. 50121 – Improving Access to Services for Persons with Limited English Proficiency

Appendix B:

Colorado Transportation Commission Resolution

Resolution #TC-16-11-4

Approval of DTR Title VI Plan.

Approved by the Transportation Commission on Nov. 17, 2016.

WHEREAS, CDOT is a recipient of financial assistance from the Federal Transition Administration (FTA); and

WHEREAS, in accordance with the FTA Circular 4702.1B, CDOT must prepare and submit a Title VI Program to FTA every three years; and

WHEREAS, FTA Circular 4702.1B requires that CDOT's Title VI Program be approved by the State's Secretary of Transportation or the equivalent; and

WHEREAS, that equivalent is the State of Colorado Transportation Commission;

NOW THEREFORE BE IT RESOLVED:

- The State of Colorado Transportation Commission hereby approves CDOT's Division of Transit and Rail Title VI Program.



Herman Stockinger, Secretary
Transportation Commission

11-17-16

Date

Appendix C

Notice to Beneficiaries (English)



Request for Access to CDOT Programs & Activities

It is CDOT's objective to provide access to CDOT programs and activities for all individuals. The following services are available:

Interpretation & Translation Services: CDOT provides reasonable language assistance free of charge upon request. Contact the Civil Rights & Business Resource Center at (800) 925-3427 to make translation or interpretation requests related to any CDOT public meeting or service.

Access for the Visually and Hearing Impaired: Dial 711 or (800) 659-3656 to reach Relay Colorado. **Relay Colorado** is a free service that provides full telephone access to people who are deaf, hard of hearing, deaf-blind, or speech-disabled.

Meeting Locations & Facilities: CDOT strives to provide services and hold meetings in locations accessible to people with disabilities. Contact the Civil Rights & Business Resource Center at (800) 925-3427 to make an accommodation request.

Your Rights Against Discrimination

The Colorado Department of Transportation operates its programs and services without regard to race, color, national origin, sex, age, and disability. Anyone who believes they have been excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any CDOT program or activity because of their race, color, national origin, age, sex, or disability may file a discrimination complaint with CDOT, the Federal Highway Administration, or the Federal Transit Administration.

To file a complaint, please contact one of the following:

CDOT Civil Rights & Business Resource Center 4201 East Arkansas Ave., Room 150 Denver, CO 80222 (800) 925-3427 dot_civilrights@state.co.us	Federal Highway Administration, Colorado Division 12300 West Dakota Avenue, Suite 180 Lakewood, CO 80228 (720) 963-3000	Federal Transit Administration, Region 8 1961 Stout St., Suite 13-301 Denver, CO 80202 (303) 362-2400
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Si necesita información en Español, favor contactar (800) 925-3427.

Appendix D:

Notice to Beneficiaries (Spanish)



Solicitud de acceso a los programas y a las actividades del CDOT

El CDOT tiene el objetivo de proporcionar acceso a sus programas y a sus actividades a todas las personas. Están disponibles los servicios siguientes:

Servicios de interpretación y traducción: El CDOT proporciona ayuda razonable en otros idiomas a pedido. Comuníquese con el Centro de Recursos de Negocios y Derechos Civiles (Civil Rights & Business Resource Center, CRBRC) en el (800) 925-3427 para solicitar traducciones o interpretaciones en relación con cualquier reunión pública o servicio del CDOT.

Acceso para las personas con problemas visuales y auditivos: Marque 711 o (800) 659-3656 para comunicarse con Relay Colorado. **Relay Colorado** es un servicio gratuito que ofrece acceso telefónico completo a las personas sordas, que tienen problemas para escuchar, sordas y ciegas o que tienen problemas del habla.

Ubicaciones para las reuniones e instalaciones: El CDOT se esfuerza por proporcionar servicios y llevar a cabo reuniones en ubicaciones accesibles para las personas con discapacidades. Comuníquese con el CRBRC en el (800) 925-3427 para solicitar accesibilidad.

Sus derechos contra la discriminación

El Departamento de Transporte de Colorado (CDOT) opera sus programas y servicios sin discriminar respecto de la raza, el color, el país de procedencia, el sexo, la edad o las discapacidades. La persona que piense que la excluyeron de la participación, que le negaron beneficios o que sufrió discriminación en relación con cualquier programa o actividad del CDOT debido a su raza, color, país de procedencia, edad, sexo o discapacidad puede presentar una queja ante el CDOT, la Administración Federal de Carreteras (Federal Highway Administration) o la Administración Federal de Tránsito (Federal Transit Administration).

Para presentar una queja, comuníquese con uno de los siguientes:

CDOT Civil Rights & Business Resource Center 4201 East Arkansas Ave., Room 150 Denver, CO 80222 (800) 925-3427 dot_civilrights@state.co.us	Federal Highway Administration, Colorado Division 12300 West Dakota Avenue, Suite 180 Lakewood, CO 80228 (720) 963-3000	Federal Transit Administration, Region 8 1961 Stout St., Suite 13-301 Denver, CO 80202 (303) 362-2400
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Appendix E:

Discrimination Complaint Form (English)

Dates and times discrimination occurred?

Were there any other witnesses to the discrimination?

Name	Organization/Title	Work Telephone	Home Telephone

How would you like to see this situation resolved?

Have you filed your complaint, grievance, or lawsuit with any other agency or court?

Who _____ When _____
Status (pending, resolved, etc.) _____ Result, if known _____
Complaint number, if known _____

Do you have an attorney in this matter?

Name _____ Phone _____
Address _____ City _____ Zip _____

Signed _____	Date _____
--------------	------------

Complaints may submitted via email, fax or in person to one of the following:

Civil Rights & Business Resource Center
Title VI Coordinator
4201 East Arkansas Ave., Room 150
Denver, CO 80222
dot_civilrights@state.co.us
Phone: (800) 925-3427
Fax: (303) 952-7088

CDOT Region 1 Civil Rights Office
Regional Civil Rights Manager
2000 South Holly Street
Denver, CO 80222
Phone: (303) 757-9385
Fax: (303) 365-7033

CDOT Region 2 Civil Rights Office
Regional Civil Rights Manager
905 Erie Ave.
Pueblo, CO 81002

CDOT Region 3 Civil Rights Office
Regional Civil Rights Manager
222 South 6th St.
Grand Junction, CO 81501-2769

Phone: (719) 546-5432
Fax: (719) 562-5525

Phone: (970) 683-6227
Fax: (970) 683-6210

CDOT Region 4 Civil Rights Office
Regional Civil Rights Manager
1420 2nd Street
Greeley, CO 80632
Phone: (970) 350-2107
Fax: (970) 350-2178

CDOT Region 5 Civil Rights Office
Regional Civil Rights Manager
3803 N. Main Ave.
Durango, CO 81301
Phone: (970) 385-1403
Fax: (970)385-1429

Complaints may also be filed directly with one of the following agencies:

Federal Highway Administration, Colorado Division
12300 West Dakota Avenue, Suite 180
Lakewood, Colorado 80228
Phone: (720) 963-3000
Fax: (720) 963-3001

Federal Transit Administration, Region 8
1961 Stout Street, Suite 13-301
Denver, CO 80202
Phone: (303) 362-2400
Fax: (303) 362-2424

Appendix F:

Discrimination Complaint Form (Spanish)



Formulario de quejas por discriminación

Complete este formulario lo mejor que pueda. Si necesita ayuda con una traducción o de otro tipo, comuníquese con el Centro de Recursos de Derechos Civiles y Negocios (Civil Rights and Business Resource Center) en el (800) 925-3247.

Nombre _____
Dirección _____ Ciudad _____ Código postal _____
Teléfono: Personal _____ Laboral _____ Celular _____
Correo electrónico: _____

Fundamento de la queja (marque todas las opciones que correspondan):

Raza	<input type="checkbox"/>	Edad	<input type="checkbox"/>
Color	<input type="checkbox"/>	Discapacidad	<input type="checkbox"/>
País de procedencia	<input type="checkbox"/>	Represalia	<input type="checkbox"/>
Sexo/género	<input type="checkbox"/>		

¿Es empleado de CDOT? Sí No

¿Esta queja es contra CDOT o un empleado de CDOT? Sí No

¿Quién discriminó en su contra?

Nombre _____
Nombre de la organización _____
Dirección _____ Ciudad _____ Código postal _____
Teléfono _____

¿De qué manera discriminaron en su contra? (Adjunte más páginas si necesita más espacio).

¿Dónde ocurrió la discriminación?

Indique las fechas y las horas en que ocurrió la discriminación

¿Hubo testigos de la discriminación?

Nombre	Organización/cargo	Teléfono laboral	Teléfono personal

¿De qué manera le gustaría que se resuelva esta situación?

¿Presentó su queja, descargo o juicio ante otro organismo o en los tribunales?

Quién _____ Cuándo _____
Estado (pendiente, resuelto, etc.) _____ Resultado, si lo conoce _____
Número de queja, si lo conoce _____

¿Tiene un abogado para este tema?

Nombre _____ Teléfono _____
Dirección _____ Ciudad _____ Código postal _____

Firma _____ **Fecha** _____

Pueden enviarse quejas por correo electrónico, por fax o en persona a:

Civil Rights & Business Resource Center

Coordinador de Título VI (Title VI Coordinator)
4201 East Arkansas Ave., Room 150
Denver, CO 80222
dot_civilrights@state.co.us Teléfono:
(800) 925-3427
Fax: (303) 952-7088

CDOT Region 1 Civil Rights Office

Gerente regional de derechos civiles (Regional Civil Rights Manager)
2000 South Holly Street
Denver, CO 80222
Teléfono: (303) 757-9385
Fax: (303) 365-7033

CDOT Region 2 Civil Rights Office

Gerente regional de derechos civiles (Regional Civil Rights Manager)
905 Erie Ave.
Pueblo, CO 81002
Teléfono: (719) 546-5432
Fax: (719) 562-5525

CDOT Region 3 Civil Rights Office

Gerente regional de derechos civiles (Regional Civil Rights Manager)
222 South 6th St.
Grand Junction, CO 81501-2769 Teléfono:
(970) 683-6227
Fax: (970) 683-6210

CDOT Region 4 Civil Rights Office

Gerente regional de derechos civiles (Regional Civil Rights Manager)
1420 2nd Street
Greeley, CO 80632
Teléfono: (970) 350-2107
Fax: (970) 350-2178

CDOT Region 5 Civil Rights Office

Gerente regional de derechos civiles (Regional Civil Rights Manager)
3803 N. Main Ave. Durango,
CO 81301
Teléfono: (970) 385-1403
Fax: (970)385-1429

También pueden presentarse quejas directamente ante los siguientes organismos:

Federal Highway Administration, Colorado Division

12300 West Dakota Avenue, Suite 180
Lakewood, Colorado 80228
Teléfono: (720) 963-3000
Fax: (720) 963-3001

Federal Transit Administration, Region 8

1961 Stout Street, Suite 13-301
Denver, CO 80202
Teléfono: (303) 362-2400
Fax: (303) 362-2424

Appendix G:

Discrimination Complaint Procedure (English)



CDOT Discrimination Complaint Procedure

Federal law prohibits discrimination on the basis of race, color, national origin, age, sex, or disability in any CDOT program or activity. This prohibition applies to all branches of CDOT, agencies and organizations that receive money from CDOT, contractors, consultants, and anyone else who acts on CDOT's behalf.

Federal law requires that CDOT investigate, track, and report discrimination complaints. Complaints must be filed in writing and will be investigated within sixty days of submission. If you need assistance to file your complaint or need interpretation services, please contact the CDOT Civil Rights and Business Resource Center (CRBRC) toll free at (800)925-3427.

Este procedimiento de queja y el Formulario de Queja de Discriminación están disponibles en español en www.coloradodot.info/business/civilrights/espanol.html o llamando a la línea gratuita (800) 925-3427.

Who is eligible to file a complaint?

Anyone who believes they have been excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any CDOT program or activity because of their race, color, national origin, age, sex, or disability may file a complaint.

Discrimination includes lack of access, harassment, retaliation and disparate impacts from a program or activity. Harassment includes a wide range of abusive and humiliating verbal or physical behaviors.

Retaliation includes intimidating, threatening, coercing, or engaging in other discriminatory conduct against anyone because they filed a complaint or otherwise participated a discrimination investigation.

How do you file a complaint?

Complaints must be filed in writing within **180 days** from the last date of the alleged discrimination. However, contact the CRBRC if you believe your complaint may fall outside this deadline.

CDOT will make reasonable efforts to assist persons with disabilities, non-English speakers, and others unable to file a written complaint. For assistance in filing a complaint, please contact the Civil Rights & Business Resource Center at (800) 925-3427.

While not required, complainants are encouraged to use the Discrimination Complaint Form which can be found at www.coloradodot.info/business/civilrights.

Complaints may be submitted via email, fax or in person to one of the following:

CDOT CRBRC (Headquarters)

Title VI Coordinator
4201 East Arkansas Ave., Room 150
Denver, CO 80222
dot_civilrights@state.co.us Phone:
(800) 925-3427
Fax: (303) 952-7088

CDOT Region 1 Civil Rights Office

Regional Civil Rights Manager
2000 South Holly Street Denver,
CO 80222
Phone: (303) 757-9385
Fax: (303) 365-7033

CDOT Region 2 Civil Rights Office

Regional Civil Rights Manager
905 Erie Ave.
Pueblo, CO 81002
Phone: (719) 546-5432
Fax: (719) 562-5525

CDOT Region 3 Civil Rights Office

Regional Civil Rights Manager 222
South 6th St.
Grand Junction, CO 81501-2769 Phone:
(970) 683-6227
Fax: (970) 683-6210

CDOT Region 4 Civil Rights Office

Regional Civil Rights Manager 1420
2nd Street
Greeley, CO 80632
Phone: (970) 350-2107
Fax: (970) 350-2178

CDOT Region 5 Civil Rights Office

Regional Civil Rights Manager 3803
N. Main Ave.
Durango, CO 81301
Phone: (970) 385-1403
Fax: (970) 385-1429

Complaints may also be filed directly with one of the following agencies:

Federal Highway Administration, Colorado Division

12300 West Dakota Avenue, Suite 180
Lakewood, Colorado 80228
Phone: (720) 963-3000
Fax: (720) 963-3001

Federal Transit Administration, Region 8

1961 Stout Street, Suite 13-301
Denver, CO 80202
Phone: (303) 362-2400
Fax: (303) 362-2424

What happens after a complaint is filed with CDOT?

Most complaints will be investigated within **sixty days**. Investigating a complaint includes interviewing all parties involved and key witnesses. The investigator may also request relevant information such as books, records, electronic information, and other sources of information from all involved parties.

Complaints related to employment with CDOT will be investigated by the Office of Strategic Workforce Solutions or regional civil rights staff in accordance with CDOT policy. All other complaints will be investigated by the CRBRC or regional civil rights staff and, upon completion of the investigation, formal findings will be issued to the complainant. You may specify if there is a particular individual or individuals that you feel should not investigate your complaint due to conflict of interest or other reasons.

In some cases, CDOT must forward complaints to either the Federal Highway Administration or Federal Transit Administration for investigation. If your complaint is forwarded to one of these agencies, you will be provided the name and contact information of the federal employee handling your complaint.

Federal law prohibits retaliation against individuals because they have filed a discrimination complaint or otherwise participated in a discrimination investigation. Any alleged retaliation should be reported in writing to the investigator.

Questions?

Contact the Civil Rights & Business Resource Center toll free at (800) 925-3427 or email dot_civilrights@state.co.us

Appendix H

Discrimination Complaint Procedure (Spanish)



Procedimiento para quejas por discriminación del CDOT

Las leyes federales prohíben la discriminación en base a la raza, el color, el país de procedencia, la edad, el sexo o las discapacidades en todos los programas y en todas las actividades del CDOT. Esta prohibición se aplica a todas las ramas del CDOT y a los organismos y a las organizaciones que reciben dinero del CDOT, contratistas, consultores y cualquier otra persona que actúe en representación del CDOT.

Las leyes federales requieren que el CDOT investigue, controle e informe las quejas por discriminación. Las quejas deben presentarse por escrito y se investigarán dentro de los sesenta días posteriores a recibirse. Si necesita ayuda para presentar su queja o necesita servicios de interpretación, comuníquese con el Centro de Recursos de Derechos Civiles y Negocios (Civil Rights and Business Resource Center, CRBRC) del CDOT en el (800) 925-3427 (llamada gratuita).

¿Quiénes son elegibles para presentar una queja?

Toda persona que piense que ha sido excluida de la participación, que le negaron beneficios o que sufrió discriminación en relación con cualquier programa o actividad del CDOT debido a su raza, color, país de procedencia, edad, sexo o discapacidad puede presentar una queja.

La discriminación incluye falta de acceso, acoso, represalias e impactos desproporcionados en un programa o en una actividad. El acoso incluye una extensa variedad de conductas verbales o físicas abusivas y humillantes. Las represalias incluyen la intimidación, las amenazas, la coacción o las conductas discriminatorias contra una persona por haber presentado una queja o haber participado en una investigación de discriminación.

¿Cómo se presentan las quejas?

Las quejas deben presentarse por escrito dentro de los **180 días** posteriores a la fecha de la presunta discriminación. Sin embargo, comuníquese con el CRBRC si piensa que su queja puede estar fuera de este plazo límite.

El CDOT tomará medidas razonables para asistir a las personas con discapacidades o que no hablen inglés y a otras personas que no puedan presentar una queja por escrito. Para obtener ayuda para presentar una queja, comuníquese con el Centro de Recursos de Derechos Civiles y Negocios (Civil Rights and Business Resource Center) en el (800) 925-3427.

Aunque esto no es obligatorio, se recomienda a las personas que presentan la queja que usen el formulario de quejas por discriminación que se encuentra en www.coloradodot.info/business/civilrights/espanol.html

Las quejas pueden presentarse por correo electrónico, fax o en persona a:

CDOT CRBRC (Headquarters)

Coordinador de Título VI (Title VI
Coordinator)
4201 East Arkansas Ave., Room 150
Denver, CO 80222
dot_civilrights@state.co.us
Teléfono: (800) 925-3427
Fax: (303) 952-7088

CDOT Region 1 Civil Rights Office

Gerente regional de derechos civiles
(Regional Civil Rights Manager) 2000
South Holly Street
Denver, CO 80222
Teléfono: (303) 757-9385
Fax: (303) 365-7033

CDOT Region 2 Civil Rights Office

Gerente regional de derechos civiles
(Regional Civil Rights Manager)
905 Erie Ave.
Pueblo, CO 81002
Teléfono: (719) 546-5432
Fax: (719) 562-5525

CDOT Region 3 Civil Rights Office

Gerente regional de derechos civiles
(Regional Civil Rights Manager)
222 South 6th St.
Grand Junction, CO 81501-2769 Teléfono:
(970) 683-6227
Fax: (970) 683-6210

CDOT Region 4 Civil Rights Office

Gerente regional de derechos civiles
(Regional Civil Rights Manager) 1420
2nd Street
Greeley, CO 80632
Teléfono: (970) 350-2107
Fax: (970) 350-2178

CDOT Region 5 Civil Rights Office

Gerente regional de derechos civiles
(Regional Civil Rights Manager) 3803
N. Main Ave.
Durango, CO 81301
Teléfono: (970) 385-1403
Fax: (970) 385-1429

También pueden presentarse quejas directamente ante uno de estos organismos:

Federal Highway Administration, Colorado Division

12300 West Dakota Avenue, Suite 180
Lakewood, Colorado 80228
Phone: (720) 963-3000
Fax: (720) 963-3001

Federal Transit Administration, Region 8

1961 Stout Street,
Suite 13-301
Teléfono: (303) 362-2400
Fax: (303) 362-2424

¿Qué ocurre después de presentar una queja ante el CDOT?

La mayoría de las quejas se investigan dentro de los **sesenta días**. La investigación de una queja incluye entrevistar a todos los participantes y a los testigos principales. El investigador también puede solicitar información pertinente como libros, registros, información electrónica y otras fuentes de información de todos los participantes.

Las quejas relacionadas con el empleo en el CDOT serán investigadas por la Oficina de Soluciones Estratégicas de la Fuerza Laboral (Office of Strategic Workforce Solutions) o por el personal de derechos civiles en conformidad con las políticas del CDOT. Todas las demás quejas serán investigadas por el CRBRC o por el personal de derechos civiles y, después de finalizada la investigación, se enviarán las determinaciones formales a la persona que presentó la queja.

Puede especificar si hay personas en específico que piensa que no deben investigar su queja debido a conflictos de intereses u otros motivos.

En algunos casos, el CDOT debe enviar las quejas a la Administración Federal de Carreteras (Federal Highway Administration) o a la Administración Federal de Tránsito (Federal Transit Administration) para su investigación. Si se le envía su queja a alguno de estos organismos, se le proporcionará el nombre y la información de contacto del empleado federal que se ocupará de su queja.

Las leyes federales prohíben las represalias contra las personas por presentar una queja por discriminación o por participar en una investigación de discriminación. Toda presunta represalia debe informarse por escrito al investigador.

¿Tiene alguna pregunta?

Comuníquese con el Centro de Recursos de Derechos Civiles y Negocios (Civil Rights and Business Resource Center) en el (800) 925-3427 (llamada gratuita) o por correo electrónico a dot_civilrights@state.co.us

Appendix I

CDOT DTR LEP Plan

COLORADO DEPARTMENT OF TRANSPORTATION



**Division of Transit and Rail
Limited English Proficiency (LEP) Plan**

October 2016

Table of Contents

- I. Purpose of an LEP Plan
- II. CDOT's Non-Discrimination Policy
- III. Authorities
- IV. The LEP Four Factors
- V. DTR Four Factor Analysis
- VI. DTR Language Assistance Plan

Appendices

- A. Colorado LEP Demographic Data
- B. Statewide Transit Plan Outreach Materials in English and Spanish
- C. LEP Plan Template for Subrecipients
- D. CTS LanguageLink Interpretation Language List
- E. CTS LanguageLink Translation Language List

F. The Purpose of an LEP Plan

Most individuals living in the United States read, write, speak and understand English. There are many individuals, however, for whom English is not their primary language. Those individuals whose primary language is not English and who have a limited ability to read, write, speak or understand English are considered limited English proficient (LEP).

Language for LEP individuals can be a barrier to accessing important benefits of services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information regarding federally assisted programs or activities. CDOT, as a recipient of federal financial assistance, has an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important services.

In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs or activities may violate the prohibition against national origin discrimination under Title VI of the Civil Rights Act of 1964. The purpose of an LEP plan is to guide CDOT employees and its agents in taking reasonable steps to provide meaningful access to LEP persons.

This LEP plan has been developed specifically for CDOT's Division of Transit & Rail (DTR). It may be used as guidance for DTR employees, agents, and subrecipients. This plan is intended to improve the internal management of CDOT and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against CDOT.

LEP persons that feel they have been denied meaningful access may file a discrimination complaint based upon national origin under Title VI of the Civil Rights Act. CDOT's discrimination complaint form and complaint procedure can be found at <https://www.codot.gov/business/civilrights>.

II. CDOT's Non-Discrimination Policy

It is CDOT's policy that no person shall on the ground of race, color, national origin, sex, disability, or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any operation of CDOT or of any department or agency to which CDOT extends federal financial assistance.

Policy Directive 604.0 "Policy on Non-Discrimination" outlines CDOT's general non-discrimination policy, including the obligation to provide access for LEP individuals. Policy Directive 604.0 states that "CDOT shall seek to communicate with LEP populations and provide LEP individuals meaningful access to CDOT programs and activities."

III. Authorities

- Title VI of the 1964 Civil Rights Act, 42 U.S.C. § 200d

- Exec. Order No. 13166, 65 Fed. Reg. 50121 (Aug. 16, 2000) – Improving Access to Services for Persons with Limited English Proficiency
- Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons, U.S. Department of Transportation, 70 Fed. Reg. 239 (Dec. 14, 2005)
- Implementing the Department of Transportation’s Policy Guidance Concerning Recipient’s Responsibilities to Limited English Proficient (LEP) Persons, Federal Transit Administration (April 13, 2007)
- Policy on Non-Discrimination, Colorado Department of Transportation Policy Directive 604.0 (Jan. 27, 2014)

IV. The LEP Four Factors¹

DTR is required to take reasonable steps to ensure meaningful access to its programs and activities for LEP individuals. There is no proscribed list of reasonable steps. Instead, in accordance with federal guidance, in order to determine what language assistance measures should be implemented, DTR must consider and balance the following four factors:

Factor #1: The number or proportion of LEP persons eligible to be served or likely to be encountered by the program, activity, or service.

The greater the number or proportion of LEP persons in the eligible service population, the more likely language services are needed. The eligible service population includes persons eligible to be served, or likely to be directly affected by the activity. Demographic data about the populations of the service area, past encounters with LEP persons, and information from community organizations, governments, and school systems can all be used to evaluate the service population and the number or proportion of LEP persons likely to be encountered.

Factor #2: The frequency in which LEP individuals come into contact with the program, service, or activity.

The agency must consider the frequency with which it has or should have contact with LEP individuals. The more frequent contact or potential contact with LEP persons, the more likely enhanced language services will be needed. If an LEP individual accesses a program or service on a daily basis, there is a greater duty to provide enhanced language services than if the same individual’s contact is unpredictable or infrequent. Additionally, staff should consider whether

¹ A more detailed outline of the four-factor analysis is available in “Implementing the DOT LEP Guidance: A Handbook for Transit Agencies” available from FTA. Additional guidance can also be found at www.lep.gov.

appropriate outreach to LEP persons could increase the frequency of contact with LEP populations.

Factor #3: The nature and importance of the program, activity, or service provided.

Language services are more likely needed the more important the activity, information, service, or program because there are greater consequences of the contact to LEP individuals. Staff must determine whether denial or delay of access could have serious implications for the LEP individual. Information from community organizations and past contact with LEP persons can help aid this analysis.

Factor #4: The resources available for language assistance and the costs of such resources.

The availability and cost of resources must be identified to determine the reasonable steps to provide meaningful access for LEP persons. Identifying available resources includes: (1) creating an inventory of language assistance measures currently being provided; (2) determining what, if any, additional services are needed to provide meaningful access; (3) analyzing the budget for language assistance expenses; and (4) considering cost effective practices for providing language services. “Reasonable steps” may cease to be reasonable where the costs imposed substantially exceed the benefits.

There are two types of language services: interpretation and translation. Interpretation is the act of listening to something in one language and orally translating it into another language. When interpretation is needed and is reasonable, it should be provided in a timely manner to be effective. Translation is the replacement of a written text from one language into an equivalent written text in another language. Because translation is a one-time expense, the upfront cost of the translation should be considered in light of the likely lifespan of the document.

In determining how it will ensure access for LEP persons, the agency must determine how it will provide such language services. Language services should be arranged to provide assistance at a time and place that avoids the imposition of undue burdens or results in the effective denial of the service, benefit, or right at issue. Staff should carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource concerns. Since CDOT is a large statewide entity that serves a significant number of LEP individuals, CDOT “should ensure that the resource limitations are well substantiated before using this fact as a reason to limit language assistance.”² Thus, reasons for limiting language assistance based on cost should be documented.

Federal guidance states that vital written materials should be translated for frequently encountered LEP populations. However, the extent of CDOT’s obligation to provide written translations of documents should be determined on a case-by-case basis using the four-factor analysis. The U.S. Department of Transportation’s LEP guidance establishes a “safe harbor,” regarding the

² 70 Fed. Reg. 239 at 74092.

requirement to translate vital documents.³ A “safe harbor” means that providing written translation under the following circumstances serves as strong evidence of compliance:

- (a) Provide written translation of vital documents for each eligible LEP language group that constitutes 5% or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered.
- (b) If there are fewer than 50 persons in a language group that reaches the 5% trigger, vital written materials do not need to be translated. Rather, staff may provide written notice in the primary language of the LEP group of the right to receive competent oral interpretation of those written materials, free of cost.

Failure to provide translations under the safe harbor does not mean there is noncompliance. The safe harbor is meant to provide greater certainty of compliance than can be provided by the fact-intensive, four-factor analysis. The safe harbor only applies to the translation of written documents. It does not affect the requirement to provide meaningful access to LEP individuals through oral language services.

V. DTR’s Four-Factor Analysis

A four factor analysis has been conducted for DTR’s current services, programs, and activities. When DTR develops new services or programs, or expands existing ones, DTR staff must conduct a four factor analysis to determine the appropriate language assistance measures to be provided to ensure meaningful access for LEP persons. Additionally, as described later in the language assistance plan, this analysis should be reviewed on a regular basis to ensure reasonable language assistance measures are provided to LEP persons.

Overview of DTR’s programs, services and activities.

DTR is responsible for the planning, development, operation, and integration of transit and rail in the statewide transportation system. DTR works in coordination with other transit and rail providers to plan, promote, and implement investments in transit and rail services statewide. DTR’s primary activities are (1) statewide transit planning and research, (2) operation of CDOT’s interregional bus service, and (3) distribution and oversight of state and federal grants.

1. Statewide Transit Planning and Research

CDOT’s first Statewide Transit Plan was adopted in March 2015. The Statewide Transit Plan establishes a framework for creating an integrated state transit system to meet the mobility needs of Coloradans. Development of the Statewide Transit Plan involved frequent interaction with the public in the form of stakeholder meetings, open houses, and public comment periods. In the past DTR has also conducted other research, such as evaluation of rail on the I-70 corridor which

³ 70 Fed. Reg. 239 at 74095

requires public feedback and input at both the statewide and regional level.

2. Interregional Bus Service

CDOT's interregional bus service, Bustang, began in the summer 2015 and services three routes and an additional limited route. The I-25 North route connects Fort Collins, Loveland, and Denver along I-25. The I-25 South route connects Denver and Colorado Springs. The I-70 route services Glenwood Springs, Vail, Frisco, Lakewood, and Denver along the I-70 corridor. The RamsRoute services the public in Fort Collins and Loveland on Friday's and Sundays. It only operates 62 times per year. Each route is intended to connect riders with local transit agencies between the various state regions. The majority of clients are travelers, commuters, and individuals seeking resources provided in the Denver metro area.

3. Distribution and Oversight of State and Federal Grants

DTR is responsible for the distribution of both state and federal grants to rural and small urban transit agencies, service providers and coordinating councils in Colorado. Through these activities, DTR supports and oversees transit services across the state. DTR interacts with transit agencies, private service providers, and coordinating councils who arrange and provide fixed route and on demand services to the public.

CDIT is responsible for overseeing the compliance of grant partners. As part of this process, the CRBRC may receive and investigate complaints against subrecipients.

Factor #1: The number or proportion of LEP persons eligible to be served or likely to be encountered by the program, activity, or service.

The planning and oversight activities of DTR occur in areas throughout the state. Therefore, the geographic boundaries of DTR's functions are the borders of Colorado. According to the data in Appendix A,⁴ the most prevalent LEP population in Colorado is Spanish-speaking LEP individuals, who make up 4.66% of Colorado's overall population. During the most recent statewide planning public meetings CDOT made translation services available upon request but no requests were made. Additionally neither DTR or the CRBRC have received complaints or other requests as a result of subrecipient oversight.

The activities of Bustang are intended to serve the statewide community through connections of various transit providers. However, Bustang directly serves certain corridors. Based upon current LEP data, Bustang is likely to encounter a greater number of LEP persons along the routes served.

⁴ Appendix A contains demographic data for LEP individuals at the state and county level. The demographic data is taken from the US Census Bureau's 2010-2014 American Community Survey, Table B16001 "Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over" and includes individuals who do not speak English at home and who speak English "less than very well." Appendix A is also supplemented with data from the Colorado Department of Education.

The North Line, South Line, West line, and all other routes of Bustang, serve counties with more than 8% Spanish speaking LEP populations.

Specifically, along the North line, Bustang serves Denver county and Larimer County. Denver County has a Spanish LEP population greater than 8%. Along the West line Bustang serves Garfield County, Eagle County, Vail County, Summit County, and Denver County. These counties include several resort towns and many of the commuters are employees that work in the resort areas. In looking at the data in Appendix A, Jefferson County, Denver County, and Eagle County have significant percentages of LEP populations. Along the South line Bustang serves Denver County and El Paso County. In looking at the data in Appendix A, Denver County has over 8% LEP populations that speak Spanish.

Factors #2 and #3: The Frequency of Contact and Importance of DTR's Programs and Services.

For this analysis, frequency of contact and importance are evaluated together. The importance of DTR's services to LEP populations partly depends on how frequently those services are expected to come into contact with LEP individuals.

DTR is likely to have the most frequency of contact with LEP populations through Bustang. Additionally, Bustang is a very important part of people's lives as it serves commuters up and down the I-25 corridor and those living in the mountain regions seeking services in the metro area.

Additionally, when conducted, transit planning and research should result in frequent contact with LEP persons because both require significant public involvement to be effective. For example, during the last planning period, seventeen public open house meetings were held throughout the rural areas of the state one public open house meeting was held in each urban Metropolitan Planning Organization area; North Front Range (Greeley area), DRCOG (Denver Metro Area), PPACG (Colorado Springs area), PACOG (Pueblo area), and Grand Valley (Grand Junction area). While individuals may not always take advantage of these opportunities, the planning process seeks to accurately identify needs throughout the state and ensure an equitable distribution of funds, therefore it is highly important to ensure access to all persons.

As explained above, those conducting the grant administration will rarely have direct contact with LEP persons. However, not having access to complaint forms and procedures could have a significant negative impact on LEP individuals' lives and is, therefore, of high importance. Additionally, it is possible that in some circumstances, the staff of grant partners representing underserved populations may have limited English proficiency.

Grant partners that provide services in areas with LEP populations may have both frequent and important contact with for LEP persons. The services provided by grant partners may be the primary mode of transportation for LEP individuals. Therefore, DTR must ensure that they have conducted a four factor analysis and developed language assistance measures that ensure meaningful access.

Factor #4: The resources available and the costs of such resources.

The following is a summary of the language assistance resources and services that have already been or are currently being utilized by DTR:

- Translation of Notices for Statewide Planning Meetings: The process for creating CDOT's Statewide Transit Plan included the translation of various outreach materials into Spanish. Flyers for outreach events with notices of the availability of free translation services were provided in Spanish. Examples are available in Appendix B. Additionally, various components of the statewide plan website⁵ are available in Spanish. The website contains a Spanish version of the Statewide Transit Plan's executive summary and a Spanish presentation⁶ that was used at public meetings. Both items were professionally translated. The full website is also available in Spanish with Google Translate.⁷
- Language Assistance for Bustang: Bustang, CDOT's interregional express bus service, began service in the summer 2015. Schedule and fare information is printed in Spanish and it is available on the buses and at park and ride stations. Schedule and fare information is also be available on the Bustang website,⁸ which can be translated into Spanish using Google Translate. Additionally, each bus contains a copy of "Basic Spanish for Transit Employees." CDOT funded the creation of this book, which was produced by the Roaring Fork Transit Authority and Colorado Mountain College. It includes requests and commands that vehicle operators can use in Spanish.

VI. DTR Language Assistance Plan

Translation of all Vital Materials

Appendix A contains demographic data for LEP individuals at a statewide and county level which shows that Spanish-speaking LEP individuals make up 4.66% of Colorado's overall population. Therefore, DTR has determined that all documents that are vital to providing meaningful access will be translated into Spanish. At a minimum, vital documents include CDOT's discrimination complaint form and procedures, website information and schedules for Bustang, and public notices and website information for statewide planning. For future statewide activities, DTR will evaluate whether documents are vital and must be translated into Spanish.

Statewide Transit Planning

The next statewide planning cycle is expected to begin in 2019. When the planning cycle commences, DTR will evaluate the then-current LEP data to determine the language assistance

⁵ <http://coloradotransportationmatters.com>

⁶ <http://coloradotransportationmatters.com/other-cdot-plans/transit/public-involvement/>

⁷ This website is also available in Chinese, French, German, Japanese, Russian, Vietnamese, Arabic, Dutch, Korean, Polish, Portuguese, and Swedish.

⁸ www.ridebustang.com

services necessary to ensure meaningful access. At a minimum, staff will distribute flyers, surveys, and press releases into any language spoken by an LEP population exceeding 5% of the statewide total. Outreach materials will also state that free language assistance is available upon request. DTR will be prepared to provide translation or interpretation services at outreach events upon request or if there is knowledge that LEP individuals will be attending.

DTR will also continue to make vital planning information available in any language spoken by an LEP population exceeding 5% of the statewide total. The executive summary of the March 2015 Statewide Transit Plan was professionally translated into Spanish and is available at the statewide plan website.⁹ Additionally, the full Statewide Transit Plan and other information on the statewide plan website is available in Spanish with Google Translate.¹⁰

Interregional Express Bus Service

DTR has identified that information regarding Bustang's routes, schedules, and fares are vitally important to ensure meaningful access to the service. Schedule and fare information is printed in Spanish and made available on the buses and at park and ride stations. Schedule and fare information is also available on the Bustang website,¹¹ which can be translated into Spanish using Google Translate.

Each bus contains a copy of "Basic Spanish for Transit Employees." Creation of the book was funded by CDOT and produced by the Roaring Fork Transit Authority and Colorado Mountain College. It includes requests and commands that vehicle operators can use in Spanish.

Bustang staff will track customer service issues and respond accordingly to LEP individuals. Tracking customer service issues related language assistance allows Bustang staff to better understand its frequency of contact with LEP individuals and adopt other language assistance measures if necessary.

Distribution and Oversight of State and Federal Grants

Transit providers receiving grants from DTR are required to submit their LEP plans as part of their Title VI plan every three years to DTR. As part of its oversight responsibilities, DTR will provide technical assistance to its subrecipients and provide yearly Title VI and LEP training.

Providing Notice to LEP Persons

DTR is required to notify LEP populations that language assistance is available free of charge. Notice must be provided in languages LEP persons would understand. **Appendix A** contains demographic data for LEP individuals at a statewide and county level. Spanish-speaking LEP

⁹ <http://coloradotransportationmatters.com>

¹⁰ This website is also available in Chinese, French, German, Japanese, Russian, Vietnamese, Arabic, Dutch, Korean, Polish, Portuguese, and Swedish.

¹¹ www.ridebustang.com

individuals make up 4.66% of Colorado's overall population. Therefore, DTR shall continue to provide notice to Spanish-speaking LEP individuals by doing, at minimum, the following:

- Posting CDOT's general accessibility and non-discrimination public notice, which includes information about obtaining free translation and interpretation services in English and Spanish in areas with public access. The English version is attached here as **Appendix E**. The Spanish version, which was professionally translated, is attached here as **Appendix F**.
- Providing notice of free language assistance with public notices in English and Spanish on its buses and on Bustang's website,¹² which is available in Spanish with Google Translate.
- During the statewide transit planning process, flyers for outreach events with notices of the availability of free language assistance shall be distributed in Spanish or any other language spoken by over 5% of the population at the time of the planning process. Examples are available in **Appendix B**.

Language Assistance Resources

The following are additional language assistance resources for DTR staff to consider for future language assistance needs:

- Bilingual Staff: DTR is encouraged to identify bilingual staff in order to quickly and effectively respond to unexpected encounters with LEP individuals. The CRBRC has two bilingual staff members that may be able to assist TR.
- CDOT Civil Rights & Business Resource Center: DTR is encouraged to consult with the Civil Rights & Business Resource Center (CRBRC) on the development of additional language assistance measures or on how best to respond to specific language assistance requests. The CRBRC may also be able to provide funding and additional resources to DTR for future language assistance measures.
- Language Identification Cards: Language identification cards can be utilized when first encountering someone who needs language assistance. The U.S. Census Bureau's language identification card is available at www.lep.gov/ISpeakCards2004.pdf. Cards can be used by staff to identify the primary language of LEP individuals during face to face contact.
- CTS LanguageLink: The State of Colorado has a price agreement with CTS LanguageLink for professional translation and interpretation services. CTS LanguageLink offers an over-the-phone interpretation service for \$0.62 per minute. A list of languages for the interpretation service is attached as Appendix C. CTS LanguageLink also can translate written documents into more than 100 languages. A list of languages is attached as Appendix D. Each CDOT program area is encouraged to create a free account with CTS

Language list in order to access the over-the-phone interpretation service and to obtain rates for translation services. For more information, contact:

Client Relations

Toll Free [855.779.2704](tel:855.779.2704)

clientrelations@ctslanguagelink.com

www.ctslanguagelink.com

- **Automated Computer Translation:** Google Translate and other automated translation services can be a tool for translating basic information in limited circumstances. For example, various CDOT websites can be translated into other languages using Google Translate. However, caution should be used when using automated translation to convey vital information. The U.S. Department of Labor recommends using automated translation only if someone is capable of reviewing and correcting the translation to ensure that it is conveying the intended message.¹³ While CDOT's website can be translated into several languages using Google Translate, the website also contains Spanish information that was professionally translated. The Civil Rights & Business Resource Center created a page in Spanish that contains information about the public's rights to equal access and nondiscrimination.¹⁴ The Bustang website can also be translated into Spanish using Google Translate. A Spanish-speaking staff member from the Civil Rights & Business Resource Center will proof read vital information regarding routes, schedules, and fares to confirm the accuracy of these translations.

Monitoring and Updating LEP Efforts

DTR Managers and supervisors are responsible for ensuring that access is provided to LEP persons through language assistance services. This Plan must be incorporated by reference into the appropriate procedure manuals to ensure that employees are aware of their obligations for compliance.

The Civil Rights & Business Resource Center will monitor DTR activities to ensure LEP requirements are fulfilled and report to the Federal Transit Administration (FTA). DTR will update this LEP plan at least every three years when DTR's Title VI Plan is due to the FTA. DTR must also update this Plan whenever one of its primary activities substantially changes or if it starts a new primary activity, program or service.

¹² www.ridebustang.com

¹³ The U.S. Department of Labor's presentation "Machine Translation: Ensuring Meaningful Access for Limited English Proficient Individuals" (June 24, 2014) discusses the pitfalls of relying on machine translations. http://www.dol.gov/oasam/programs/crc/062414Machine_TranslationWebinar.pdf

¹⁴ <https://www.codot.gov/business/civilrights/espanol.html>

LEP Appendix A
Colorado LEP Demographic Data

Demographic data by county can be found at: <https://www.codot.gov/business/civilrights/DTR>

Colorado Regional LEP Demographic Data

Colorado has a total population of 4,860,145 people. Colorado has a total Limited English Proficient (LEP) population of 310,065, which is 6.4% of Colorado’s overall population. The following table shows the top five languages spoken by LEP persons in Colorado and their percentage of the total Colorado population, according to the U.S. Census Bureau.¹⁵

Language	Number of LEP Persons	Percent of Colorado Population
Spanish	226,453	4.66%
Vietnamese	12,078	0.25%
Chinese¹⁶	10,489	0.22%
Korean	8,475	0.18%
African Languages¹⁷	7,932	0.17%

Demographic data by county and CDOT Transportation Region

CDOT is geographically structured into five Transportation Regions. The following pages contain LEP demographic data for each CDOT Transportation Region and the counties within in each region using U.S. Census data for people who do not speak English as their primary language and speak English “less than very well.”

Census data is also supplemented with data from the Colorado Department of Education.¹⁸ The presence of English Language Learners in schools may indicate the presence of greater LEP populations. In addition to the languages listed in the U.S. Census tables, the following pages also list additional languages found in the school data.

CDOT Region 1

CDOT Region 1 is comprised of the five counties listed in the table below. LEP individuals make up 8.8% of Region 1’s total population. LEP individuals that speak Spanish represent 6.4% of Region 1’s population. Adams, Arapahoe, and Denver counties have the largest Spanish-speaking LEP populations in Region 1. Other prevalent LEP populations in Region 1 include Vietnamese, Russian, and Korean speakers.

¹⁵ Data tabulated by the Migration Policy Institute, “Limited English Proficient Individuals in the United States: Linguistic Diversity at the County Level (February 2013).” Data was tabulated using the US Census Bureau’s 2010-2014 American Community Survey, Table B16001 “Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over.” For more information about LEP data, visit http://www.lep.gov/demog_data/demog_data.html.

¹⁶ The US Census Bureau groups the following languages under the “Chinese” language category: Chinese, Hakka, Kan, Hsiang, Cantonese, Mandarin, Fuchow, Formosan, and Wu.

¹⁷ The US Census Bureau’s “African language” classification includes Amharic, Afro-Asiatic languages, Nilo-Saharan languages, and Niger-Congo languages. For a full listing of these languages, visit <https://www.census.gov/hhes/socdemo/language/about/>.

¹⁸ Colorado Department of Education, English Language Learner student count, grades preschool through 12, October 2016. This data is available upon request from CDOT’s Civil Rights & Business Resource Center.

Region 1, U.S. Census Data

County	Total Population	Total LEP Population	Spanish LEP Population	Other Languages ¹⁹
Adams	424,235	52,820 (12.45%)	44,305 (11.2%)	Vietnamese (2,136 people) Russian (1,000) Chinese (700) African Languages (500)
Arapahoe	556,245	50,332 (9.05%)	28,310 (5.09%)	Korean (3,467) African Languages (2,900) Russian (2,181) Vietnamese (2,462) Chinese (1,873) Arabic (1,248) Other Asian ²⁰ (1,456) Other Indic ²¹ (624) French (813) Tagalog (567)
Broomfield	50,287	2,601 (4.7%)	1,388 (2.51%)	-
Clear Creek	8,722	26	18	-
Denver	589,391	67,832 (11.51%)	51,593 (8.75%)	Chinese (1,975) Russian (1,653) Other Indic languages (915) Vietnamese (3,868) Arabic (1,191) African Languages (2,127) Other Asian (750)
Douglas	279,291	6,896 (2.47%)	3,198 (1.15%)	Chinese (894) Korean (666)
Gilpin	5,295	66 (1.25%)	66	-
Jefferson	516,473	16,844 (3.26%)	9,213 (1.78%)	Vietnamese (1,600) Chinese (600) Russian (500) Korean (500)
Region 1	2,429,939	197,417 (8.1%)	138,091 (5.6%)	

In addition to the languages listed in the table on the previous page, school data indicates the presence of the following language population groups:²²

Adams County: Hmong.

Arapahoe County: Arabic, Amharic, Burmese, Karen Pa’o, Nepali and Somali.

⁵ LEP number estimates are displayed only if 500 persons or more.

²⁰ The US Census Bureau’s “Other Asian languages” classification includes Turkic languages, Dravidian languages, and Tibetan-Burman languages. For a full listing of these languages, visit <https://www.census.gov/hhes/socdemo/language/about/>.

²¹ For a full listing the US Census Bureau’s “Other Indic languages,” visit <https://www.census.gov/hhes/socdemo/language/about/>.

²² The languages listed here were not the only languages identified in the Colorado Department of Education data. These languages and the languages listed in the U.S. Census table were the most prevalent languages identified in the Colorado Department of Education data.

City and County of Denver: Burmese, Karen Pa'o, French, Nepali, Swahili, and Tigrigna.

Douglas County: Somali.

CDOT Region 2

CDOT Region 2 is comprised of the 14 counties listed in the table below. LEP individuals make up 4% of Region 2's population. The largest LEP group is Spanish at 3.6%. Most of the Spanish-speaking LEP population in Region 2 is found in El Paso and Pueblo counties.

Region 2, U.S. Census Data

County	Total Population	Total LEP Population	Spanish LEP Population	Other Languages ²³
Baca	3,498	89 (2.8%)	71	-
Bent	5,757	425 (7.38%)	402(6.98%)	-
Crowley	5,351	472 (8.82%)	454(8.48%)	-
Custer	4143	9 (0.22%)	9 (0.22%)	-
El Paso	599,826	22932(3.82%)	14582(2.43%)	Korean (1,742 people) German (659) Tagalog (542) Chinese (931) Vietnamese (930) Arabic (513)
Fremont	44,891	2,675 (5.96%)	2,028(4.52%)	-
Huerfano	6,367	251 (3.94%)	204 (3.20%)	-
Kiowa	1,322	7 (0.53%)	7 (0.53%)	-
Las Animas	14,030	508(3.62%)	415 (2.96%)	-
Otero	17,530	996 (4.5%)	885 (5.05%)	-
Park	15,525	164(1.06%)	139 (0.90%)	-
Prowers	11447	775 (6.77%)	688 (6.01%)	-
Pueblo	150,658	6,632(4.40%)	5800(3.58%)	-
Teller	22,356	235 (1.06%)	111 (0.50%)	-
Region 2	902,701	36,170 (4.0%)	25,795(2.8%)	

In addition to the languages listed in the table above, school data indicates the presence of the following language population groups:²⁴

EL Paso County: Nepali.

²³ LEP number estimates are displayed only if 500 persons or more.

²⁴ The languages listed here were not the only languages identified in the Colorado Department of Education data. These languages and the languages listed in the U.S. Census table were the most prevalent languages identified in the Colorado Department of Education data.

CDOT Region 3

CDOT Region 3 is comprised of the 15 counties listed in the table below. LEP individuals make up 6.5% of Region 3's total population. LEP individuals that speak Spanish represent 5.7% of Region 3's population. The majority of the Spanish-speaking LEP population in Region 3 is located in Eagle and Garfield counties.

Region 3, U.S. Census Data

County	Total Population	Total LEP Population	Spanish LEP Population	Other Languages ²⁵
Delta	28,813	1,087 (3.8%)	975 (3.4%)	-
Eagle	49,414	6,220 (12.6%)	5,780 (11.7%)	-
Garfield	52,410	5,094 (9.7%)	4,943 (9.4%)	-
Grand	13,704	300 (2.2%)	174 (1.2%)	-
Gunnison	14,752	317 (2.1%)	238 (1.6%)	-
Hinsdale	806	0	0	-
Jackson	1,334	9 (0.7%)	9 (0.7%)	-
Lake	6,753	716 (10.6%)	626 (9.2%)	-
Mesa	137,942	3,797(2.7%)	3,177 (2.3%)	-
Moffat	12,322	696 (5.6%)	635 (5.1%)	-
Montrose ²⁶	38,534	1,988 (6.3%)	1,899(6.0%)	-
Pitkin	16,503	667(4.0%)	469(2.8%)	-
Rio Blanco	6,287	221 (3.3%)	209 (3.3%)	-
Routt	22,354	592(2.6%)	307 (1.3%)	-
Summit	27,051	1,940 (7.2%)	1828(6.7%)	-
Region 3	428979	23,644 (5.5%)	21,269 (4.9%)	

In addition to the languages listed in the table above, school data indicates the additional presence of the following language population groups:²⁷

Gunnison County: Cora, El Nayar.

Note: CDOT Region 3 includes counties with many tourists and seasonal workers. The data here does not reflect the languages likely to be encountered because of these groups.

²⁵ LEP number estimates are displayed only if 500 persons or more.

²⁶ Parts of Montrose County are located in CDOT Region 3 and Region 5. However, for this LEP Plan, Montrose County data is analyzed as part of Region 3 because much of the county's population, including the City of Montrose, is located in Region 3.

²⁷ The languages listed here were not the only languages identified in the Colorado Department of Education data. These languages and the languages listed in the U.S. Census table were the most prevalent languages identified in the Colorado Department of Education data.

CDOT Region 4

CDOT Region 4 is comprised of the 13 counties listed in the table below. LEP individuals make up 5.5% of Region 4's total population. LEP individuals that speak Spanish represent 4.5% of Region 4's population. The majority of the Spanish-speaking LEP population in Region 4 is located in Boulder, Larimer, and Weld counties.

Region 4, U.S. Census Data

County	Total Population	Total LEP Population	Spanish LEP Population	Other Languages ²⁸
Boulder	289,106	16,085 (6.2%)	12,800 (4.6%)	Chinese (1,194 people) Korean (536)
Cheyenne	1,988	77 (4.8%)	75	-
Elbert	21,517	301(1.34%)	185 (0.82)	-
Kit Carson	7,592	480 (6.32%)	465 (6.12%)	-
Larimer	294,054	6,534(2.22%)	4,324 (1.47%)	-
Lincoln	5,193	354 (6.82%)	329 (6.34%)	-
Logan	21,476	938 (4.37%)	890 (4.14%)	-
Morgan	26,222	3,416 (13.03%)	3,042 (11.60%)	-
Phillips	4,084	524 (12.86%)	518 (12.68%)	-
Sedgwick	2,244	63 (2.81%)	59 (2.63%)	-
Washington	4,531	109 (2.41%)	109 (2.41%)	-
Weld	245,113	17,368 (7.09%)	15,607(6.37%)	
Yuma	9,303	744 (8.0%)	738 (7.93%)	
Region 4	932,423	46,993 (5.0%)	39,141(4.2%)	

In addition to the languages listed in the table above, school data indicates the presence of the following language population groups:²⁹

Morgan County: Somali.

Weld County: Burmese, Karen Pa'o, Somali.

²⁸ LEP number estimates are displayed only if 500 persons or more.

²⁹ The languages listed here were not the only languages identified in the Colorado Department of Education data. These languages and the languages listed in the U.S. Census table were the most prevalent languages identified in the Colorado Department of Education data.

CDOT Region 5

CDOT Region 5 is comprised of the 14 counties³⁰ listed in the table below. LEP individuals make up 3.3% of Region 5's total population. LEP individuals that speak Spanish represent 2.3% of Region 5's population.

Region 5, U.S. Census Data

County	Total Population	Total LEP Population	Spanish LEP Population	Other Languages ³¹
Alamosa	14,937	1,051 (7.04%)	957 (6.41%)	-
Archuleta	11,516	276 (0.9%)	176 (1.53%)	-
Chaffee	17,374	562 (1.8%)	559 (3.2%)	-
Conejos	7,600	604 (7.9%)	575 (7.5%)	-
Costilla	3,416	408 (11.94%)	395 (11.56%)	-
Dolores	1,671	2 (0.12%)	0	-
La Plata	49,689	731 (1.47%)	524 (1.05%)	-
Mineral	695	5 (0.72%)	5 (0.72%)	-
Montezuma	23,997	470 (2.1%)	265 (1.10%)	-
Ouray	4,418	54 (1.22%)	44 (1.0%)	-
Rio Grande	11,079	751 (7.2%)	715 (6.3%)	-
Saguache	5,806	655 (11.28%)	637 (10.97%)	-
San Juan	623	12 (1.93%)	12 (1.93%)	-
San Miguel	7,194	259 (3.6%)	248 (3.45%)	-
Region 5	160,015	5,840 (3.6%)	5,112 (3.2%)	

In addition to the languages listed in the table above, school data indicates the presence of the following language population groups:³²

Alamosa: Eastern Q'anjob'al.

Montezuma: Navajo.

³⁰ A part of Montrose County is also located in CDOT Region 5. However, for this LEP Plan, Montrose County data is analyzed as part of Region 3 because much of the county's population, including the City of Montrose, is located in Region 3.

³¹ LEP number estimates are displayed only if 500 persons or more.

³² The languages listed here were not the only languages identified in the Colorado Department of Education data. These languages and the languages listed in the U.S. Census table were the most prevalent languages identified in the Colorado Department of Education data.

LEP Appendix B
Statewide Transit Plan Outreach Materials in English and Spanish



You're Invited...
...to the CDOT Statewide Transit Plan Public Open House!

CDOT's Statewide Transit Plan addresses the local and regional transit and human service transportation needs in your region and across the state. Your input is greatly needed!

Please join us for the public open house in your area:

- Date:** Wednesday May 21, 2014
- Location:** Emergency Service Center
101 W. 10th Street, First Floor - Room 144
Pueblo, CO 81003
- Time:** 5:00 pm - 7:00 pm

Open House format with presentations at 5:30 pm and 6:30 pm



This is a joint public open house for the CDOT Statewide Transit Plan and the Pueblo Area Council of Governments 2040 Regional Transit Element.

For more information, or for those who require accommodation for disabilities or a language interpreter, including hearing impaired, please contact Beth Vogelsang at (303)589-5651 no later than 3 business days before the meeting. The facility is accessible for disabled individuals.

Can't make the meeting?
View materials and provide comments at our project website: <http://coloradotransportationmatters.com/other-cdot-plans/transit/>
Comments can also be made using the CDOT PinTool at: <http://dtdapps.coloradodot.info/pintransit>



Lo invitamos...
...a la reunión pública sobre el Plan Estatal de Transporte Público de CDOT

El Plan Estatal de Transporte Público de CDOT responde a las necesidades locales y regionales de tránsito y de transporte para personas en su región y en todo el estado. ¡Su opinión será muy valiosa!

Participe de esta reunión pública en su área.

- Fecha:** Miércoles 21 de mayo de 2014
- Lugar:** Emergency Service Center
101 W. 10th Street, primer piso - Sala 144
Pueblo, CO 81003
- Hora:** 5:00 pm - 7:00 pm

Reunión informal con presentaciones a las 5:30 pm y 6:30 pm.



Esta es una casa abierta pública conjunta para el Plan de Tránsito CDOT Estatal y el Consejo de Pueblo Area de gobiernos 2040 Element Regional Transit.

Para más información, para solicitar acomodaciones especiales para personas con incapacidad, o para pedir servicios de traducción (incluyendo lenguaje de signos), llamar a Beth Vogelsang al (303)589-5651 por lo menos tres días antes de la reunión. El lugar de la reunión es accesible para personas incapacitadas.

Si no puede asistir a la reunión,
lo invitamos a que revise los materiales y comparta sus comentarios en el sitio del proyecto: <http://coloradotransportationmatters.com/other-cdot-plans/transit/>
Los comentarios también se pueden hacer usando el sistema PinTool de CDOT en <http://dtdapps.coloradodot.info/pintransit>

You're Invited...

...to the CDOT Statewide
Transit Plan Public Open House!

CDOT's Statewide Transit Plan addresses the local and regional transit and human service transportation needs in your region and across the state. Your input is greatly needed!

Please join us for the public open house in your area:

Date: Wednesday May 14, 2014
Location: Pikes Peak Area Council of Governments (PPACG)
Conference Room
14 S. Chestnut Street
Colorado Springs, CO
Time: 5:30 pm - 7:00 pm
Open House format with presentation at 6:00 pm



**Pikes Peak Area
Council of Governments**
Communities Working Together



**THE
CITY OF
COLORADO
SPRINGS
PROJECT**
MADE POSSIBLE
WITH YOUR TAX
DOLLARS



This is a joint public open house for the CDOT Statewide Transit Plan and the PPACG 2040 Regional Transportation Plan.

For more information, or for those who require accommodation for disabilities or a language interpreter, including hearing impaired, please contact Beth Vogelsang at (303)589-5651 no later than 3 business days before the meeting. The facility is accessible for disabled individuals.

Can't make the meeting?

View materials and provide comments at our project website: <http://coloradotransportationmatters.com/other-cdot-plans/transit/>
Comments can also be made using the CDOT PinTool at: <http://dtdapps.coloradodot.info/pintransit>

Lo invitamos...

...a la reunión pública sobre el
Plan Estatal de Transporte Público de CDOT

El Plan Estatal de Transporte Público de CDOT responde a las necesidades locales y regionales de tránsito y de transporte para personas en su región y en todo el estado. ¡Su opinión será muy valiosa!

Participe de esta reunión pública en su área.

Fecha: Miércoles 14 de mayo de 2014
Lugar: Pikes Peak Area Council of Governments (PPACG)
Conference Room
14 S. Chestnut Street
Colorado Springs, CO
Hora: 5:30 pm - 7:00 pm
Reunión informal con una presentación a las 6:00 pm.



**Pikes Peak Area
Council of Governments**
Communities Working Together



**THE
CITY OF
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WITH YOUR TAX
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Transit Plan Public Open House!

CDOT's Statewide Transit Plan addresses the local and regional transit and human service transportation needs in your region and across the state. Your input is greatly needed!

Please join us for the public open house in your area:

Date: Wednesday May 7, 2014

Location: Greeley Ice Haus
900 8th Avenue
Greeley, CO 80631

Time: 5:00 pm - 7:00 pm

Open House format with presentations at 5:30 pm and 6:30 pm



This is a joint public open house for the CDOT, the North Front Range MPO and Greeley-Evans Transit. For further information on the NFRMPO 2040 Regional Transit Element, please contact Nate Vander Broek at NFRMPO (970) 416-2309. For information on GET, please contact Will Jones at (970) 350-9751.

For more information, or for those who require accommodation for disabilities or a language interpreter, including hearing impaired, please contact Beth Vogelsang at (303)589-5651 no later than 3 business days before the meeting. The facility is accessible for disabled individuals.

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...a la reunión pública sobre el
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Participe de esta reunión pública en su área.

Fecha: Miércoles 7 de mayo de 2014

Lugar: Greeley Ice Haus
900 8th Avenue
Greeley, CO 80631

Hora: 5:00 pm - 7:00 pm

Reunión informal con presentaciones a las 5:30 pm y 6:30 pm.



Esta es una casa abierta pública conjunta para el CDOT, la North Front Range MPO y tránsito de Greeley-Evans. Para más información sobre el 2040 NFRMPO Elemento de tránsito regional, por favor póngase en contacto con Nate Vander Broek en NFRMPO (970) 416 4924. Para obtener información sobre GET, póngase en contacto con Will Jones al (970) 350-9751.

Para más información, para solicitar acomodaciones especiales para personas con incapacidad, o para pedir servicios de traducción (incluyendo lenguaje de signos), llamar a Beth Vogelsang al (303)589-5651 por lo menos tres días antes de la reunión. El lugar de la reunión es accesible para personas incapacitadas.

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You're Invited...

...to the CDOT Statewide Transit Plan Public Open House!



CDOT's Statewide Transit Plan addresses the local and regional transit and human service transportation needs in your region and across the state. Your input is greatly needed!

Please join us for the public open house in your area:

Date: Wednesday May 28, 2014

Location: Grand Valley Transit Operations Building
525 South 6th Street, 2nd Floor
Grand Junction, CO 81501

Time: 5:00 pm - 7:00 pm

Open House format with presentations at 5:30 pm and 6:30 pm



This is a joint public open house for the CDOT Statewide Transit Plan and the Grand Valley Metropolitan Planning Organization and Grand Valley Transit 2040 Regional Transportation Plan.

For more information, or for those who require accommodation for disabilities or a language interpreter, including hearing impaired, please contact Beth Vogelsang at (303)589-5651 no later than 3 business days before the meeting. The facility is accessible for disabled individuals.

Can't make the meeting?

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Comments can also be made using the CDOT PinTool at: <http://dtdapps.coloradodot.info/pintransit>



Lo invitamos...

...a la reunión pública sobre el Plan Estatal de Transporte Público de CDOT



El Plan Estatal de Transporte Público de CDOT responde a las necesidades locales y regionales de tránsito y de transporte para personas en su región y en todo el estado. ¡Su opinión será muy valiosa!

Participe de esta reunión pública en su área.

Fecha: Miércoles 28 de mayo de 2014

Lugar: Grand Valley Transit Operations Building
525 South 6th Street, 2nd Floor
Grand Junction, CO 81501

Hora: 5:00 pm - 7:00 pm

Reunión informal con presentaciones a las 5:30 pm y 6:30 pm.



Esta es una casa abierta pública conjunta para el Plan Estatal de Tránsito CDOT y la Organización de Planificación Metropolitana de Grand Valley y Grand Valley Transit 2040 Plan de Transporte Regional.

Para más información, para solicitar acomodaciones especiales para personas con incapacidad, o para pedir servicios de traducción (incluyendo lenguaje de signos), llamar a Beth Vogelsang al (303)589-5651 por lo menos tres días antes de la reunión. El lugar de la reunión es accesible para personas incapacitadas.

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COLORADO
Department of
Transportation

You're Invited...

...to the CDOT Statewide Transit Plan Public Open House!

CDOT's Statewide Transit Plan addresses the local and regional transit and human service transportation needs in your region and across the state. Your input is greatly needed!

Please join us for the public open house in your area:

Date: Monday May 12, 2014

Location: CDOT Headquarters - Shumate Building
(located behind the main building along Birch Avenue)
4201 E. Arkansas Ave.
Denver, CO 80222

Time: 5:00 pm - 7:00 pm

Open House format with presentations at 5:30 pm and 6:30 pm



DRCOG
DENVER REGIONAL COUNCIL OF GOVERNMENTS

We make life better!



This is a joint public open house for the CDOT Statewide Transit Plan and the Denver Regional Council of Governments 2040 Metro Vision Regional Transportation Plan.

For more information, or for those who require accommodation for disabilities or a language interpreter, including hearing impaired, please contact Beth Vogelsang at (303)589-5651 no later than 3 business days before the meeting. The facility is accessible for disabled individuals.

Can't make the meeting?

View materials and provide comments at our project website: <http://coloradotransportationmatters.com/other-cdot-plans/transit/>
Comments can also be made using the CDOT PinTool at: <http://dtdapps.coloradodot.info/pintransit>



COLORADO
Department of
Transportation

Lo invitamos...

...a la reunión pública sobre el Plan Estatal de Transporte Público de CDOT

El Plan Estatal de Transporte Público de CDOT responde a las necesidades locales y regionales de tránsito y de transporte para personas en su región y en todo el estado. ¡Su opinión será muy valiosa!

Participe de esta reunión pública en su área.

Fecha: Lunes 12 de mayo de 2014

Lugar: CDOT Headquarters - Shumate Building
(situado detrás del edificio principal a lo largo de Birch Avenue)
4201 E. Arkansas Ave.
Denver, CO 80222

Hora: 5:00 pm - 7:00 pm

Reunión informal con presentaciones a las 5:30 pm y 6:30 pm.



DRCOG
DENVER REGIONAL COUNCIL OF GOVERNMENTS

We make life better!



Esta es una casa abierta pública conjunta para el Plan de Tránsito CDOT Estatal y el Consejo Regional de Gobiernos de Denver 2040 Metro Plan de Transporte Regional Vision.

Para más información, para solicitar acomodaciones especiales para personas con incapacidad, o para pedir servicios de traducción (incluyendo lenguaje de signos), llamar a Beth Vogelsang al (303)589-5651 por lo menos tres días antes de la reunión. El lugar de la reunión es accesible para personas incapacitadas.

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Los comentarios también se pueden hacer usando el sistema PinTool de CDOT en <http://dtdapps.coloradodot.info/pintransit>

LEP Appendix C
CTS LanguageLink Interpretation Language List

INTERPRETATION LANGUAGE LIST

CTS LanguageLink provides spoken Interpretation Services in 240+ languages and/or dialects. If you do not see your target language listed here, please contact a CTS LanguageLink representative for more information at +1 800-208-2620.

A	Acholi	Duala	Ho
	Afrikaans	Dutch	Hunanese
	Akan	Edo	Hungarian
	Albanian	E Efik	I Iban
	American Sign Language	Estonian	Ibang
	Amharic	Ethiopian	Icelandic
	Arabic	Ewe	Igbo (Ibo)
	Armenian	F Farsi (Persian)	Ilocano
	Ashanti	Fijian	Indonesian
	Assyrian	Filipino	Italian
	Azerbaijani	Finnish	J Jaaxanke
B	Bambara	Flemish	Jakartanese
	Basque	French	Japanese
	Bassa	French Canadian	Javanese
	Behdini	French Creole	K Kakwa
	Belarusian	Frisian (West)	Kanjobal
	Bengali	Fujianese	Kankanay
	Bosnian	Fukinese	Kannada
	Bulgarian	Fula	Karen
	Burmese	Fulani	Kashmiri
C	Cantonese	Fuzhou	Kayah
	Cape Verde	G Ga	Kazakh
	Catalan	Gaelic	Khmer (Cambodian)
	Cebuano	Ganda	Kikamba
	Chabacano	Garre	Kikuyu
	Chaldean	Georgian	Kinyarwanda
	Cham	German	Kirghiz
	Chamorro	Gilaki	Kirundi
	Chau-jo	Grebo	Korean
	Cherokee	Greek	Kosrae
	Chinese	Greenlandic	Kpelle
	Choujo	Gujarati	Krahn
	Chuukese	H Haitian Creole	Kurdish
	Creole	Haka Burmese	L Lakota
	Croatian	Hakka	Laotian
	Czech	Harari	Latin
D	Danish	Hausa	Latvian
	Dari (Persian)	Hebrew	Lebanese
	Dimli	Hindi	Liberian
	Dinka	Hmong	Lingala

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INTERPRETATION LANGUAGE LIST

CTS LanguageLink provides spoken Interpretation Services in 240+ languages and/or dialects. If you do not see your target language listed here, please contact a CTS LanguageLink representative for more information at +1 800-208-2620.

M	Lithuanian	
	Luganda	
	Luo (Dhuluo)	
	Maay	
	Macedonian	
	Malagasy	
	Malay	
	Malayalam	
	Malaysian	
	Maltese	
	Mam	
	Mandarin	
	Mandingo	
	Mandinka	
	Mankon	
	Marathi	
	Marshallese	
	Maylay	
	Meru	
	Mien	
Mina		
Mixteco		
Mixteco Alto		
Mixteco Bajo		
Moldovan		
Mongolian		
Moroccan Arabic		
Myanmar		
N	Nahuati	
	Navajo	
	Nepali	
	Newari	
	Nigerian	
	Norwegian	
	Nuer	
	O	Ojibay
		Oromifa
		Oromo
P	Pahari	
	Palauan	
	Pampangan	
	Papiamento	
Pashto		
Polish		
Ponapean		
Portuguese		
Portuguese Brazilian		
Portuguese Creole - Cape Verdean Creole		
Potwari		
Pulaar		
Punjabi		
Q	Quechua	
	Quiche	
R	Rhade	
	Romanian	
Rundi		
Russian		
S	Samoan	
	Sara	
Serbian		
Serbo Croatian		
Shanghainese		
Shona		
Sichuan		
Sicilian		
Sindhi		
Sinhala		
Sinhalese		
Slovak		
Slovenian		
Somali		
Soninke		
Sorani		
Sotho		
Spanish (European)		
Spanish (Latin America)		
Spanish (Mexican)		
Sudanese		
Swahili		
Swedish		
Syrian		
T	Tagalog	
	Tahitian	
	Taiwanese	
	Tajiki	
	Tamal	
	Tamang	
	Tamil	
	Tarasco	
	Tatar	
	Telugu	
	Teochew	
	Thai	
	Thai Dam	
	Tibetan	
	Tigrigna - Tigrinya	
	Toishanese	
	Tokelau	
	Tongan	
	Trukese (Chuukese)	
	Tshiluba	
Tsonga		
Tswana		
Turkish		
Turkmen		
Twi		
U	Ukrainian	
	Urdu	
Uzbek		
V	Vangali	
	Vietnamese	
Visayan (Cebuano)		
W	Welsh	
	Wolof	
Wu		
Y	Yi	
	Yiddish	
Yoruba		
Z	Zapoteco	
	Zulu	

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Appendix D
CTS LanguageLink Translation Language List

TRANSLATION LANGUAGE LIST

CTS LanguageLink provides written translation services in over 100+ languages. If you do not see your target language listed here, please contact a CTS LanguageLink representative for more information at +1 800-208-2620.

A	Afrikaans	H	Gujarati	R	Portuguese (European)
	Albanian		Haitian Creole		Punjabi (Panjabi)
	Amharic		Hebrew		Romanian
	Arabic		Hindi		Russian
	Armenian (Eastern & Western)		Hmong		Rwanda
	Azerbaijani (Azeri)		Hungarian	S	Samoan
B	Belarusan	I	Icelandic		Serbian
	Bengali		Igbo		Sinhala (Sinhalese)
	Bosnian		Ilocano		Slovak (Slovakian)
	Bulgarian		Indonesian		Slovene (Slovenian)
	Burmese		Italian		Somali
C	Cambodian (Khmer)	J	Japanese		Soninke
	Cape Verdean	K	Karen		Spanish (European)
	Catalan		Kazakh		Spanish (Latin American)
	Cebuano		Kikuyu (Gikuyu)		Spanish (Mexican)
	Chamorro		Kirghiz		Swahili
	Chinese (Simplified)		Kirundi (Rundi)		Swedish
	Chinese (Traditional)		Korean	T	Tagalog (Filipino)
	Chuukese		Kurdish		Tajik
	Croatian	L	Laotian		Tamil
	Czech		Latvian		Thai
D	Danish		Lithuanian		Tibetan
	Dari	M	Macedonian		Tigrinya
	Dutch		Malay (Sabah)		Tongan
	Dzongkha (Bhutanese)		Malayalam		Turkish
E	Estonian		Maltese		Twi
F	Farsi (Persian)		Marshallese	U	Ukrainian
	Finnish		Mien		Urdu
	Flemish		Mongolian		Uzbek
	French (African)	N	Nepali (Nepalese)	V	Vietnamese
	French (Canadian)		Norwegian	W	Welsh
	French (European)		Nuer		Wolof
	Fula	O	Oromo (Oromiffa)	Y	Yiddish
G	Georgian	P	Pashto (Pushto)		Yoruba
	German		Polish	Z	Zande (Kizande)
	Greek		Portuguese (Brazilian)		Zulu

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Appendix J
Subrecipient Submission Schedule

DTR Title VI Review Schedule

Grant Partners	Title VI Plans Due 2017	Title VI Plans Due 2018	Title VI Plans Due 2019
RMHC	March 31, 2017		
Archuleta County	March 31, 2017		
Durango	March 31, 2017		
Avon	March 31, 2017		
Eagle County	March 31, 2017		
Glenwood Springs	March 31, 2017		
Broomfield	March 31, 2017		
CNDC/DRMAC	March 31, 2017		
Eastern Colorado COG	March 31, 2017		
Baca County	March 31, 2017		
Bent County	March 31, 2017		
Grand County COA	March 31, 2017		
Winter Park	March 31, 2017		
Breckenridge	March 31, 2017		
Routee County COA	March 31, 2017		
Mountain Village	March 31, 2017		
San Miguel County	March 31, 2017		
Telluride	March 31, 2017		
SRDA	March 31, 2017		
La Junta	March 31, 2017		
SCCOG	March 31, 2017		
DRCOG	March 31, 2017		
Grand Valley MPO		February 1, 2018	
Pikes Peak	March 31, 2017		
NFRMPO		February 2018	
Black Hawk		February 2018	

All Points Transit		February 2018	
Aspen		February 2018	
Fort Collins, City of		February 2018	
Greely, City of		February 2018	
Community Connections		February 2018	
Prowers County		February 2018	
La Plata		February 2018	
SWCCOG		February 2018	
RFTA		February 2018	
Summit County (Summit Stage)		February 2018	
Discover Goodwill		February 2018	
Silvery Key		February 2018	
Via Mobility		February 2018	
Steamboat Springs		February 2018	
UAACOG		February 2018	
Castle Rock Senior Center			February 2019
Las Animas County Rehab			February 2019
Horizon Specialized Services			February 2019
Developmental pathways			February 2019
Cripple Creek			February 2019
Lakewood			February 2019
Pueblo			February 2019
Inspiration Fields			February 2019
Neighbor to Neighbor			February 2019
Lake County			February 2019
NWCCOG			February 2019
Teller Senior Coalition			February 2019
Gunnison Valley RTA			February 2019
Mountain Express			February 2019
NECALG			February 2019
SRC			February 2019
Snowmass Village			February 2019
Dolores County			February 2019
Montezuma County			February 2019

SUCAP			February 2019
Amblicab			February 2019
Fountain Valley Senior Center			February 2019
Douglas County			

Appendix K
Bustang Service Standards and Policies

Bustang Service Standards and Policies

This document sets service standards for Vehicle load, vehicle headway, on-time performance, and service availability.

Vehicle Load Standards

All of the Bustang buses are 51-passenger coaches with a capacity of one person per seat. This changes if a mobility device (i.e. wheel chair, or scooter) is loaded. Once a mobility device is loaded onto the buses 6 seats are no longer available and only 45 passengers can be seated. Each bus can carry 2 mobility devices.

<u>Vehicle Type</u>	<u>Seated</u>	<u>Standing</u>	<u>Total</u>	<u>Maximum load factor</u>
Motor coach-High floor with bus over Baggage Compartment	51	0	51	1.0

Vehicle Headway Standards

The amount of time between two vehicles traveling in the same direction on a given line or combination of lines. Service operates on three separate routes between every 10 minutes to 50 minutes from the early morning to late in the evening, five days a week for the I-25 North and South lines. The I-70 west line operates seven days a week and runs between every 20 minutes. Please see an attached route schedule at <http://www.ridebustang.com/routes>.

On-Time Performance Standards

100% of the Bustang buses will complete their established runs no more than 10 minutes late in comparison to the established schedule. If a Bus is running late, Bustang will use its social media outlets to notify the public.

Service Availability Standards

Bustang service availability is based upon accessible park and rides and stations located along the respective commuter routes.

System-Wide Policies

Vehicle Assignment Policy

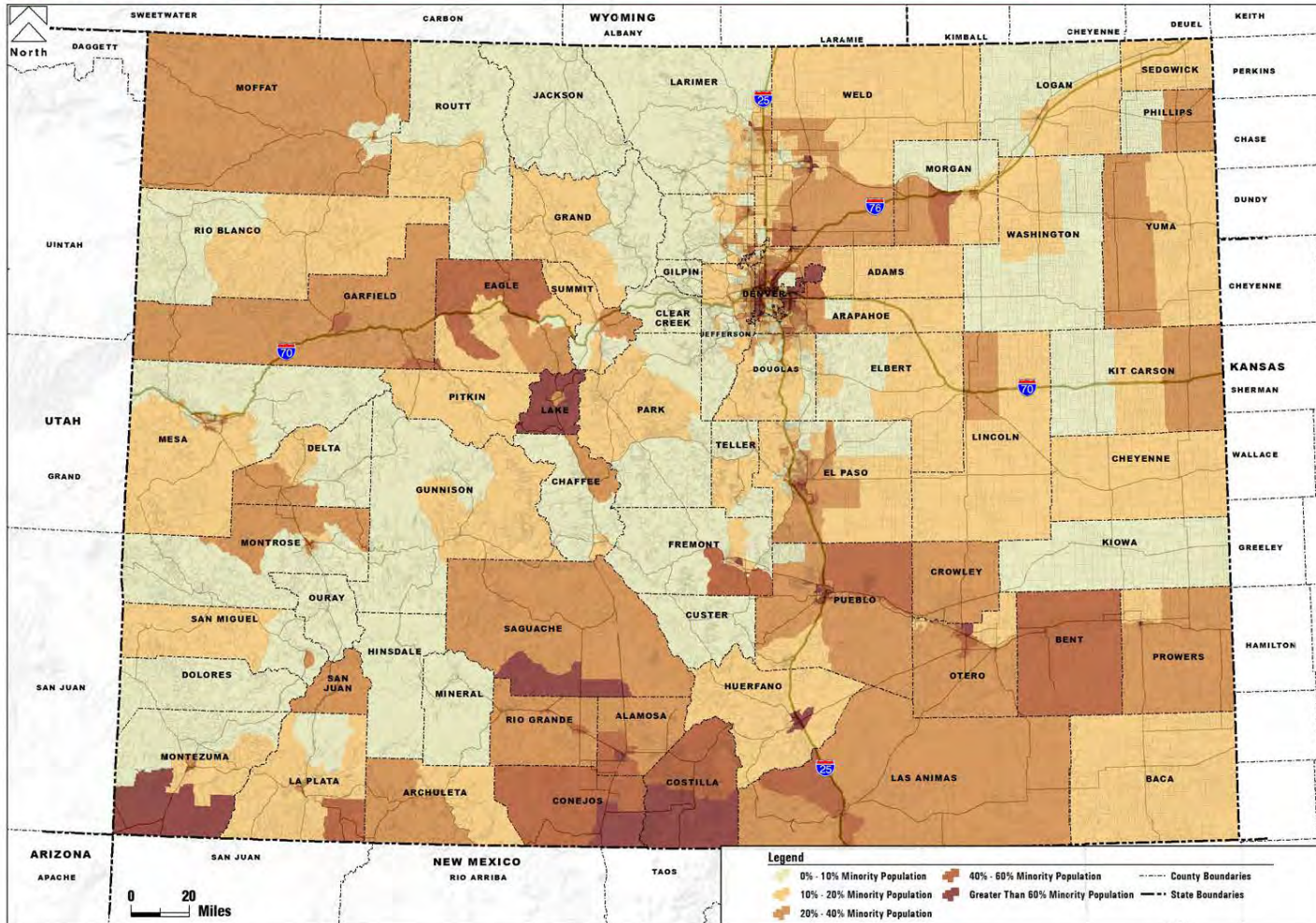
Vehicle assignments are based on mileage. CDOT maintain the mileage on each vehicle as even as possible. The buses are rotated on routes when needed to keep the mileage even. Bustang has a designated dispatch team that assigns the buses to routes and facilitates the maintenance of the vehicles.

Amenities Policy

Each Bustang coach is equipped with a restroom, bike racks, free WiFi, power outlets and USB ports. There is also a wheelchair lift and two wheelchair securement areas on each coach. Please be advised that our WiFi system is dependent on local cellular signals. In areas with poor cellular service, WiFi may be intermittent or nonexistent. **Not all buses have automated stop notifications.**

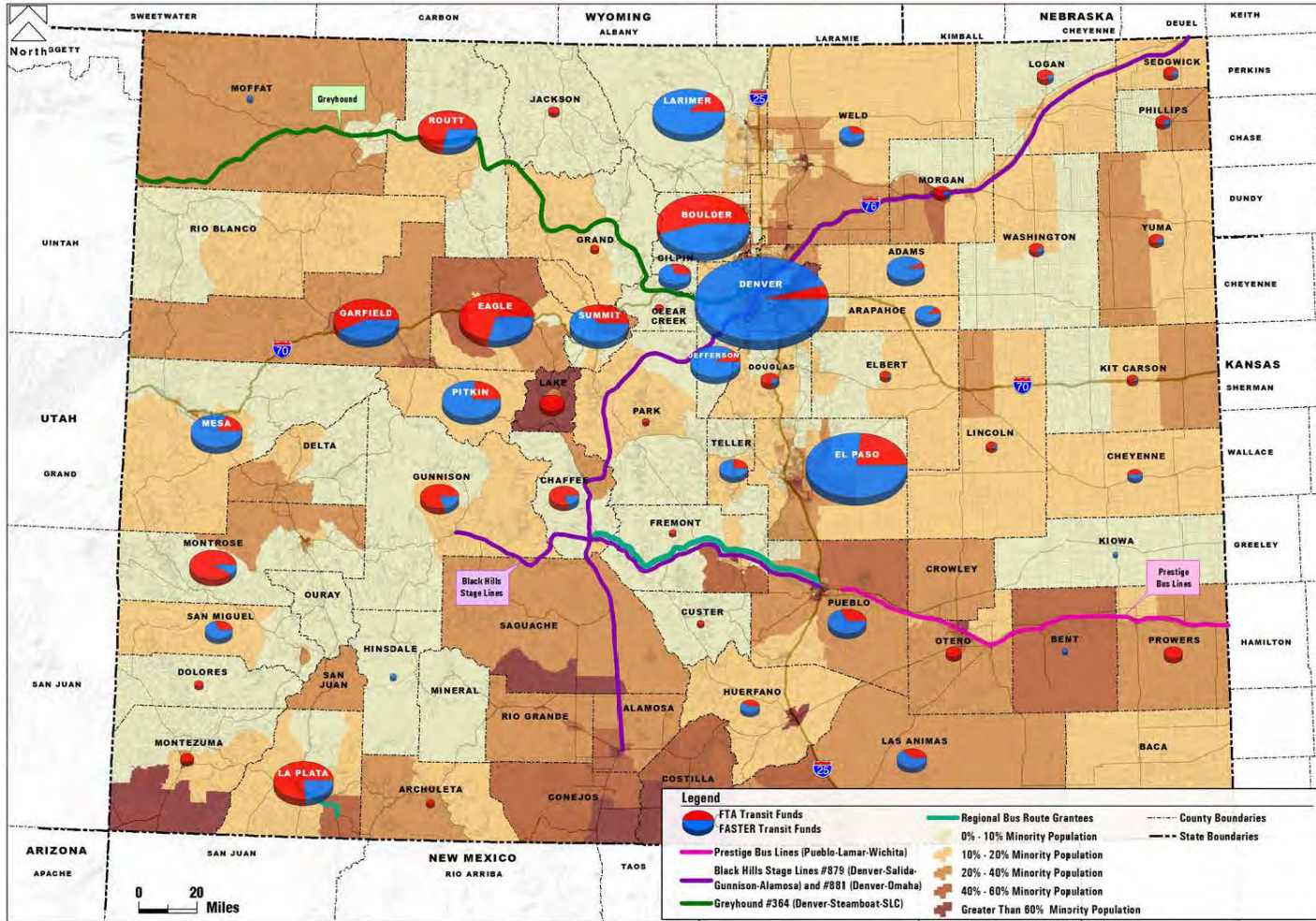
Appendix L
Minority Demographic Profile and Maps

Minority Population



Minority Population is based on the 2007-2011 American Community Survey Table B02001 - Race; based on non-white population (does not separate hispanic ethnicity) by 2010 Census Tract.

FTA and FASTER Transit Funds (2011 - 2013) by County with Minority Population



Minority Population is based on the 2007-2011 American Community Survey Table B02001 - Race; based upon non-white population (does not separate hispanic ethnicity) by 2010 Census Tract.

County	Total Population	HISPANIC	WHITE NH	Minor	Pct	Hisp	Pc	FTA	FASTER	TotalBoth
Adams	434295	162203	23349	46	37	73520	1077314	115083		
Alamosa	15395	6962	7618	51	45	0	0	0		
Arapahoe	563508	101797	36063	36	18	73520	516765	59028		
Archuleta	12152	2105	9755	20	17	81682	0	8168		
Baca	3807	315	3342	12	8	0	0	0		
Bent	6164	1805	3643	41	29	0	43622	4362		
Boulder	293205	38543	23298	21	13	3026204	2546074	557227		
Broomfield	54592	6013	4342	20	11	73520	0	7352		
Chaffee	17707	1620	1533	13	9	638623	140000	77862		
Cheyenne	2247	285	1936	14	13	121749	110314	23206		
Clear	9083	404	8381	8	4	73520	0	7352		
Conejos	8228	4512	3443	58	55	0	0	0		
Costilla	3556	2241	1096	69	63	0	0	0		
Crowley	5866	1612	3539	40	27	0	0	0		
Custer	3853	179	3535	8	5	58212	0	5821		
Delta	30666	4213	2548	17	14	0	0	0		
Denver	590507	188660	30731	48	32	425691	10140068	1056575		
Dolores	2043	64	1899	7	3	88254	0	8825		
Douglas	280643	20880	23953	15	7	266110	49600	31571		
Eagle	51457	15158	3486	32	29	2663457	1108000	377145		
El Paso	611377	90330	44230	28	15	1528595	3532626	506122		
Elbert	22859	1263	2067	10	6	121749	13000	13474		
Fremont	47040	5778	3606	23	12	58212	0	5821		
Garfield	55696	15163	3888	30	27	1740234	1315600	305583		
Gilpin	5241	237	4765	9	5	261520	618275	87979		
Grand	14634	1055	1315	10	7	90320	0	9032		
Gunnison	15274	1187	1359	11	8	949568	231000	118056		
Hinsdale	731	28	701	4	4	0	49600	4960		
Huerfano	6829	2320	3709	46	34	154555	215860	37041		
Jackson	1494	112	1368	8	7	125340	0	12534		
Jefferson	532243	74786	42661	20	14	196000	1674932	187093		
Kiowa	1728	60	1630	6	3	0	31200	3120		
Kit Carson	8178	1462	6308	23	18	121749	13000	13474		
La Plata	50820	5961	4085	20	12	1969052	605350	257440		

County	Total Population	HISPANIC	WHITE_NH	Minor	Pct	Hisp	Pc	FTA	FASTER	TotalBoth
Lake	7010	2729	4003	43	39	568512	0	568512	0	56851
Larimer	296107	30818	25057	15	10	486656	3132304	486656	3132304	361896
Las Animas	15549	6397	8379	46	41	281780	465860	281780	465860	74764
Lincoln	5462	629	4243	22	12	121749	13000	121749	13000	13474
Logan	22417	3422	1847	18	15	226989	38520	226989	38520	26550
Mesa	144766	18831	12069	17	13	340000	1648040	340000	1648040	198804
Mineral	723	19	699	3	3	0	0	0	0	0
Moffat	13586	1869	1121	17	14	0	48000	0	48000	4800
Montezuma	25372	2766	1913	25	11	187574	0	187574	0	18757
Montrose	40812	7812	3176	22	19	1534058	147680	1534058	147680	168173
Morgan	27943	9350	1738	38	33	226989	38520	226989	38520	26550
Otero	18795	7468	1064	43	40	238221	0	238221	0	23822
Ouray	4371	166	4063	7	4	0	0	0	0	0
Park	16259	760	1522	6	5	56936	0	56936	0	5693
Phillips	4391	795	3492	20	18	183426	38520	183426	38520	22194
Pitkin	16709	1428	1474	12	9	562605	1962560	562605	1962560	252516
Prowers	12615	4373	8115	36	35	324400	0	324400	0	32440
Pueblo	157946	64736	8587	46	41	377977	807438	377977	807438	118541
Rio Blanco	6616	596	5750	13	9	0	0	0	0	0
Rio Grande	11913	4950	6766	43	42	0	0	0	0	0
Routt	23201	1463	2114	9	6	1808352	733627	1808352	733627	254197
Saguache	6165	2531	3352	46	41	0	0	0	0	0
San Juan	801	154	614	23	19	0	0	0	0	0
San Miguel	7383	603	6524	12	8	206770	465250	206770	465250	67202
Sedgwick	2390	243	2060	14	10	183426	38520	183426	38520	22194
Summit	27496	3703	2292	17	13	967320	1556766	967320	1556766	252408
Teller	23035	1193	2087	9	5	179000	516813	179000	516813	69581
Washington	4709	426	4232	10	9	183426	38520	183426	38520	22194
Weld	248441	70017	16836	32	28	162000	387703	162000	387703	54970
Yuma	9960	1985	7795	22	20	183426	38520	183426	38520	22194
		1011545	3,491,019.00	150	118	24572548	36148361	24572548	36148361	

Comparison of 2011 - 2013 Funds Received to Minority Population

County	Total Population	Minority Population	County's Portion of State's Minority Population	FTA Funds	FASTER Funds	Total Funds	County's Portion of FTA/FASTER Transit Funding
Adams	434,295	200,800	13.6%	\$73,520	\$1,077,314	\$1,150,834	1.9%
Alamosa	15,395	7,777	0.5%	\$0	\$0	\$0	0.0%
Arapahoe	563,508	202,875	13.8%	\$73,520	\$516,765	\$590,285	1.0%
Archuleta	12,152	2,397	0.2%	\$81,682	\$0	\$81,682	0.1%
Baca	3,807	465	0.0%	\$0	\$0	\$0	0.0%
Bent	6,164	2,521	0.2%	\$0	\$43,622	\$43,622	0.1%
Boulder	293,205	60,222	4.1%	\$3,026,204	\$2,546,074	\$5,572,278	9.2%
Broomfield	54,592	11,169	0.8%	\$73,520	\$0	\$73,520	0.1%
Chaffee	17,707	2,371	0.2%	\$638,623	\$140,000	\$778,623	1.3%
Cheyenne	2,247	311	0.0%	\$121,749	\$110,314	\$232,063	0.4%
Clear Creek	9,083	702	0.0%	\$73,520	\$0	\$73,520	0.1%
Conejos	8,228	4,785	0.3%	\$0	\$0	\$0	0.0%
Costilla	3,556	2,460	0.2%	\$0	\$0	\$0	0.0%
Crowley	5,866	2,327	0.2%	\$0	\$0	\$0	0.0%
Custer	3,853	318	0.0%	\$58,212	\$0	\$58,212	0.1%
Delta	30,666	5,179	0.4%	\$0	\$0	\$0	0.0%
Denver	590,507	283,195	19.2%	\$425,691	\$10,140,068	\$10,565,759	17.4%
Dolores	2,043	144	0.0%	\$88,254	\$0	\$88,254	0.1%
Douglas	280,643	41,111	2.8%	\$266,110	\$49,600	\$315,710	0.5%
Eagle	51,457	16,591	1.1%	\$2,663,457	\$1,108,000	\$3,771,457	6.2%
El Paso	611,377	169,068	11.5%	\$1,528,595	\$3,532,626	\$5,061,221	8.3%
Elbert	22,859	2,184	0.1%	\$121,749	\$13,000	\$134,749	0.2%
Fremont	47,040	10,977	0.7%	\$58,212	\$0	\$58,212	0.1%
Garfield	55,696	16,808	1.1%	\$1,740,234	\$1,315,600	\$3,055,834	5.0%
Gilpin	5,241	476	0.0%	\$261,520	\$618,275	\$879,795	1.4%
Grand	14,634	1,484	0.1%	\$90,320	\$0	\$90,320	0.1%
Gunnison	15,274	1,684	0.1%	\$949,568	\$231,000	\$1,180,568	1.9%
Hinsdale	731	30	0.0%	\$0	\$49,600	\$49,600	0.1%
Huerfano	6,829	3,120	0.2%	\$154,555	\$215,860	\$370,415	0.6%
Jackson	1,494	126	0.0%	\$125,340	\$0	\$125,340	0.2%

Comparison of 2011 - 2013 Funds Received to Minority Population

County	Total Population	Minority Population	County's Portion of State's Minority Population	FTA Funds	FASTER Funds	Total Funds	County's Portion of FTA/FASTER Transit Funding
Jefferson	532,243	105,626	7.2%	\$196,000	\$1,674,932	\$1,870,932	3.1%
Kiowa	1,728	98	0.0%	\$0	\$31,200	\$31,200	0.1%
Kit Carson	8,178	1,870	0.1%	\$121,749	\$13,000	\$134,749	0.2%
La Plata	50,820	9,969	0.7%	\$1,969,052	\$605,350	\$2,574,402	4.2%
Lake	7,010	3,007	0.2%	\$568,512	\$0	\$568,512	0.9%
Larimer	296,107	45,530	3.1%	\$486,656	\$3,132,304	\$3,618,960	6.0%
Las Animas	15,549	7,170	0.5%	\$281,780	\$465,860	\$747,640	1.2%
Lincoln	5,462	1,219	0.1%	\$121,749	\$13,000	\$134,749	0.2%
Logan	22,417	3,938	0.3%	\$226,989	\$38,520	\$265,509	0.4%
Mesa	144,766	24,074	1.6%	\$340,000	\$1,648,040	\$1,988,040	3.3%
Mineral	723	24	0.0%	\$0	\$0	\$0	0.0%
Moffat	13,586	2,372	0.2%	\$0	\$48,000	\$48,000	0.1%
Montezuma	25,372	6,234	0.4%	\$187,574	\$0	\$187,574	0.3%
Montrose	40,812	9,044	0.6%	\$1,534,058	\$147,680	\$1,681,738	2.8%
Morgan	27,943	10,557	0.7%	\$226,989	\$38,520	\$265,509	0.4%
Otero	18,795	8,154	0.6%	\$238,221	\$0	\$238,221	0.4%
Ouray	4,371	308	0.0%	\$0	\$0	\$0	0.0%
Park	16,259	1,035	0.1%	\$56,936	\$0	\$56,936	0.1%
Phillips	4,391	899	0.1%	\$183,426	\$38,520	\$221,946	0.4%
Pitkin	16,709	1,962	0.1%	\$562,605	\$1,962,560	\$2,525,165	4.2%
Prowers	12,615	4,500	0.3%	\$324,400	\$0	\$324,400	0.5%
Pueblo	157,946	72,070	4.9%	\$377,977	\$807,438	\$1,185,415	2.0%
Rio Blanco	6,616	866	0.1%	\$0	\$0	\$0	0.0%
Rio Grande	11,913	5,147	0.3%	\$0	\$0	\$0	0.0%
Routt	23,201	2,054	0.1%	\$1,808,352	\$733,627	\$2,541,979	4.2%
Saguache	6,165	2,813	0.2%	\$0	\$0	\$0	0.0%
San Juan	801	187	0.0%	\$0	\$0	\$0	0.0%
San Miguel	7,383	859	0.1%	\$206,770	\$465,250	\$672,020	1.1%
Sedgwick	2,390	330	0.0%	\$183,426	\$38,520	\$221,946	0.4%

Comparison of 2011 - 2013 Funds Received to Minority Population

County	Total Population	Minority Population	County's Portion of State's Minority Population	FTA Funds	FASTER Funds	Total Funds	County's Portion of FTA/FASTER Transit Funding
	27,496	4,568		\$967,320	\$1,556,766	\$2,524,086	
Teller	23,035	2,158	0.1%	\$179,000	\$516,813	\$695,813	1.1%
Washington	4,709	477	0.0%	\$183,426	\$38,520	\$221,946	0.4%
	248,441	80,081		\$162,000	\$387,703	\$549,703	
Yuma	9,960	2,165	0.1%	\$183,426	\$38,520	\$221,946	0.4%
Total	4,966,061	1,475,042	100.0%	\$24,572,548	\$36,148,361	\$60,720,909	100%

Counties that receive a 3% or higher portion of funds compared to their minority population

Counties that receive a 3% or smaller portion of funds compared to their minority population

Appendix M

Consolidated Call for Capital Projects Guidance (Oct. 7, 2016)

Consolidated Call for Capital Projects Guidance FASTER Transit and Federal Transit Administration Funds

October 7, 2016

PART 1 **Summary**

The Colorado Department of Transportation (CDOT) is issuing a Notice of Funding Availability (NOFA), calling for applications for capital projects to be initiated in 2017 using FASTER Transit and Federal Transit Administration (FTA) funds.

CDOT plans to competitively award at least \$6.1 million in FASTER funds for local and statewide transit capital projects. CDOT will award an additional \$3.9 million in FASTER grants to the three major metropolitan transit providers as a set-aside. Additionally, CDOT intends to competitively award at least \$6.1 million in federal funds for transit capital projects made available through FTA Sections 5310, 5311, and 5339.

PART 2 **Background**

FASTER Funding

Senate Bill 09-108, also known as the Funding Advancements for Surface Transportation and Economic Recovery Act of 2009 (FASTER) was signed into law in 2009 and provided funding for transportation projects through an increase in vehicle registration fees. A portion is set aside for transit purposes: a **Local** share for “local transit grants” and a **Statewide** share to be used “for the planning, designing, engineering, acquisition, installation, construction, repair, reconstruction, maintenance, operation, or administration of transit-related projects, including, but not limited to, designated bicycle or pedestrian lanes of highway and infrastructure needed to integrate different transportation modes within a multimodal transportation system, that enhance the safety of state highways for transit users.”

The CDOT Transportation Commission, with input from the transit community, determined that FASTER transit funds will be distributed in the following manner:

- \$4.1 million for competitive capital awards for local projects (but excluding local projects from within RTD’s jurisdiction).
- \$2 million for competitive capital awards for statewide, interregional and regional projects anywhere in the state
- \$3.9 million for metropolitan transit agency capital awards, which include RTD in the Denver area (\$3 million), Mountain Metro Transit in Colorado Springs (\$0.7 million), and TransFort in Fort Collins (\$0.2 million), for projects approved by CDOT.
- \$1 million for regional operating assistance (note: these projects are solicited along with other operating applications usually around April each spring, not during this call for projects.)

- \$3 million for Bustang operations, the CDOT-operated regional express bus service
- \$1 million for grant administration and administration of CDOT's Division of Transit and Rail (DTR)

Of the total \$15 Million in FASTER funds available each year only \$10 Million in capital funds are being made available herein are for State FY 2017-2018 (7/1/2017 – 6/30/2018). The funds are not available for budgeting and contracting until after July 1, 2017.

FTA Funding

CDOT is the pass-through agency for several FTA transit grant programs, each of which has its own eligibility criteria, and each of which offers funding for capital projects. The FTA funds are made available to the states on a federal fiscal year basis, which runs from October 1 to September 30. The FTA funds being made available herein are for FY 2016-2017. The funds would not be available for budgeting and contracting, though, until the awards are announced in February 2017.

CDOT estimates the minimum amount of funding available for these federal programs in 2017 are as follows:

- Section 5310 for rural areas: \$111,292
- Section 5310 for Small Urbanized Areas (UZAs): \$828,037
 - Colorado's small UZAs are Boulder, Grand Junction, Greeley, Longmont, Lafayette/Louisville/Erie, and Pueblo
- Section 5310 for the Denver large urbanized area, for which CDOT is the designated administrator of the funds: \$754,503. (Please note that CDOT does not administer 5310 grants for the Colorado Springs or Fort Collins large urbanized areas. Requests from those areas must be submitted to the Metropolitan Planning Organizations (MPO) in those areas.)
- Section 5311 for rural areas: \$1.2 million
- Section 5339 Small Urbanized Areas: \$1.2 million
- Section 5339 Statewide: \$2.0 million
 - While this funding is identified as statewide in eligibility, CDOT has targeted it for rural areas, given that Colorado has a very high level of rural ridership and that large and small UZAs each receive their own Section 5339 formula funding

PART 3 Application Process, Policies and Funding Cycle

The Department is accepting applications for **both** FASTER state and FTA federal funds (both funding programs utilize the same application), subject to eligibility and availability of funds. DTR will make awards based on eligibility, funding availability, and the most appropriate source.

An applicant not wishing to be considered for funding from any of the programs for which it is eligible should make that very clear in the application.

In general there are few differences between how DTR administers FASTER and FTA projects, as it seeks to mirror most FTA requirements. The major exception is that FASTER-funded vehicles are not subject to Buy America requirements and most other federal clauses and certifications.

For the past few years, DTR accepted applications for the following year plus up to two more years. However, we have determined to only accept applications for capital projects to be initiated in 2017.

CDOT's Division of Transit and Rail (DTR) currently has in place the following policies pertaining to the application process and the awarding and administration of transit grants:

- CDOT provides two capital applications: one for revenue rolling stock grant requests, and a second for facilities/equipment grant requests (including non-revenue vehicles).
- If an applicant plans to submit requests for multiple facility or equipment projects, DTR requests that applicants complete one application for each project. If an applicant plans to submit requests for multiple vehicle replacement projects, the applicant may bundle those projects into one single application.
- Application submittal: CDOT is requesting that local agencies that do not fund or directly provide transit services apply for FASTER funds **through** the lead transit provider that serves their jurisdiction—which would normally be the recipient of FTA funds in that area. This will better ensure that a local area's needs are being prioritized.
- The minimum project request shall be \$25,000, except in the cases where an applicant is requesting FASTER funds to be used as local match for a Federal program. There is no maximum request, but applicants should take into consideration the amounts available and CDOT's preference to provide some geographic equity.
- Due to limited funding, CDOT continues to put an emphasis on a fix-it-first approach—that is, giving higher priority to the replacement and refurbishment of buses, facilities and equipment, rather than on new or expansion capital or planning projects. This does NOT mean, however, that expansion or planning projects will not be funded—only that an applicant seeking funding for expansion projects must make a very strong case, with documented justification and evidence of sustainability, in order to be considered. That being said, replacement requests that do not score well on their merits will not be automatically prioritized higher than expansion equipment or facilities that do score well.
- CDOT will not accept general letters of support; previous applications included "cookie-cutter" support letters from parties that had little or nothing "at stake" in the project. However, CDOT is requiring formal letters of support and commitment from **partners** in a project that will need to make a commitment to the project (e.g., organizations providing some, or all, of the local match, providing land or right-of-way for a project, or agreeing to share a multimodal facility).

- If you intend to purchase alternative fuel vehicles (CNG, electric, propane), CDOT encourages you to combine CDOT funds with grants available from other state agencies. For instance, in urban areas, the Regional Air Quality Council (RACQ) provides grants that will pay up to 80 percent of the incremental costs between an alternative fuel vehicle and the comparable, conventionally fueled vehicle (see <http://cleanairfleets.org/programs/all-fuels-colorado>). A similar program is available for rural agencies through the Department of Local Affairs (see [link](#)). Transit agencies must apply and be awarded separately from each respective program before combining funds and proceeding to purchase vehicles. Applicants may apply to the programs in any order, but must notify both all the agencies involved of the intention to seek additional funding.
- Relative to construction projects: CDOT will accept requests that include funding for the final design phases of significant facility projects but will not fund the conceptual design phase. Construction projects must have been vetted locally through an adopted plan with a subsequent feasibility study. Applicants requesting a facility expansion or construction project must confer with DTR's Infrastructure Specialist (Jeff Sanders) within thirty days of the issuance of this Notice of Funding Availability and prior to submitting their applications. This requirement is meant to benefit both the applicant and CDOT in identifying significant issues that need to be addressed for successful and timely implementation of construction projects.
- Applicants should be aware that CDOT-funded construction projects will undergo an extensive coordination, review, environmental clearance, and approval process. If awarded under this NOFA, it is likely that actual construction will not occur until at least 2018. However, CDOT does expect projects to be initiated in 2017 in terms of document preparation, environmental review, etc.
- It is important to note that CDOT awards funds for a particular project; it does not award funds to an agency to be used for whatever project might be needed. Any change in project scope must be approved by CDOT; any major changes are generally not approved.
- FASTER funds can be used to match a federal grant, providing up to 80% of the required matching funds for the federal grant. The recipient must still provide a 20% local match for its FASTER award. In some cases, this means that the local government is paying only 4% of the total project: 80% FTA, 16% FASTER (80% of 20%), and 4% local (20% of 20%). Since this type of funding arrangement rapidly draws down available grant funding, CDOT will carefully examine requests of this type. It is CDOT's intention that FASTER funds be used as local match for Federal funds only in situations where worthy projects cannot proceed without the additional financial assistance from the FASTER program. Applicants requesting FASTER funds as local match for a federal grant must justify their request for using FASTER funds as local match in the application. In the evaluation process CDOT staff will first determine whether the FASTER funds as local match request is justified. If a justification is deemed insufficient, the applicant will be notified and can determine whether or not to proceed with the grant application, i.e. at 80% FTA, 20% local funds.

PART 4 Applicant Eligibility

In most cases, DTR staff will determine which funding source is best suited to meet your request. DTR staff will use the following applicant eligibility guidelines to make that determination.

FASTER

- Eligible recipients for local competitive FASTER funding assistance are limited to local public and private nonprofit entities, as well as tribal governments, that offer either public transportation or “open door” specialized transportation (service for the elderly and disabled). “Open door” specialized transportation is service available to **any** elderly and disabled person in need and not limited to a particular clientele or facility. Organizations that limit service to a particular clientele or facility, as well as commercial intercity operators, are **not** eligible applicants but may apply **through** an eligible applicant; the eligible applicant would be the party contracting with CDOT if funds were awarded, would be expected to describe how the service fits into a public or specialized transportation system, and would be responsible for administering the grant.
- Eligible recipients for FASTER statewide projects are the same as those listed immediately above, except that the State and CDOT, including CDOT’s Region offices, are also eligible applicants. CDOT projects will not be given any special consideration in the evaluation and selection process.
- While all local agencies are eligible to receive FASTER funding, those that do not directly fund or directly provide transit services must apply for FASTER funds through the transit provider that serves their jurisdiction.

FTA

Applicant eligibility for the FTA programs is similar to that of FASTER but also is limited based on each particular program. The FTA programs include Sections 5310, 5311, and 5339.

- The Section 5310 program is available only to private nonprofit organizations, though public entities are eligible if (a) there is no available private nonprofit agency providing service or if (b) the public entity has been named by the state as the coordinating body for specialized transportation in their area. Any public entities wishing to exercise this option are asked to contact DTR promptly (Jeff Sanders, 303-757-9771).

These specialized services do not have to be open door, unlike the eligibility criteria for FASTER funds. However, all things being equal, open door programs will receive a higher priority. Additionally, DTR will not fund “residential” vehicles that are located at housing facilities and have a very limited usage and clientele.

Please note that CDOT administers the 5310 funds for rural areas (under 50,000 population), small urbanized (50,000 to 200,000) areas, and for the Denver large urbanized area. It does not administer funds for the Colorado Springs or Fort Collins large urbanized areas. Organizations in the Colorado Springs and Fort Collins areas who

are interested in the Section 5310 program should contact the MPOs in those areas for information about their application process.

- The Section 5311 and 5339 programs are available to public and private nonprofit agencies, as well as tribal governments. Additionally, private intercity bus operators are eligible under the Section 5311(f) program. Applicants for Section 5339 funds in small urbanized areas are limited to the Designated Recipients for Section 5307 funding in those areas (RTD, Mesa County, and the cities of Pueblo and Greeley). Other agencies may apply through those organizations.
- For either the FASTER or FTA programs, applicant organizations must be prepared to be the party that takes full responsibility for carrying out the proposed project. There have been a few instances in which an organization that was awarded funds has requested that the project be transferred to a different organization. CDOT encourages parties to fully consider the most appropriate applicant organization at the beginning of the application process and **not** to assume that CDOT will approve such a significant sponsorship change.

PART 5 Project Eligibility

Funding from either FASTER or the FTA may be used for any items defined as **capital expenses** by the Federal Transit Administration (e.g., buses, facilities, equipment). However, CDOT will **not** entertain requests for funding for land purchases or office-related equipment, nor for operating or administrative expenses. The types of projects that are eligible include, but are not limited to, the following:

- Rolling stock (buses, vans, train cars, gondola cabins)
- Transit stations, transfer facilities, bus storage and/or maintenance facilities, and other transit facilities.
- Multimodal facilities, such as facilities that accommodate some combination of services of multi-regional or statewide significance, such as regional bus service, Amtrak, and Greyhound/intercity bus service.
- Park and ride facility construction or improvements.
- Technology improvements that enable enhanced transit services in high priority corridors, including signal prioritization and ITS.
- Technology improvements that significantly improve the coordination of human services transportation by means of mobility management tools such as call centers.
- Wayfinding signage between modes (e.g., signage for intermodal facilities, intercity bus stations, Amtrak, park-and-rides, etc.)
- HOV, HOT, queue jump, and bus pull-out lanes, Bus Rapid Transit projects, and bus lanes

- Bike racks, lockers and bike parking at multimodal stations.
- Enhanced modal connections, such as trails, sidewalks and bike lanes leading to major transit stations, provided they have a transit connection and enhance transit ridership.
- Planning projects and studies, except that no more than 10% of the total available FASTER funding will be made available for such purposes. Some concern has been expressed in the past about planning projects being funded through FASTER at the expense of vehicle and facility projects. While planning projects are an eligible project, you will need to make a strong case as to why your planning study should be funded with FASTER funds and why it can't be funded through Section 5303 or 5307 (in urbanized areas) or Section 5304, which programs are not included in this call. You should point out whether your project has any benefits, methodologies or implications for others in the state.
- Please note that while the list of eligible projects is extensive, in recent years CDOT has placed a higher priority, in general, on rolling stock as a result of reduced federal funding for rolling stock which began under MAP-21 legislation.
- As mentioned above under applicant eligibility, project eligibility for the FTA programs is limited by the requirements of those programs. Specifically:
 - Section 5310 projects must serve the elderly and disabled, in either rural or small urbanized areas, or the Denver area.
 - Section 5311 projects must be related to public transportation in rural areas.
 - Section 5339 projects must be related to public transportation, in either a rural or small urbanized area.

PART 6 Project Categories

- All FASTER project requests will generally be categorized by CDOT as being either local, regional, interregional, or statewide in nature. This will impact whether and the extent to which they will be considered for the competitive local or statewide funding pools.
 - Local projects are those that provide services or benefits within a local area.
 - Regional projects are generally those that provide services or benefits within one Transportation Planning Region (TPR) but which serve more than two municipalities and traverse more than about 25 miles, or that serve a significant portion of a region by connecting multiple communities.
 - Interregional projects are those that provide services or benefits in more than one CDOT Region or more than one TPR; they would normally operate over a long distance, have infrequent stops, and serve outside their normal taxing jurisdiction. This would generally include, but not be limited to, intercity bus services, commuter routes between significantly separated urbanized and/or

rural areas, mobility management projects associated with the coordination of human services transportation, and projects that connect multiple regional services.

- o Statewide projects are those that provide services or benefits to a substantial portion of the state.
- The FASTER competitive statewide funds will be awarded primarily to statewide, interregional, and regional projects, in that priority order, but may also be awarded to local projects if there are insufficient high-scoring projects in the former categories and/or there are problems reaching geographic equity. Multimodal facilities and technology improvements that significantly improve the coordination of human services transportation by means of mobility management tools (items listed in Part 5 above) will generally be given consideration under either the statewide or local funding pool, based on the nature and coverage of the project.
- The FASTER competitive local pool may be awarded to local, regional, interregional, and statewide projects, in that priority order, but cannot be awarded to CDOT or another State agency.
- FTA projects are not categorized in the same fashion. Rather, as described earlier, they are divided by population areas and service types.
- The set-aside funding provided to the three large urban providers—RTD, Mountain Metro Transit, and TransFort—may be used by these operators for agency projects, subject to approval by CDOT. The RTD set-aside, which is derived from the statewide pool of FASTER funds, should be used for projects that are interregional or regional in nature.

PART 7 Threshold (minimum) Criteria

- The applicant must have the financial and managerial capability and capacity to manage any funds awarded, as well as demonstrate that it has the resources necessary to operate the project on an ongoing basis. FASTER and FTA funds will be awarded on a reimbursement basis; that is, the award recipient must first incur costs before being reimbursed by CDOT, after submitting sufficient documentation of such costs. Therefore, the recipient must have the financial ability and cash flow to incur and pay such costs initially. The applicant must also be willing and able to follow federal and state guidelines in procurement.

It is especially important that the above capability and capacity is specifically addressed by applicants that have not previously received funds through DTR or which have had delays or other problems implementing projects awarded funding by CDOT. These organizations should address their financial and grant management capability and experience, as well as steps taken to correct any past problems, as appropriate.

- Projects must be consistent with the most recent Regional Transportation Plan for the applicant's service area. It is recognized that in many cases consistency will be based on

being within a corridor vision(s), not by specific mention of the particular project request.

- Local agency applicants must demonstrate the availability of local match. FASTER and FTA funds may be used to fund up to 80% of project costs. All awards require a minimum local match of 20%. The match must be in cash, except that donated or previously purchased land for a construction project can be used as match if sufficiently documented through a recent appraisal. Since many local governments and sponsoring organizations likely have not yet adopted calendar year 2017 budgets, CDOT recognizes that applicants will probably not be able to provide a written budget showing the match for specific projects. Indeed, the match may not be needed in hand for over a year, given the 12-month delivery timeline of some bus orders. In lieu of budget documentation, applicants should describe how their organization intends to provide the match, its reliability in providing match, any written commitments to the project from management, or any capital replacement funds that exist.
 - When CDOT or another State agency is the applicant, a 20% local match is not required, since the State is providing the FASTER funds and does not have “local” funding.
 - Failure to secure the committed local match or to otherwise fail to implement the project as proposed (e.g., timeliness, scope, etc.) WILL be considered as a factor in future funding requests.

PART 8 Evaluation Criteria

All projects will be evaluated based on the criteria listed below. Projects will be evaluated based on the type of project—that is, based on whether they are rolling stock, facilities, equipment or studies, and, further, whether they are replacements or expansions. Please note that the sub-criteria will not be weighted equally and that some will not be pertinent. For example, if a criterion has four sub-criteria, evaluators do not assign 25% weighting to each; they are given flexibility in assigning scores. One exception is on replacement rolling stock scores, where there are definitive metrics for comparing need. Also, some consideration may be given to geographical equity.

A. Requests for Replacement/Rebuild Rolling Stock

Criteria 1: Mileage, Usage, Readiness (7 possible points out of 10)

- A. Higher mileage vehicles will be scored higher than lower mileage units, but within their appropriate bus category (heavy duty 35-40 foot coaches; <35 foot coaches; body-on-chassis/cutaways; vans/minivans). Similarly, older vehicles will be scored higher than newer vehicles;
- B. Average miles per year for all vehicles may be considered, with consideration to type of vehicle and service regime;
- C. FTA guidelines will be used to gauge minimum useful life (FTA policy with respect to the useful life of equipment is set forth in [FTA Grant](#))

[Management Circular 5010.1D](#), pages IV - 16 /18. The Circular is available online). For example, a 35-40 ft. heavy duty coach should be approaching its minimum useful life (500,000 miles or 12 years per FTA guidelines) or beyond to be considered. Vehicle rebuild requests, which usually are associated with lower mileage and age, will be adjusted to put them on equal footing with replacement requests.

- D. Vehicle mileage and age will be considered equally when scoring vehicle replacement requests;
- E. Applicants with a lower spare ratio will generally be scored higher than those with a higher spare ratio; spare ratio should generally not exceed 20%; smaller agencies (<25 vehicles) will be considered on a case-by-case basis, given that measuring spare ratio with demand responsive service is more difficult;

Criteria 2: Special Considerations (3 possible points out of 10)

- A. Higher scoring will be awarded to applicants that can demonstrate a good state of repair through effective, documented, formal preventive maintenance programs or Transit Asset Management programs, and to those that have and follow a capital replacement plan;
- B. Higher scoring will be awarded to requests for the replacement of vehicles that are in marginal or poor condition, provided that the required documentation is included with the application (see application for details).
- C. Financial need-- Have other sources been tried? Is other funding being leveraged, or is the project totally dependent on the FASTER or FTA funds?

B. Requests for Expansion Rolling Stock or Facilities

Criteria 1: Demonstrated Need and Readiness (7 possible points out of 10)

- A. Higher scoring will be awarded to projects that clearly demonstrate the need for the expanded service or facility in terms of documented ridership studies and community support;
- B. Higher scoring will be awarded to projects that make an effective business case for the expansion that outlines anticipated costs, revenues and sustainability; a formal business plan is preferable;
- C. Higher scoring will be awarded to projects that demonstrate they are truly ready to go.

Criteria 2: Special Considerations (3 possible points out of 10)

- A. For vehicle requests--applicants with a lower spare ratio will generally be scored higher than those with a higher spare ratio;
- B. Higher scoring will be awarded based on whether an applicant has and follows a capital replacement plan as part of a broader asset management plan; stronger plans are those that are formalized within the overall organization;

- C. Financial capacity--Is there an institutional commitment, funding, financial capacity, and capability to sustain the service and project over time, given that this program will provide capital assistance but no operating assistance?
- D. Financial need-- Have other sources been tried? Is other funding being leveraged, or is the project totally dependent on the FASTER or FTA funds? If the applicant has the financial and revenue capacity to pay for a larger portion of the project, is it doing so?
- E. Project impacts--Would the project increase ridership? Would it reduce traffic on the State system? Improve service delivery?

C. Requests for Facilities, Design, Equipment

Criteria 1: Readiness and Demonstrated Timetable (4 possible points out of 10)

- A. Higher priority will be given to those that are shovel ready (NEPA clearance finalized, at least 30% design completed, and site location selected and purchased);
- B. The completion of existing projects would be a higher priority than the first stage of a long-term project; projects that are long-term score higher if a reasonable phasing plan is identified;

Criteria 2: Project Purpose, Cost Savings, and Efficiency (4 possible points out of 10)

- A. Reasonableness of the financial request relative to the amount of funding available;
- B. Higher priority will be given to those projects that clearly demonstrate that the project would produce real cost savings for the transit program or create service efficiencies;
- C. Higher priority will be given to those projects that can clearly demonstrate that the project could increase ridership rather than merely maintain existing ridership;

Criteria 3: Special Considerations (2 possible points out of 10)

- A. Higher priority will be given to those projects that demonstrate they were developed in partnership with the local community and have a high degree of support;
- B. Expansion of existing facilities will be considered if backed by a strong, defensible business case that demonstrates the need for the facility and for growth in the program it supports.
- C. Financial capacity--Is there an institutional commitment, funding, financial capacity, and capability to sustain the service and project over time, given that this program will provide capital assistance but no operating assistance?
- D. Financial need-- Have other sources been tried? Is other funding being leveraged, or is the project totally dependent on the FASTER or FTA funds?

If the applicant has the financial and revenue capacity to pay for a larger portion of the project, is it doing so?

D. Requests for Planning Studies

Criteria 1: Project Purpose and Demonstrated Need (7 possible points out of 10)

- A. Is there a compelling need for the project? Does it plan something that has a high likelihood of being implemented?
- B. Is there a reason this study cannot be funded with FTA Section 5303 or 5307 (in urbanized areas) or 5304 funding?
- C. Does the project provide benefits (e.g., methodologies, data) that are relevant to other transit agencies in the state?

Criteria 2: Project Readiness and Sufficiency (3 possible points out of 10)

- A. Is the project ready to go?
- B. Does the project have a reasonable implementation schedule?

PART 9 Selection Methodology

For FTA and FASTER Competitive Funding Requests (except the Urban Area Set-Aside Funds)

Once project requests have been received, DTR staff will review the applications to ensure that each meets the threshold (minimum) criteria, as set forth above. Any applicant not meeting the criteria will be contacted by DTR and given the opportunity to respond to the finding of ineligibility.

For those applicants requesting FASTER funds to use as a match for a federal grant, CDOT staff will first determine whether the request meets the criteria stated previously in this document that this option is typically used only when worthy projects cannot proceed without additional financial assistance from the FASTER program. If CDOT staff determine that the criteria has not been met, the applicant will be notified and can determine whether or not to proceed with the federal grant application.

A team made up of CDOT staff (DTR, the Policy and Government Relations Office, Office of Civil Rights) will evaluate and score applications. A recommended list will then be presented by the team to the DTR director and the executive director of the Colorado Association of Transportation Agencies (CASTA) along with its observations and justifications for its recommendations. The two will discuss the recommendations and the DTR director will either concur with the recommendations or make changes.

After approval, CDOT and the Regions will take all the steps necessary to set up the projects internally and budget them. Then DTR and Region staff will begin scope of work and contract negotiations with the local agencies. FASTER contracts cannot be executed before the start of Fiscal Year 2018 (July 1, 2017) —unless a project is budgeted with funds from a prior fiscal year.

For FASTER Urban Area Set-Asides (Only for RTD, MMT, and TransFort)

Once project requests have been received, DTR staff will review the project summary forms to ensure that each meets the threshold (minimum) criteria, as set forth above. The proposer of any application not meeting the criteria will be contacted by DTR and given the opportunity to respond to the finding of ineligibility.

A team made up of CDOT staff will evaluate and rank the proposals submitted by RTD, MMT and TransFort for consideration under FASTER. That team will select from those proposals the projects that will be funded through each respective provider's set-aside.

If RTD submits projects totaling more than its set-aside amount, the unfunded projects will be placed into the competitive statewide pool for consideration of funding there. Since these projects will then be competing with others from around the state, DTR will request a full application for each of these projects so that they can be evaluated and scored along with the rest of the statewide project proposals.

If MMT or TransFort submits projects totaling more than their respective set-asides, those projects will not be considered for funding out of the local competitive pool. If MMT or TransFort desires to have any project considered for funding out of the statewide competitive pool they will need to complete and submit a full application for those projects so that they can be evaluated and scored along with the rest of the statewide project proposals.

DTR endeavors to make a decision on which projects to fund through the set-asides by early November so that RTD, MMT, and TransFort have enough time to prepare any full applications for projects forwarded on to the statewide competitive pool. Consequently, it will be necessary for RTD, MMT, and TransFort to submit project summary forms by **11/16/16**.

PART 10 Application Submittal

For FTA and FASTER Competitive Funding Requests

Applications are due to CDOT by **12:00 p.m. noon on Wednesday, November 30, 2016**. Applications submitted after this deadline will not be accepted.

For Current and Active Grant Partners

Applications will be submitted electronically through COTRAMS (<http://cdot-transit.force.com/Portal>), the CDOT on-line web-based portal. After submitting an application via COTRAMS, you will receive a system generated email letting you know that the application was received. If you are a current and active CDOT grantee you should have a user ID and password for the portal (<http://cdot-transit.force.com/Portal>). If you have misplaced your user ID and password to the portal, contact system administrator Qing Lin immediately (qing.lin@state.co.us) so that she can reset your login credentials. If you are a current grant partner and have not had access to the portal, please contact Qing so that she can get you set up. Once you gain access to the portal, you will have access to the FASTER/FTA applications that have been released to your agency. You will also receive a separate email with instructions on how to log in to the portal to complete the applications.

The on-line application does not currently provide for attaching supporting documentation (budget documents, construction drawings, letters of support, etc.), so if you have documents you want included with your application, you must email them to Jeff Sanders at jeffrey.sanders@state.co.us. Very large attachments might not make it through CDOT's firewall. If the supporting documentation for your on-line application is too large for CDOT's email system and it gets "bounced" back because of file size limitations, contact the person listed above immediately and s/he will send you instructions on how to upload your file(s) to CDOT's ftp site. If your document is extremely large or available only in hard copy format, it may be mailed to the CDOT contact if postmarked no later than November 30th, and should be mailed to:

Jeff Sanders
Colorado Department of Transportation
Division of Transit and Rail
4201 E. Arkansas Ave., Shumate Bldg.
Denver, CO 80222

For New/Prospective or Inactive Grant Partners

If you are not a current grant partner or have not been set up with access to the COTRAMS portal, please contact DTR staff (jeffrey.sanders@state.co.us, or 303-757-9771) to obtain directions on how to access COTRAMS. DTR does not normally issue a portal license to those who are not a current grant partner because the cost of such and the amount of training involved are not justifiable, particularly if an award is not ultimately made; if an award is made, then the applicant will be issued a license. DTR staff may choose to provide you with a paper application that you submit via email. Also, in the event of technical difficulties, DTR staff may provide you with a paper application and directions on how to submit it.

After receiving an application via email, DTR staff will respond to that email to confirm receipt. If you submit your application to DTR but you do not receive a confirmation, you must assume it has not been delivered to him. You should call DTR staff (303-757-9771) to confirm that he received it. If you do not receive a confirmation from Jeff within one day of submitting your application **before** November 30th, then call DTR staff. If submitting your application **ON** November 30th, you should contact him if you do not receive a confirmation within one hour of submittal.

If you have documents you want included with your application, you must email them to Jeff Sanders at jeffrey.sanders@state.co.us. Very large attachments might not make it through CDOT's firewall. If the supporting documentation for your on-line application is too large for CDOT's email system and it gets "bounced" back because of file size limitations, contact DTR staff immediately and he will send you instructions on how to upload your file(s) to CDOT's ftp site. If your document is extremely large or available only in hard copy format, it may be mailed to DTR staff if postmarked no later than November 30th and should be mailed to:

Jeff Sanders
Colorado Department of Transportation
Division of Transit and Rail
4201 E. Arkansas Ave., Shumate Bldg.

Denver, CO 80222

If you have any doubt that your application was successfully received (either via email or through the on-line portal) you should call DTR staff well in advance of the due date (303-757-9771) to verify its submission.

Regardless of what method you use to submit your application, upon receipt, a confirmation email will be submitted to the sender. CDOT cannot be held responsible for applications not transmitted to Jeff electronically.

PART 10 Schedule

Following is the schedule CDOT will generally adhere to for the CY 2016 and 2017 project selection process.

Phase	Application/Evaluation/Selection Milestone	Due Date
Notice & Application Development	Call for projects formally broadcast by DTR	10/07/16
	CDOT determines which projects to fund through urban area set-asides	11/16/16
	Applications Due to DTR	11/30/16
Review, Scoring, and Selection	Initial screening (completeness/eligibility) by DTR Applications evaluated by review committee DTR conducts conference call with each CDOT Region regarding projects within their jurisdiction DTR completes scoring and prepares list of recommended projects; final scores and recommendations submitted to DTR Director, who seeks input from CASTA executive directors	01/20/17

Award Discussion and Approval	<p>DTR develops list of recommended for presentation at Statewide Transportation Advisory</p> <p>DTR develops list of recommended for presentation at Transportation Commission</p> <p>DTR Director finalizes awards</p>	<p>01/27/17</p> <p>Mid Feb 2017</p> <p>Mid Feb 2017</p>
Budgeting and Programming	<p>TIP / STIP policy amendments</p> <p>CDOT Business Offices set up project budgets</p> <p>Scope of work drafting, negotiations with local agencies initiated by DTR, Regions</p>	<p>Mar-Apr 2017</p>
Grant Agreements	<p>DTR and Regions negotiate and finalize grant agreements/IGAs. FTA grant agreements are usually completed earlier (May/June) since the FTA funding is typically already available. FASTER grant agreements are usually completed later (July-September) because the funding does not become available until July 1st.</p>	<p>May-Sep 2017</p>

Attachment 5-4. DTR LEP Plan

COLORADO DEPARTMENT OF TRANSPORTATION



Division of Transit and Rail
Limited English Proficiency (LEP) Plan

October 2016

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I. The Purpose of an LEP Plan

Most individuals living in the United States read, write, speak and understand English. There are many individuals, however, for whom English is not their primary language. Those individuals whose primary language is not English and who have a limited ability to read, write, speak or understand English are considered limited English proficient (LEP).

Language for LEP individuals can be a barrier to accessing important benefits of services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information regarding federally assisted programs or activities. CDOT, as a recipient of federal financial assistance, has an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important services.

In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs or activities may violate the prohibition against national origin discrimination under Title VI of the Civil Rights Act of 1964. The purpose of an LEP plan is to guide CDOT employees and its agents in taking reasonable steps to provide meaningful access to LEP persons.

This LEP plan has been developed specifically for CDOT's Division of Transit & Rail (DTR). It may be used as guidance for DTR employees, agents, and subrecipients. This plan is intended to improve the internal management of CDOT and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against CDOT.

LEP persons that feel they have been denied meaningful access may file a discrimination complaint based upon national origin under Title VI of the Civil Rights Act. CDOT's discrimination complaint form and complaint procedure can be found at <https://www.codot.gov/business/civilrights>.

II. CDOT's Non-Discrimination Policy

It is CDOT's policy that no person shall on the ground of race, color, national origin, sex, disability, or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any operation of CDOT or of any department or agency to which CDOT extends federal financial assistance.

Policy Directive 604.0 “Policy on Non-Discrimination” outlines CDOT’s general non-discrimination policy, including the obligation to provide access for LEP individuals. Policy Directive 604.0 states that “CDOT shall seek to communicate with LEP populations and provide LEP individuals meaningful access to CDOT programs and activities.”

III. Authorities

- Title VI of the 1964 Civil Rights Act, 42 U.S.C. § 200d
- Exec. Order No. 13166, 65 Fed. Reg. 50121 (Aug. 16, 2000) – Improving Access to Services for Persons with Limited English Proficiency
- Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficient (LEP) Persons, U.S. Department of Transportation, 70 Fed. Reg. 239 (Dec. 14, 2005)
- Implementing the Department of Transportation’s Policy Guidance Concerning Recipient’s Responsibilities to Limited English Proficient (LEP) Persons, Federal Transit Administration (April 13, 2007)
- Policy on Non-Discrimination, Colorado Department of Transportation Policy Directive 604.0 (Jan. 27, 2014)

IV. The LEP Four Factors¹

DTR is required to take reasonable steps to ensure meaningful access to its programs and activities for LEP individuals. There is no proscribed list of reasonable steps. Instead, in accordance with federal guidance, in order to determine what language assistance measures should be implemented, DTR must consider and balance the following four factors:

Factor #1: The number or proportion of LEP persons eligible to be served or likely to be encountered by the program, activity, or service.

¹ A more detailed outline of the four-factor analysis is available in “Implementing the DOT LEP Guidance: A Handbook for Transit Agencies” available from FTA. Additional guidance can also be found at www.lep.gov.

The greater the number or proportion of LEP persons in the eligible service population, the more likely language services are needed. The eligible service population includes persons eligible to be served, or likely to be directly affected by the activity. Demographic data about the populations of the service area, past encounters with LEP persons, and information from community organizations, governments, and school systems can all be used to evaluate the service population and the number or proportion of LEP persons likely to be encountered.

Factor #2: The frequency in which LEP individuals come into contact with the program, service, or activity.

The agency must consider the frequency with which it has or should have contact with LEP individuals. The more frequent contact or potential contact with LEP persons, the more likely enhanced language services will be needed. If an LEP individual accesses a program or service on a daily basis, there is a greater duty to provide enhanced language services than if the same individual's contact is unpredictable or infrequent. Additionally, staff should consider whether appropriate outreach to LEP persons could increase the frequency of contact with LEP populations.

Factor #3: The nature and importance of the program, activity, or service provided.

Language services are more likely needed the more important the activity, information, service, or program because there are greater consequences of the contact to LEP individuals. Staff must determine whether denial or delay of access could have serious implications for the LEP individual. Information from community organizations and past contact with LEP persons can help aid this analysis.

Factor #4: The resources available for language assistance and the costs of such resources.

The availability and cost of resources must be identified to determine the reasonable steps to provide meaningful access for LEP persons. Identifying available resources includes: (1) creating an inventory of language assistance measures currently being provided; (2) determining what, if any, additional services are needed to provide meaningful access; (3) analyzing the budget for language assistance expenses; and (4) considering cost effective practices for providing language services. "Reasonable steps" may cease to be reasonable where the costs imposed substantially exceed the benefits.

There are two types of language services: interpretation and translation. Interpretation is the act of listening to something in one language and orally translating it into another language. When interpretation is needed and is reasonable, it should be provided in a timely manner to be effective. Translation is the replacement of a written text from one language into an equivalent written text in another language. Because translation is a one-time expense, the upfront cost of the translation should be considered in light of the likely lifespan of the document.

In determining how it will ensure access for LEP persons, the agency must determine how it will provide such language services. Language services should be arranged to provide assistance at a time and place that avoids the imposition of undue burdens or results in the effective denial of the service, benefit, or right at issue. Staff should carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource concerns. Since CDOT is a large statewide entity that serves a significant number of LEP individuals, CDOT “should ensure that the resource limitations are well substantiated before using this fact as a reason to limit language assistance.”² Thus, reasons for limiting language assistance based on cost should be documented.

Federal guidance states that vital written materials should be translated for frequently encountered LEP populations. However, the extent of CDOT’s obligation to provide written translations of documents should be determined on a case-by-case basis using the four-factor analysis. The U.S. Department of Transportation’s LEP guidance establishes a “safe harbor,” regarding the requirement to translate vital documents.³ A “safe harbor” means that providing written translation under the following circumstances serves as strong evidence of compliance:

- (a) Provide written translation of vital documents for each eligible LEP language group that constitutes 5% or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered.
- (b) If there are fewer than 50 persons in a language group that reaches the 5% trigger, vital written materials do not need to be translated. Rather, staff may provide written notice in the primary language of the LEP group of the right to receive competent oral interpretation of those written materials, free of cost.

Failure to provide translations under the safe harbor does not mean there is noncompliance. The safe harbor is meant to provide greater certainty of compliance than can be provided by the fact-

² 70 Fed. Reg. 239 at 74092.

³ 70 Fed. Reg. 239 at 74095

intensive, four-factor analysis. The safe harbor only applies to the translation of written documents. It does not affect the requirement to provide meaningful access to LEP individuals through oral language services.

V. DTR's Four-Factor Analysis

A four factor analysis has been conducted for DTR's current services, programs, and activities. When DTR develops new services or programs, or expands existing ones, DTR staff must conduct a four factor analysis to determine the appropriate language assistance measures to be provided to ensure meaningful access for LEP persons. Additionally, as described later in the language assistance plan, this analysis should be reviewed on a regular basis to ensure reasonable language assistance measures are provided to LEP persons.

Overview of DTR's programs, services and activities.

DTR is responsible for the planning, development, operation, and integration of transit and rail in the statewide transportation system. DTR works in coordination with other transit and rail providers to plan, promote, and implement investments in transit and rail services statewide. DTR's primary activities are (1) statewide transit planning and research, (2) operation of CDOT's interregional bus service, and (3) distribution and oversight of state and federal grants.

1. Statewide Transit Planning and Research

CDOT's first Statewide Transit Plan was adopted in March 2015. The Statewide Transit Plan establishes a framework for creating an integrated state transit system to meet the mobility needs of Coloradans. Development of the Statewide Transit Plan involved frequent interaction with the public in the form of stakeholder meetings, open houses, and public comment periods. In the past DTR has also conducted other research, such as evaluation of rail on the I-70 corridor which requires public feedback and input at both the statewide and regional level.

2. Interregional Bus Service

CDOT's interregional bus service, Bustang began in the summer 2015 and services three routes and an additional limited route. The I-25 North route connects Fort Collins, Loveland, and Denver along I-25. The I-25 South route connects Denver and Colorado Springs. The I-70 route services Glenwood Springs, Vail, Frisco, Lakewood, and Denver along the I-70 corridor. The

RamsRoute services the public in Fort Collins and Loveland on Friday's and Sundays. It only operates 62 times per year.

Each route is intended to connect riders with local transit agencies between the various state regions. The majority of clients are travelers, commuters, and individuals seeking resources provided in the Denver metro area.

3. Distribution and Oversight of State and Federal Grants

DTR is responsible for the distribution of both state and federal grants to rural and small urban transit agencies, service providers and coordinating councils in Colorado. Through these activities, DTR supports and oversees transit services across the state. DTR interacts with transit agencies, private service providers, and coordinating councils who arrange and provide fixed route and on demand services to the public.

Additionally, DTR along with CRBRC ensures subrecipient compliance with federal regulations.

Factor #1: The number or proportion of LEP persons eligible to be served or likely to be encountered by the program, activity, or service.

All of the activities of DTR are conducted in or around impact areas throughout the state. Therefore, the geographic boundaries of DTR's functions are the borders of Colorado. According to the data in Appendix A,⁴ the most prevalent LEP population in Colorado is Spanish-speaking LEP individuals, who make up 4.66% of Colorado's overall population. There are no other significant LEP populations at the statewide level.

When considering the proportion of LEP person's eligible to be served or likely to be encountered, it is also helpful to look at the specific programs and activities of DTR. One such program that DTR oversees is Bustang. In looking at the Bustang routes and the counties served along these routes, it is likely that the percentage of LEP persons encountered by DTR increases along certain routes. The data in Appendix A, also indicates that the most prevalent LEP population of the impacted counties Bustang serves, is Spanish speaking LEP individuals.

⁴ Appendix A contains demographic data for LEP individuals at the state and county level. The demographic data is taken from the US Census Bureau's 2010-2014 American Community Survey, Table B16001 "Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over" and includes individuals who do not speak English at home and who speak English "less than very well." Appendix A is also supplemented with data from the Colorado Department of Education.

Therefore, it is consistent that Spanish speaking LEP individuals have a higher likelihood of being encountered than other LEP groups. For example, the North Line, South Line, West line, and all other routes of Bustang, serve counties with more than 8% Spanish speaking LEP populations. Of the counties served by Bustang, Denver County has the highest percentage of non-Spanish speaking LEP persons.

Specifically, along the North line, Bustang serves Denver county and Larimer County. Denver County has a Spanish-speaking LEP population greater than 8%. This percentage is almost two times greater than the statewide Spanish-speaking LEP percentage, making it likely that Bustang will encounter Spanish-speaking LEP populations along this route. However, Bustang does not

Along the West line Bustang serves Garfield County, Eagle County, Vail County, Summit County, and Denver County. These counties include several resort towns. As mentioned above, the majority of Bustang's customers are commuters. Some of the commenters that benefit from Bustang's services include employees that work in the resort towns served by Bustang. In Jefferson County the percentage of Spanish-speaking LEP persons is not as significant, showing a 1.67% Spanish-speaking population however, Denver County and Eagle County have significant percentages of LEP populations that amount to greater than 8%.

On the South line Bustang serves Denver County and El Paso County. In looking at the data in Appendix A, El Paso County only has a 2.43% Spanish speaking LEP population however, Denver County has over 8% Spanish speaking LEP population.

Along certain routes Bustang will serve counties that have high Spanish speaking LEP populations. Bustang will need to ensure that the language assistance plan includes translation of documents along these routes. The language assistance plan will also need to consider that Bustang will not be serving the entire county and thus may not encounter all of the Spanish speaking LEP residents in each county that has a Bustang route.

Additionally, DTR participated in the Together We Go effort. The Together We Go effort provided a way for CDOT to update the public on the progress CDOT has made since the adoption of the Statewide Transit Plan in March of 2015. At these public meetings, CDOT made translation services available upon request. To date translation services have not been requested at the public meetings and as a result have not been provided.

Not all of the activities serve or are likely to encounter the entire state population. Due to their nature and purpose, statewide transit planning and Bustang should both be assumed to encounter

the entire population. Conversely, research projects may only be local. A separate analysis should be conducted for each research project to determine the potential interaction with LEP persons.

In regards to grant administration, DTR indirectly serves LEP individuals by interacting directly with local transit providers. LEP persons may seek out DTR for information or filing complaints against local providers. To date there have been no complaints submitted by LEP persons nor has there been any translation services requested

Factors #2 and #3: The Frequency of Contact and Importance of DTR's Programs and Services.

For this analysis, frequency of contact and importance are evaluated together. The importance of DTR's services to LEP populations partly depends on how frequently those services are expected to come into contact with LEP individuals.

DTR has the most frequency of contact with LEP populations through its interregional bus service, Bustang. DTR's frequency of contact with LEP Spanish-speaking persons has increased due to Bustang. Bustang is a very important part of people's lives as it serves commuters up and down the I-25 corridor and those living in the mountain regions seeking services in the metro area. Additionally, it is likely that Bustang will encounter frequent contact with those Spanish-speaking LEP persons that commute for employment purposes.

Additionally, when conducted, transit planning and research should result in frequent contact with LEP persons because both require significant public involvement to be effective. For example, during the last planning period, seventeen public open house meetings were held throughout the rural areas of the state one public open house meeting was held in each urban Metropolitan Planning Organization area; North Front Range (Greeley area), DRCOG (Denver Metro Area), PPACG (Colorado Springs area), PACOG (Pueblo area), and Grand Valley (Grand Junction area). While individuals may not always take advantage of these opportunities, the planning process seeks to accurately identify needs throughout the state and ensure an equitable distribution of funds, therefore it is highly important to ensure access to all persons.

As explained above, those conducting the grant administration will rarely have direct contact with LEP persons. However, not having access to complaint forms and procedures could have a significant negative impact on LEP individuals' lives and is, therefore, of high importance.

Additionally, it is possible that in some circumstances, the staff of grant partners representing underserved populations may have limited English proficiency.

Grant partners that provide services in areas with LEP populations may have both frequent and important contact with for LEP persons. The services provided by grant partners may be the primary mode of transportation for LEP individuals. Therefore, DTR must ensure that they have conducted a four factor analysis and developed language assistance measures that ensure meaningful access.

Factor #4: The resources available and the costs of such resources.

The following is a summary of the language assistance resources and services that have already been or are currently being utilized by DTR:

- Translation of Notices for Statewide Planning Meetings: The process for creating CDOT’s Statewide Transit Plan included the translation of various outreach materials into Spanish. Flyers for outreach events with notices of the availability of free translation services were provided in Spanish. Examples are available in **Appendix B**. Additionally, various components of the statewide plan website⁵ are available in Spanish. The website contains a Spanish version of the Statewide Transit Plan’s executive summary and a Spanish presentation⁶ that was used at public meetings. Both items were professionally translated. The full website is also available in Spanish with Google Translate.⁷
- Language Assistance for Bustang: Bustang, CDOT’s interregional express bus service, began service in the summer 2015. DTR has prepared various LEP measures for anticipated language assistance needs. DTR has identified that information regarding Bustang’s routes, schedules, and fares are vitally important to ensure meaningful access to the service. Schedule and fare information is printed in Spanish and it is available on the buses and at park and ride stations. Schedule and fare information will also be available on the Bustang website,⁸ which can be translated into Spanish using Google Translate. Additionally, each bus will contain a copy of “Basic Spanish for Transit Employees.” CDOT funded the creation of this book, which was produced by the

⁵ <http://coloradotransportationmatters.com>

⁶ <http://coloradotransportationmatters.com/other-cdot-plans/transit/public-involvement/>

⁷ This website is also available in Chinese, French, German, Japanese, Russian, Vietnamese, Arabic, Dutch, Korean, Polish, Portuguese, and Swedish.

⁸ www.ridebustang.com

Roaring Fork Transit Authority and Colorado Mountain College. It includes requests and commands that vehicle operators can use in Spanish.

- Subrecipient Training and Compliance: For its oversight of state and federal grants, DTR conducted a training and CDOT's Civil Rights and Business Resource Center made themselves available at the spring 2016 Colorado Association of Transit Agencies conference for subrecipients. At the conference, subrecipients were provided with a template for creating their own LEP Plan. **Appendix C** shows an example of one of the templates. **Appendix D** contains a list of DTR subrecipients that submitted LEP plans in 2016.

VI. DTR Language Assistance Plan

Translation of all Vital Materials

DTR's primary services and activities have a statewide focus. **Appendix A** contains demographic data for LEP individuals at a statewide and county level which shows that Spanish-speaking LEP individuals make up 4.66% of Colorado's overall population. Therefore, DTR has determined that all documents that are vital to providing meaningful access will be translated into Spanish. At a minimum, vital documents include CDOT's discrimination complaint form and procedures, website information and schedules for Bustang, and public notices and website information for statewide planning. For future statewide activities, DTR will evaluate whether documents are vital and must be translated into Spanish.

Statewide Transit Planning

The next statewide planning cycle is expected to begin in 2019. When the planning cycle commences, DTR will evaluate the then-current LEP data to determine the language assistance services necessary to ensure meaningful access. At a minimum, staff will distribute flyers, surveys, and press releases into any language spoken by an LEP population exceeding 5% of the statewide total. Outreach materials will also state that free language assistance is available upon request. DTR will be prepared to provide translation or interpretation services at outreach events upon request or if there is knowledge that LEP individuals will be attending.

DTR will also continue to make vital planning information available in any language spoken by an LEP population exceeding 5% of the statewide total. The executive summary of the March 2015 Statewide Transit Plan was professionally translated into Spanish and is available at the

statewide plan website.⁹ Additionally, the full Statewide Transit Plan and other information on the statewide plan website is available in Spanish with Google Translate.¹⁰

Interregional Express Bus Service

DTR has identified that information regarding Bustang's routes, schedules, and fares are vitally important to ensure meaningful access to the service. Schedule and fare information is printed in Spanish and made available on the buses and at park and ride stations. Schedule and fare information is also available on the Bustang website,¹¹ which can be translated into Spanish using Google Translate. A Spanish-speaking staff member from CDOT's Civil Rights & Business Resource Center proof reads vital information on the website regarding routes, schedules, and fares to confirm the accuracy of these translations.

Each bus contains a copy of "Basic Spanish for Transit Employees." Creation of the book was funded by CDOT and produced by the Roaring Fork Transit Authority and Colorado Mountain College. It includes requests and commands that vehicle operators can use in Spanish.

Bustang staff will track customer service issues and respond accordingly to LEP individuals. Tracking customer service issues related language assistance allows Bustang staff to better understand its frequency of contact with LEP individuals and adopt other language assistance measures if necessary.

Distribution and Oversight of State and Federal Grants

Transit providers receiving grants from DTR are required to submit their LEP plans as part of their Title VI plan every three years to DTR. As part of its oversight responsibilities, DTR will provide technical assistance to its subrecipients and provide yearly Title VI and LEP training.

Providing Notice to LEP Persons

DTR is required to notify LEP populations that language assistance is available free of charge. Notice must be provided in languages LEP persons would understand. **Appendix A** contains demographic data for LEP individuals at a statewide and county level. Spanish-speaking LEP individuals make up 4.66% of Colorado's overall population. Therefore, DTR shall continue to provide notice to Spanish-speaking LEP individuals by doing, at minimum, the following:

⁹ <http://coloradotransportationmatters.com>

¹⁰ This website is also available in Chinese, French, German, Japanese, Russian, Vietnamese, Arabic, Dutch, Korean, Polish, Portuguese, and Swedish.

¹¹ www.ridebustang.com

- Posting CDOT’s general accessibility and non-discrimination public notice, which includes information about obtaining free translation and interpretation services in English and Spanish in areas with public access. The English version is attached here as **Appendix E**. The Spanish version, which was professionally translated, is attached here as **Appendix F**.
- Providing notice of free language assistance with public notices in English and Spanish on its buses and on Bustang’s website,¹² which is available in Spanish with Google Translate.
- During the statewide transit planning process, flyers for outreach events with notices of the availability of free language assistance shall be distributed in Spanish or any other language spoken by over 5% of the population at the time of the planning process. Examples are available in **Appendix B**.

Language Assistance Resources

The following are additional language assistance resources for DTR staff to consider for future language assistance needs:

- **Bilingual Staff**: DTR is encouraged to identify bilingual staff in order to quickly and effectively respond to unexpected encounters with LEP individuals.
- **CDOT Civil Rights & Business Resource Center**: DTR is encouraged to consult with the Civil Rights & Business Resource Center (CRBRC) on the development of additional language assistance measures or on how best to respond to specific language assistance requests. The CRBRC may also be able to provide funding and additional resources to DTR for future language assistance measures.
- **Language Identification Cards**: Language identification cards can be utilized when first encountering someone who needs language assistance. The U.S. Census Bureau’s language identification card is available at www.lep.gov/ISpeakCards2004.pdf. Cards can be used by staff to identify the primary language of LEP individuals during face to face contact.
- **CTS LanguageLink**: The State of Colorado has a price agreement with CTS LanguageLink for professional translation and interpretation services. CTS LanguageLink offers an over-the-phone interpretation service for **\$0.62 per minute**. A list of languages for the interpretation service is attached as **Appendix G**. CTS LanguageLink also can translate written documents into more than 100 languages. A list of languages is attached as **Appendix H**. Each CDOT program area is encouraged to create a free account with CTS Language list in order to access the over-the-phone

¹² www.ridebustang.com

interpretation service and to obtain rates for translation services. For more information, contact:

Client Relations
Toll Free 855.779.2704
clientrelations@ctslanguagelink.com
www.ctslanguagelink.com

- Automated Computer Translation: Google Translate and other automated translation services can be a tool for translating basic information in limited circumstances. For example, various CDOT websites can be translated into other languages using Google Translate. However, caution should be used when using automated translation to convey vital information. The U.S. Department of Labor recommends using automated translation only if someone is capable of reviewing and correcting the translation to ensure that it is conveying the intended message.¹³ While CDOT's website can be translated into several languages using Google Translate, the website also contains Spanish information that was professionally translated. The Civil Rights & Business Resource Center created a page in Spanish that contains information about the public's rights to equal access and nondiscrimination.¹⁴ The Bustang website can also be translated into Spanish using Google Translate. A Spanish-speaking staff member from the Civil Rights & Business Resource Center will proof read vital information regarding routes, schedules, and fares to confirm the accuracy of these translations.

Monitoring and Updating LEP Efforts

DTR Managers and supervisors are responsible for ensuring that access is provided to LEP persons through language assistance services. This Plan must be incorporated by reference into the appropriate procedure manuals to ensure that employees are aware of their obligations for compliance.

The Civil Rights & Business Resource Center will monitor DTR activities to ensure LEP requirements are fulfilled and report to the Federal Transit Administration (FTA). DTR will update this LEP plan at least every three years when DTR's Title VI Plan is due to the FTA. DTR must also update this Plan whenever one of its primary activities substantially changes or if it starts a new primary activity, program or service.

Appendix A **Colorado LEP Demographic Data**

¹³ The U.S. Department of Labor's presentation "Machine Translation: Ensuring Meaningful Access for Limited English Proficient Individuals" (June 24, 2014) discusses the pitfalls of relying on machine translations.

http://www.dol.gov/oasam/programs/crc/062414Machine_TranslationWebinar.pdf

¹⁴ <https://www.codot.gov/business/civilrights/espanol.html>

Colorado LEP Demographic Data

Colorado has a total population of 4,860,145 people. Colorado has a total Limited English Proficient (LEP) population of 310,065, which is 6.4% of Colorado's overall population. The following table shows the top five languages spoken by LEP persons in Colorado and their percentage of the total Colorado population, according to the U.S. Census Bureau.¹⁵

Language	Number of LEP Persons	Percent of Colorado Population
Spanish	226,453	4.66%
Vietnamese	12,078	0.25%
Chinese ¹⁶	10,489	0.22%
Korean	8,475	0.18%
African Languages ¹⁷	7,932	0.17%

Demographic data by county and CDOT Transportation Region

CDOT is geographically structured into five Transportation Regions. The following pages contain LEP demographic data for each CDOT Transportation Region and the counties within in each region using U.S. Census data for people who do not speak English as their primary language and speak English "less than very well."

Census data is also supplemented with data from the Colorado Department of Education.¹⁸ The presence of English Language Learners in schools may indicate the presence of greater LEP populations. In addition to the languages listed in the U.S. Census tables, the following pages also list additional languages found in the school data.

CDOT Region 1

CDOT Region 1 is comprised of the five counties listed in the table below. LEP individuals make up 8.8% of Region 1's total population. LEP individuals that speak Spanish represent 6.4% of Region 1's

¹⁵ Data tabulated by the Migration Policy Institute, "Limited English Proficient Individuals in the United States: Linguistic Diversity at the County Level (February 2013)." Data was tabulated using the US Census Bureau's 2010-2014 American Community Survey, Table B16001 "Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over." For more information about LEP data, visit http://www.lep.gov/demog_data/demog_data.html.

¹⁶ The US Census Bureau groups the following languages under the "Chinese" language category: Chinese, Hakka, Kan, Hsiang, Cantonese, Mandarin, Fuchow, Formosan, and Wu.

¹⁷ The US Census Bureau's "African language" classification includes Amharic, Afro-Asiatic languages, Nilo-Saharan languages, and Niger-Congo languages. For a full listing of these languages, visit <https://www.census.gov/hhes/socdemo/language/about/>.

¹⁸ Colorado Department of Education, English Language Learner student count, grades preschool through 12, October 2012. This data is available upon request from CDOT's Civil Rights & Business Resource Center.

population. Adams, Arapahoe, and Denver counties have the largest Spanish-speaking LEP populations in Region 1. Other prevalent LEP populations in Region 1 include Vietnamese, Russian, and Korean speakers.

Region 1, U.S. Census Data

County	Total Population	Total LEP Population	Spanish LEP Population	Other Languages ¹⁹
Adams	424,235	52,820 (12.45%)	44,305 (11.2%)	Vietnamese (2,136 people) Russian (1,000) Chinese (700) African Languages (500)
Arapahoe	556,245	50,332 (9.05%)	28,310 (5.09%)	Korean (3,467) African Languages (2,900) Russian (2,181) Vietnamese (2,462) Chinese (1,873) Arabic (1,248) Other Asian ²⁰ (1,456) Other Indic ²¹ (624) French (813) Tagalog (567)
Broomfield	50,287	2,601 (4.7%)	1,388 (2.51%)	-
Clear Creek	8,722	26	18	-
Denver	589,391	67,832 (11.51%)	51,593 (8.75%)	Chinese (1,975) Russian (1,653) Other Indic languages (915) Vietnamese (3,868) Arabic (1,191) African Languages (2,127) Other Asian (750)
Douglas	279,291	6,896(2.47%)	3,198 (1.15%)	Chinese (894) Korean (666)
Gilpin	5,295	66 (1.25%)	66	-
Jefferson	516,473	16,844(3.26%)	9,213 (1.78%)	Vietnamese (1,600) Chinese (600) Russian (500) Korean (500)
Region 1	2,429,939	197,417(8.1%)	138,091(5.6%)	

In addition to the languages listed in the table on the previous page, school data indicates the presence of the following language population groups:²²

⁵ LEP number estimates are displayed only if 500 persons or more.

²⁰ The US Census Bureau’s “Other Asian languages” classification includes Turkic languages, Dravidian languages, and Tibetan-Burman languages. For a full listing of these languages, visit <https://www.census.gov/hhes/socdemo/language/about/>.

²¹ For a full listing the US Census Bureau’s “Other Indic languages,” visit <https://www.census.gov/hhes/socdemo/language/about/>.

²² The languages listed here were not the only languages identified in the Colorado Department of Education data. These languages and the languages listed in the U.S. Census table were the most prevalent languages identified in the Colorado Department of Education data.

Adams County: Hmong.

Arapahoe County: Arabic, Amharic, Burmese, Karen Pa'o, Nepali and Somali.

City and County of Denver: Burmese, Karen Pa'o, French, Nepali, Swahili, and Tigrigna.

Douglas County: Somali.

CDOT Region 2

CDOT Region 2 is comprised of the 14 counties listed in the table below. LEP individuals make up 4% of Region 2's population. The largest LEP group is Spanish at 3.6%. Most of the Spanish-speaking LEP population in Region 2 is found in El Paso and Pueblo counties.

Region 2, U.S. Census Data

County	Total Population	Total LEP Population	Spanish LEP Population	Other Languages ²³
Baca	3,498	89 (2.8%)	71	-
Bent	5,757	425 (7.38%)	402(6.98%)	-
Crowley	5,351	472 (8.82%)	454(8.48%)	-
Custer	4143	9 (0.22%)	9 (0.22%)	-
El Paso	599,826	22932(3.82%)	14582(2.43%)	Korean (1,742 people) German (659) Tagalog (542) Chinese (931) Vietnamese (930) Arabic (513)
Fremont	44,891	2,675 (5.96%)	2,028(4.52%)	-
Huerfano	6,367	251 (3.94%)	204 (3.20%)	-
Kiowa	1,322	7 (0.53%)	7 (0.53%)	-
Las Animas	14,030	508(3.62%)	415 (2.96%)	-
Otero	17,530	996 (4.5%)	885 (5.05%)	-
Park	15,525	164(1.06%)	139 (0.90%)	-
Prowers	11447	775 (6.77%)	688 (6.01%)	-
Pueblo	150,658	6,632(4.40%)	5800(3.58%)	-
Teller	22,356	235 (1.06%)	111 (0.50%)	-
Region 2	902,701	36,170 (4.0%)	25,795(2.8%)	

In addition to the languages listed in the table above, school data indicates the presence of the following language population groups:²⁴

EL Paso County: Nepali.

²³ LEP number estimates are displayed only if 500 persons or more.

²⁴ The languages listed here were not the only languages identified in the Colorado Department of Education data. These languages and the languages listed in the U.S. Census table were the most prevalent languages identified in the Colorado Department of Education data.

CDOT Region 3

CDOT Region 3 is comprised of the 15 counties listed in the table below. LEP individuals make up 6.5% of Region 3's total population. LEP individuals that speak Spanish represent 5.7% of Region 3's population. The majority of the Spanish-speaking LEP population in Region 3 is located in Eagle and Garfield counties.

Region 3, U.S. Census Data

County	Total Population	Total LEP Population	Spanish LEP Population	Other Languages ²⁵
Delta	28,813	1,087 (3.8%)	975 (3.4%)	-
Eagle	49,414	6,220 (12.6%)	5,780 (11.7%)	-
Garfield	52,410	5,094 (9.7%)	4,943 (9.4%)	-
Grand	13,704	300 (2.2%)	174 (1.2%)	-
Gunnison	14,752	317 (2.1%)	238 (1.6%)	-
Hinsdale	806	0	0	-
Jackson	1,334	9 (0.7%)	9 (0.7%)	-
Lake	6,753	716 (10.6%)	626 (9.2%)	-
Mesa	137,942	3,797(2.7%)	3,177 (2.3%)	-
Moffat	12,322	696 (5.6%)	635 (5.1%)	-
Montrose ²⁶	38,534	1,988 (6.3%)	1,899(6.0%)	-
Pitkin	16,503	667(4.0%)	469(2.8%)	-
Rio Blanco	6,287	221 (3.3%)	209 (3.3%)	-
Routt	22,354	592(2.6%)	307 (1.3%)	-
Summit	27,051	1,940 (7.2%)	1828(6.7%)	-
Region 3	428979	23,644 (5.5%)	21,269 (4.9%)	-

In addition to the languages listed in the table above, school data indicates the additional presence of the following language population groups:²⁷

Gunnison County: Cora, El Nayar.

Note: CDOT Region 3 includes counties with many tourists and seasonal workers. The data here does not reflect the languages likely to be encountered because of these groups.

²⁵ LEP number estimates are displayed only if 500 persons or more.

²⁶ Parts of Montrose County are located in CDOT Region 3 and Region 5. However, for this LEP Plan, Montrose County data is analyzed as part of Region 3 because much of the county's population, including the City of Montrose, is located in Region 3.

²⁷ The languages listed here were not the only languages identified in the Colorado Department of Education data. These languages and the languages listed in the U.S. Census table were the most prevalent languages identified in the Colorado Department of Education data.

CDOT Region 4

CDOT Region 4 is comprised of the 13 counties listed in the table below. LEP individuals make up 5.5% of Region 4's total population. LEP individuals that speak Spanish represent 4.5% of Region 4's population. The majority of the Spanish-speaking LEP population in Region 4 is located in Boulder, Larimer, and Weld counties.

Region 4, U.S. Census Data

County	Total Population	Total LEP Population	Spanish LEP Population	Other Languages ²⁸
Boulder	289,106	16,085 (6.2%)	12,800 (4.6%)	Chinese (1,194 people) Korean (536)
Cheyenne	1,988	77 (4.8%)	75	-
Elbert	21,517	301(1.34%)	185 (0.82)	-
Kit Carson	7,592	480 (6.32%)	465 (6.12%)	-
Larimer	294,054	6,534(2.22%)	4,324 (1.47%)	-
Lincoln	5,193	354 (6.82%)	329 (6.34%)	-
Logan	21,476	938 (4.37%)	890 (4.14%)	-
Morgan	26,222	3,416 (13.03%)	3,042 (11.60%)	-
Phillips	4,084	524 (12.86%)	518 (12.68%)	-
Sedgwick	2,244	63 (2.81%)	59 (2.63%)	-
Washington	4,531	109 (2.41%)	109 (2.41%)	-
Weld	245,113	17,368 (7.09%)	15,607(6.37%)	
Yuma	9,303	744 (8.0%)	738 (7.93%)	
Region 4	932,423	46,993 (5.0%)	39,141(4.2%)	

In addition to the languages listed in the table above, school data indicates the presence of the following language population groups:²⁹

Morgan County: Somali.

Weld County: Burmese, Karen Pa'o, Somali.

²⁸ LEP number estimates are displayed only if 500 persons or more.

²⁹ The languages listed here were not the only languages identified in the Colorado Department of Education data. These languages and the languages listed in the U.S. Census table were the most prevalent languages identified in the Colorado Department of Education data.

CDOT Region 5

CDOT Region 5 is comprised of the 14 counties³⁰ listed in the table below. LEP individuals make up 3.3% of Region 5's total population. LEP individuals that speak Spanish represent 2.3% of Region 5's population.

Region 5, U.S. Census Data

County	Total Population	Total LEP Population	Spanish LEP Population	Other Languages ³¹
Alamosa	14,937	1,051 (7.04%)	957 (6.41%)	-
Archuleta	11,516	276 (0.9%)	176 (1.53%)	-
Chaffee	17,374	562 (1.8%)	559 (3.2%)	-
Conejos	7,600	604 (7.9%)	575 (7.5%)	-
Costilla	3,416	408 (11.94%)	395 (11.56%)	-
Dolores	1,671	2 (0.12%)	0	-
La Plata	49,689	731 (1.47%)	524 (1.05%)	-
Mineral	695	5 (0.72%)	5 (0.72%)	-
Montezuma	23,997	470 (2.1%)	265 (1.10%)	-
Ouray	4,418	54 (1.22%)	44 (1.0%)	-
Rio Grande	11,079	751 (7.2%)	715 (6.3%)	-
Saguache	5,806	655 (11.28%)	637 (10.97%)	-
San Juan	623	12 (1.93%)	12 (1.93%)	-
San Miguel	7,194	259 (3.6%)	248 (3.45%)	-
Region 5	160,015	5,840 (3.6%)	5,112 (3.2%)	

In addition to the languages listed in the table above, school data indicates the presence of the following language population groups:³²

Alamosa: Eastern Q'anjob'al.

Montezuma: Navajo.

³⁰ A part of Montrose County is also located in CDOT Region 5. However, for this LEP Plan, Montrose County data is analyzed as part of Region 3 because much of the county's population, including the City of Montrose, is located in Region 3.

³¹ LEP number estimates are displayed only if 500 persons or more.

³² The languages listed here were not the only languages identified in the Colorado Department of Education data. These languages and the languages listed in the U.S. Census table were the most prevalent languages identified in the Colorado Department of Education data.

Appendix B
Statewide Transit Plan Outreach Materials in English and Spanish



COLORADO
Department of
Transportation

You're Invited...

...to the CDOT Statewide Transit Plan Public Open House!

CDOT's Statewide Transit Plan addresses the local and regional transit and human service transportation needs in your region and across the state. Your input is greatly needed!

Please join us for the public open house in your area:

Date: Wednesday May 21, 2014

Location: Emergency Service Center
101 W. 10th Street, First Floor - Room 144
Pueblo, CO 81003

Time: 5:00 pm - 7:00 pm

Open House format with presentations at 5:30 pm and 6:30 pm



This is a joint public open house for the CDOT Statewide Transit Plan and the Pueblo Area Council of Governments 2040 Regional Transit Element.

For more information, or for those who require accommodation for disabilities or a language interpreter, including hearing impaired, please contact Beth Vogelsang at (303)589-5651 no later than 3 business days before the meeting. The facility is accessible for disabled individuals.

Can't make the meeting?

View materials and provide comments at our project website: <http://coloradotransportationmatters.com/other-cdot-plans/transit/>
Comments can also be made using the CDOT PinTool at: <http://dtdapps.coloradodot.info/pintransit>



COLORADO
Department of
Transportation

Lo invitamos...

...a la reunión pública sobre el Plan Estatal de Transporte Público de CDOT

El Plan Estatal de Transporte Público de CDOT responde a las necesidades locales y regionales de tránsito y de transporte para personas en su región y en todo el estado. ¡Su opinión será muy valiosa!

Participe de esta reunión pública en su área.

Fecha: Miércoles 21 de mayo de 2014

Lugar: Emergency Service Center
101 W. 10th Street, primer piso - Sala 144
Pueblo, CO 81003

Hora: 5:00 pm - 7:00 pm

Reunión informal con presentaciones a las 5:30 pm y 6:30 pm.



Esta es una casa abierta pública conjunta para el Plan de Tránsito CDOT Estatal y el Consejo de Pueblo Area de gobiernos 2040 Element Regional Transit.

Para más información, para solicitar acomodaciones especiales para personas con incapacidad, o para pedir servicios de traducción (incluyendo lenguaje de signos), llamar a Beth Vogelsang al (303)589-5651 por lo menos tres días antes de la reunión. El lugar de la reunión es accesible para personas incapacitadas.

Si no puede asistir a la reunión,

lo invitamos a que revise los materiales y comparta sus comentarios en el sitio del proyecto: <http://coloradotransportationmatters.com/other-cdot-plans/transit/>
Los comentarios también se pueden hacer usando el sistema PinTool de CDOT en <http://dtdapps.coloradodot.info/pintransit>



You're Invited...

...to the CDOT Statewide Transit Plan Public Open House!

CDOT's Statewide Transit Plan addresses the local and regional transit and human service transportation needs in your region and across the state. Your input is greatly needed!

Please join us for the public open house in your area:

Date: Wednesday May 14, 2014
Location: Pikes Peak Area Council of Governments (PPACG) Conference Room
14 S. Chestnut Street
Colorado Springs, CO
Time: 5:30 pm - 7:00 pm
Open House format with presentation at 6:00 pm



This is a joint public open house for the CDOT Statewide Transit Plan and the PPACG 2040 Regional Transportation Plan.

For more information, or for those who require accommodation for disabilities or a language interpreter, including hearing impaired, please contact Beth Vogelsang at (303)589-5651 no later than 3 business days before the meeting. The facility is accessible for disabled individuals.

Can't make the meeting?

View materials and provide comments at our project website: <http://coloradotransportationmatters.com/other-cdot-plans/transit/>
Comments can also be made using the CDOT PinTool at: <http://dtdapps.coloradodot.info/pintransit>



Lo invitamos...

...a la reunión pública sobre el Plan Estatal de Transporte Público de CDOT

El Plan Estatal de Transporte Público de CDOT responde a las necesidades locales y regionales de tránsito y de transporte para personas en su región y en todo el estado. ¡Su opinión será muy valiosa!

Participe de esta reunión pública en su área.

Fecha: Miércoles 14 de mayo de 2014
Lugar: Pikes Peak Area Council of Governments (PPACG) Conference Room
14 S. Chestnut Street
Colorado Springs, CO
Hora: 5:30 pm - 7:00 pm
Reunión informal con una presentación a las 6:00 pm.



Esta es una casa abierta pública conjunta para el Plan de Tránsito CDOT Estatal y el Plan Regional de Transporte PPACG 2040.

Para más información, para solicitar acomodaciones especiales para personas con incapacidad, o para pedir servicios de traducción (incluyendo lenguaje de signos), llamar a Beth Vogelsang al (303)589-5651 por lo menos tres días antes de la reunión. El lugar de la reunión es accesible para personas incapacitadas.

Si no puede asistir a la reunión,

lo invitamos a que revise los materiales y comparta sus comentarios en el sitio del proyecto: <http://coloradotransportationmatters.com/other-cdot-plans/transit/>
Los comentarios también se pueden hacer usando el sistema PinTool de CDOT en <http://dtdapps.coloradodot.info/pintransit>



You're Invited...

...to the CDOT Statewide Transit Plan Public Open House!

CDOT's Statewide Transit Plan addresses the local and regional transit and human service transportation needs in your region and across the state. Your input is greatly needed!



Please join us for the public open house in your area:

Date: Wednesday May 7, 2014

Location: Greeley Ice Haus
900 8th Avenue
Greeley, CO 80631

Time: 5:00 pm - 7:00 pm

Open House format with presentations at 5:30 pm and 6:30 pm



This is a joint public open house for the CDOT, the North Front Range MPO and Greeley-Evans Transit. For further information on the NFRMPO 2040 Regional Transit Element, please contact Nate Vander Broek at NFRMPO (970) 416-2309. For information on GET, please contact Will Jones at (970) 350-9751.

For more information, or for those who require accommodation for disabilities or a language interpreter, including hearing impaired, please contact Beth Vogelsang at (303)589-5651 no later than 3 business days before the meeting. The facility is accessible for disabled individuals.

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Comments can also be made using the CDOT Pin Tool at: <http://dtdapps.coloradodot.info/pintransit>



Lo invitamos...

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El Plan Estatal de Transporte Público de CDOT responde a las necesidades locales y regionales de tránsito y de transporte para personas en su región y en todo el estado. ¡Su opinión será muy valiosa!



Participe de esta reunión pública en su área.

Fecha: Miércoles 7 de mayo de 2014

Lugar: Greeley Ice Haus
900 8th Avenue
Greeley, CO 80631

Hora: 5:00 pm - 7:00 pm

Reunión informal con presentaciones a las 5:30 pm y 6:30 pm.



Esta es una casa abierta pública conjunta para el CDOT, la North Front Range MPO y tránsito de Greeley-Evans. Para más información sobre el 2040 NFRMPO Elemento de tránsito regional, por favor póngase en contacto con Nate Vander Broek en NFRMPO (970) 416 4924. Para obtener información sobre GET, póngase en contacto con Will Jones al (970) 350-9751.

Para más información, para solicitar acomodaciones especiales para personas con incapacidad, o para pedir servicios de traducción (incluyendo lenguaje de signos), llamar a Beth Vogelsang al (303)589-5651 por lo menos tres días antes de la reunión. El lugar de la reunión es accesible para personas incapacitadas.

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Los comentarios también se pueden hacer usando el sistema PinTool de CDOT en <http://dtdapps.coloradodot.info/pintransit>

You're Invited...

...to the CDOT Statewide
Transit Plan Public Open House!

CDOT's Statewide Transit Plan addresses the local and regional transit and human service transportation needs in your region and across the state. Your input is greatly needed!

Please join us for the public open house in your area:

Date: Wednesday May 28, 2014

Location: Grand Valley Transit Operations Building
525 South 6th Street, 2nd Floor
Grand Junction, CO 81501

Time: 5:00 pm - 7:00 pm

Open House format with presentations at 5:30 pm and 6:30 pm



This is a joint public open house for the CDOT Statewide Transit Plan and the Grand Valley Metropolitan Planning Organization and Grand Valley Transit 2040 Regional Transportation Plan.

For more information, or for those who require accommodation for disabilities or a language interpreter, including hearing impaired, please contact Beth Vogelsang at (303)589-5651 no later than 3 business days before the meeting. The facility is accessible for disabled individuals.

Can't make the meeting?

View materials and provide comments at our project website: <http://coloradotransportationmatters.com/other-cdot-plans/transit/>
Comments can also be made using the CDOT PinTool at: <http://dtdapps.coloradodot.info/pintransit>

Lo invitamos...

...a la reunión pública sobre el
Plan Estatal de Transporte Público de CDOT

El Plan Estatal de Transporte Público de CDOT responde a las necesidades locales y regionales de tránsito y de transporte para personas en su región y en todo el estado. ¡Su opinión será muy valiosa!

Participe de esta reunión pública en su área.

Fecha: Miércoles 28 de mayo de 2014

Lugar: Grand Valley Transit Operations Building
525 South 6th Street, 2nd Floor
Grand Junction, CO 81501

Hora: 5:00 pm - 7:00 pm

Reunión informal con presentaciones a las 5:30 pm y 6:30 pm.



Esta es una casa abierta pública conjunta para el Plan Estatal de Tránsito CDOT y la Organización de Planificación Metropolitana de Grand Valley y Grand Valley Transit 2040 Plan de Transporte Regional.

Para más información, para solicitar acomodaciones especiales para personas con incapacidad, o para pedir servicios de traducción (incluyendo lenguaje de signos), llamar a Beth Vogelsang al (303)589-5651 por lo menos tres días antes de la reunión. El lugar de la reunión es accesible para personas incapacitadas.

Si no puede asistir a la reunión,

lo invitamos a que revise los materiales y comparta sus comentarios en el sitio del proyecto: <http://coloradotransportationmatters.com/other-cdot-plans/transit/>
Los comentarios también se pueden hacer usando el sistema PinTool de CDOT en <http://dtdapps.coloradodot.info/pintransit>



You're Invited...

...to the CDOT Statewide Transit Plan Public Open House!

CDOT's Statewide Transit Plan addresses the local and regional transit and human service transportation needs in your region and across the state. Your input is greatly needed!



Please join us for the public open house in your area:

Date: Monday May 12, 2014

Location: CDOT Headquarters - Shumate Building
(located behind the main building along Birch Avenue)
4201 E. Arkansas Ave.
Denver, CO 80222

Time: 5:00 pm - 7:00 pm

Open House format with presentations at 5:30 pm and 6:30 pm



This is a joint public open house for the CDOT Statewide Transit Plan and the Denver Regional Council of Governments 2040 Metro Vision Regional Transportation Plan.

For more information, or for those who require accommodation for disabilities or a language interpreter, including hearing impaired, please contact Beth Vogelsang at (303)589-5651 no later than 3 business days before the meeting. The facility is accessible for disabled individuals.

Can't make the meeting?

View materials and provide comments at our project website: <http://coloradotransportationmatters.com/other-cdot-plans/transit/>
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Lo invitamos...

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El Plan Estatal de Transporte Público de CDOT responde a las necesidades locales y regionales de tránsito y de transporte para personas en su región y en todo el estado. ¡Su opinión será muy valiosa!



Participe de esta reunión pública en su área.

Fecha: Lunes 12 de mayo de 2014

Lugar: CDOT Headquarters - Shumate Building
(situado detrás del edificio principal a lo largo de Birch Avenue)
4201 E. Arkansas Ave.
Denver, CO 80222

Hora: 5:00 pm - 7:00 pm

Reunión informal con presentaciones a las 5:30 pm y 6:30 pm.



Esta es una casa abierta pública conjunta para el Plan de Tránsito CDOT Estatal y el Consejo Regional de Gobiernos de Denver 2040 Metro Plan de Transporte Regional Vision.

Para más información, para solicitar acomodaciones especiales para personas con incapacidad, o para pedir servicios de traducción (incluyendo lenguaje de signos), llamar a Beth Vogelsang al (303)589-5651 por lo menos tres días antes de la reunión. El lugar de la reunión es accesible para personas incapacitadas.

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Appendix C
LEP Plan Template for Subrecipients

**LIMITED ENGLISH PROFICIENCY
REQUIREMENTS**

For your information only. Do not include this page in your LEP Plan.

A Limited English Proficient (LEP) person is someone who does not speak English as his/her primary language and who has a limited ability to read, speak, write or understand English.

The requirement to respond to people with limited English proficiency is included under Section 601 of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), which provides that no person shall “on the grounds of race, color or national origin [recently expanded to include age, sex and disability] be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

Executive Order No. 13166, issued in August 2000 by President Clinton, "Improving Access to Services for Persons with Limited English Proficiency," was created to "... improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP)..." President Bush affirmed his commitment to Executive Order 13166 through a memorandum issued on October 25, 2001, by Assistant Attorney General for Civil Rights, Ralph F. Boyd, Jr. Loretta King, Acting Assistant Attorney General, further strengthened the enforcement of Title VI in a memorandum dated July 10, 2009.

To meet Federal Transit Administration (FTA) requirements, subrecipients must submit an LEP plan with their Title VI Program. FTA guidance requires that subrecipients complete a Four-Factor Analysis to determine appropriate language assistance measures. The four factors to be addressed include:

- Factor 1:** Number/proportion of LEP persons eligible to be served or likely to be encountered by the program or recipient.
- Factor 2:** Frequency with which LEP persons come into contact with the transit program.
- Factor 3:** Nature and importance of the program, activity, or service provided by your program to LEP persons' lives.
- Factor 4:** Local resources available to respond to LEP outreach and identify needs as well as costs.

Once the four-factor analysis is completed, the subrecipient must develop a language assistance plan outlining the agency's current procedures and steps it plans to take in the future to ensure meaningful access to transit programs by persons with limited English proficiency.

Several resources are available for guidance regarding LEP Plans. The Department of Justice provided LEP guidance for Federal Financial Assistance recipients in the Federal Register Vol. 67, No. 117 on June 18, 2002. FTA also provides guidance for transit providers in “Implementing the Department of Transportation’s Policy Guidance Concerning Recipient’s Responsibilities to Limited English Proficient Persons.”

The Colorado Department of Transportation (CDOT) is required to provide further guidance and technical assistance to sub-recipients in determining how they can best provide meaningful access to LEP users of their Federally-funded transit programs. This includes guidance in: 1) identifying the magnitude of the need for LEP assistance in their areas, 2) evaluating how they currently serve people who are limited in their English proficiency, and 3) determining what measures they can take in their direct contacts with LEP individuals in order to increase meaningful access to transit services. This template and the associated data is intended to assist recipients with developing an LEP Plan. Sub recipients may also contact CDOT's Civil Rights & Business Resource Center at 303-757-9072.

[AGENCY NAME]

LIMITED ENGLISH PROFICIENCY PLAN

I. INTRODUCTION

This Limited English Proficiency (LEP) Plan, for _____ (agency name) has been developed in response to federal requirements included under Section 601 of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), which provides that no person shall “on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

Federal Executive Order No. 13166, issued in August 2000 by President Clinton, "Improving Access to Services for Persons with Limited English Proficiency," was created to "... improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP)..." President Bush affirmed his commitment to Executive Order 13166 through a memorandum issued on October 25, 2001, by Assistant Attorney General for Civil Rights, Ralph F. Boyd, Jr. Loretta King, Acting Assistant Attorney General, further strengthened the enforcement of Title VI in a memorandum dated July 10, 2009.

As a sub-recipient of funds from the Federal Transit Administration (FTA), through the Colorado Department of Transportation (CDOT), _____ (agency name) has developed this LEP Plan to ensure compliance with Federal LEP regulations including the FTA LEP handbook “Implementing the Department of Transportation’s Policy Guidance Concerning Recipient’s Responsibilities to Limited English Proficient Persons.” This plan includes an assessment of the limited English proficiency needs of our area, an explanation of the steps we are currently taking to address these needs, and the steps we plan to take in the future to ensure meaningful access to our transit programs for persons with limited English proficiency.

II. POLICY

It is the policy of _____ (agency name) to ensure that our programs and activities, normally provided in English, are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of Title VI of the Civil right Act of 1964. The _____ will, to the maximum extent feasible in its official deliberations and communications, community outreach and related notifications, provide appropriate alternative non-English formats to ensure LEP persons have access to information and services.

III. LIMITED ENGLISH PROFICIENCY NEEDS OF AREA

The Four-Factor Analysis developed by the FTA requires that _____ (agency name) evaluate the number and percentage of LEP persons in our area, and the nature, frequency and importance of the contact we have with LEP persons in providing transit services. Each of these elements is addressed below.

Factor 1. Number and Percentage of LEP Persons in Our Area

This first factor requires you to identify LEP populations. Depending on your service area, information on the permanent population of your area may be sufficient. However, if you have large numbers of visitors, additional data will be needed. Suggestions regarding how to access data for both the permanent and visitor populations of your area are presented below. Data on visitors to your area will likely be more difficult to obtain. Statistical information may be available from local Chambers of Commerce, recent market surveys by resorts or other businesses in your area, transit rider surveys or other surveys, community outreach or simply your drivers and customer service staff. Chances are, as a transit provider you already know what issues exist in serving individuals with limited English proficiency in your area. You'll need to document information on the number and/or percentage of limited English speakers, by language group, as best you can in this section.

A. Examine prior experiences with LEP persons

Review relevant benefits, services, and information provided by your organization and determine the extent to which LEP persons have come into contact with these functions. Your organization could have come into contact with LEP persons through the following channels:

- a) Contact with transit vehicle operators;
- b) Contact with transit station managers;
- c) Calls to your agency's customer service telephone line;
- d) Visits to your agency's headquarters;
- e) Access to your agency's website;
- f) Attendance at community meetings or public hearings hosted by your agency;
- g) Contact with your agency's ADA complementary paratransit system (including applying for eligibility, making reservations, and communicating with drivers)

B. Analyze Census Data

Insert the LEP data for all populations served by your agency.

- a) Identify the geographic boundaries of the area that your agency serves.
- b) Analyze the data provided from our template.
- c) Identify any concentrations of LEP persons within your service area.

C. Consult Other Sources

Seek out additional data that could reflect or represent LEP populations in your area. The following sources offer secondary data on the LEP population:

- a) The Department of Education
- b) The Department of Labor

D. Consult Community Organizations

- a) Identify community organizations
- b) Contact relevant community organizations
- c) Obtain information

E. Summarize Your Results.

Based on the research conducted above, provide a summary that answer the following questions to the best of your ability.

- a. Do LEP populations exist in your area?
- b. What languages do they speak?
- c. Where are concentrations of LEP persons in your service area?

Factors 2 & 3. Frequency and Importance of LEP Contact

There are many ways to address these factors. The method outlined below is one option.

A. Describe the Nature of Contact

Outline your programs and activities in this section.

- a. What transit programs, services or activities does your organization provide? (List services)

B. Frequency of Contact

Describe the frequency of your contact with LEP persons. The more frequent the contact, the more likely enhanced language services are needed. You may want to conduct a survey, evaluate current rider data, etc. to determine frequency of contact with LEP populations.

- a. What is the frequency of contact in terms of each of the programs or services you provide with known or potential LEP populations in your service area?

C. Importance of Contact

Describe the importance of your programs to LEP persons. The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP persons, the more likely language services will be needed. Since most FTA sub-recipients in Colorado provide transit service to the public, and you provide an important service, the importance of contact with LEP persons should be higher.

- a. Describe the importance of current contacts or potential contacts with LEP individuals.

Factor 4. Resources Available for LEP Outreach

Examine the resources available for LEP outreach, as well as the costs associated with that outreach.

- a. Do you currently provide any LEP services? If so please describe.
- b. Are additional services necessary?
- c. Do you have the budget for these services?
- d. Are there other cost-effective measures that can be taken?

IV. LANGUAGE ASSISTANCE PLAN

Given what you've identified by the four factor analysis above, what are your current processes and plans for the future to address LEP needs? Are your existing efforts adequate? What else needs to be done? How will you continue to monitor and respond to the needs of LEP persons in your area to make ensure they have meaningful access to the services you provide? Please consider the items below in developing a plan for the future.

- A. Language Assistance Measures.** An effective language plan would include information about the ways in which language assistance would likely be provided. Recipients should consider including the following:
- a. A list of written and oral language assistance products and methods the agency has implemented and how agency staff can obtain those services;
 - b. Instructions to customer service staff and other agency staff who regularly take phone calls from the general public on how to respond to an LEP caller;
 - c. Instructions to customer service staff and other agency staff who regularly respond to written communication from the public on how to respond to written communication from an LEP person;
 - d. Instructions to vehicle operators, station managers, and others who regularly interact with the public on how to respond to an LEP customer.
 - e. Policies on how the agency will ensure the competency of interpreters and translation services.
- B. Training staff.** Describe the training that is conducted to ensure that appropriate staff members know about LEP policies and procedures and are ready to provide assistance.
- a. Identify agency staff that are likely to come into contact with LEP persons as well as management staff.
 - b. Identify existing staff training opportunities. It may be cost-effective to integrate training on their responsibilities to LEP persons into agency training that occurs on an ongoing basis.
 - c. Design and implement LEP training for agency staff. Training should include:
 1. A summary of the transit agency's responsibilities under the DOT LTP Guidance;
 2. A summary of the agency's language assistance plan;
 3. A summary of the number and proportion of LEP persons in the agency's service area, the frequency of contact between the LEP population and the agency's programs and activities, and the importance of the programs and activities to the population;
 4. A description of the type of language assistance that the agency is currently providing and instructions on how agency staff can access these products and services; and
 5. A description of the agency's cultural sensitivity policies and practices.
 - d. Below are some available staff training resources:
 1. "Breaking Down the Language Barrier: Translating Limited English Proficiency into Practice." This video, which is available on DVD and as a streaming video link on www.lep.gov, explains the language access requirements of Title VI and Executive Order 13166 through vignettes that expose the problems resulting from the absence of language assistance. The video goes on to show how these same situations could have been handled more appropriately if the service provider took reasonable steps to provide meaningful access.
 2. "Providing Language Access for Persons with Limited English Proficiency,"

- a PowerPoint presentation produced by the FTA Office of Civil Rights and available at http://www.fta.dot.gov/civilrights/title6/civil_rights_5102.html.
3. “How to Engage Low-Literacy and Limited English Proficient Populations in Transportation Decisionmaking,” available at <http://www.fhwa.dot.gov/hep/lowlim>. This report documents “best practices” in identifying and engaging low-literacy and LEP populations in transportation decision-making. These “best practices” were collected during telephone interviews with individuals in 30 States.
 4. “Basic Spanish for Transit Employees” this flip guide was produced by the Roaring Fork Transit Authority and the Colorado Mountain College. It includes requests and commands that vehicle operators use every day in English and in Spanish and written phonetically in English. Copies of this guide can be obtained by calling 970-945-8691.
 5. “Guidelines for Developing Traffic Safety Educational Materials for Spanish-Speaking Audiences,” a manual developed by the Education in Traffic Safety project, Education Development Center, Inc., with funding from the National Highway Traffic Safety Administration. The manual is organized into three sections: research and planning, creating materials, and dissemination and evaluation. Available at <http://www.nhtsa.dot.gov/people/injury/airbags/TESM/index.htm>.

C. Monitoring and Updating The LEP Plan. Recipients should, where appropriate, have a process for determining, on an ongoing basis, whether new documents, programs, services, and activities need to be made accessible for LEP individuals, and they may want to provide notice of any changes in services to the LEP public and to employees. Recipients should incorporate the following steps into their LEP plans:

- a. Establish a process to obtain feedback on your agency’s language assistance measures;
- b. Obtain feedback from community members and from agency staff;
- c. Conduct internal monitoring to determine whether language assistance measures and staff training programs are working;
- d. Make changes to the language assistance plan based on feedback received; and
- e. Consider new language assistance needs when expanding service

D. Providing Notice to LEP Persons. This part should identify how the agency will advertise its language services to the LEP community.

- a. Inventory the existing public service announcements and community outreach the agency currently performs.
 - 1) Typical communication methods to the public:
 1. Signs and handouts available in vehicles and at stations
 2. Announcements in vehicles and at stations
 3. Agency websites
 4. Customer service lines
 5. Press releases
 6. Newspaper, radio, and television advertisements
 7. Announcements and community meetings.
 8. Information tables at local events
- b. Incorporate notice of the availability of language assistance into existing outreach methods. Agencies should provide notice of the availability of language assistance on a regular basis,

- in order to reach the greatest number of potential riders.
- c. Conduct targeted community outreach to LEP populations. Targeted community outreach can consist of meeting with agencies that serve LEP populations and attending community meetings and events to inform people of the agency's service in general and that language assistance is available.

Appendix D
List of Subrecipients with Approved LEP Plans

1.	Breckenridge
2.	Mesa County (Grand Valley Transit)
3.	Montrose County Senior Citizen Coalition
4.	Colorado Springs (Mountain Metro Transit)
5.	Roaring Fork Transportation Authority
6.	Neighbor to Neighbor Volunteers
7.	Durango
8.	Cripple Creek
9.	Gunnison Valley Transportation Authority
10.	Winter Park
11.	Mountain Express (Crest Butte)
12.	Snowmass Village
13.	Developmental Pathways
14.	Prowers Area Transit
15.	Via Mobility
16.	Easter Seals
17.	South Central Council of Govts.
18.	Greeley Evans Transit
19.	Family Health West
20.	Community Connections
21.	Discover Goodwill
22.	Glenwood Springs
23.	Lakewood
24.	Steamboat Springs
25.	Blackhawk
26.	Mountain Village
27.	Telluride
28.	Silver Key Senior Services
29.	La Plata County Senior Services
30.	Douglas County
31.	Summit County
32.	Dolores County Senior Services
33.	Lake County
34.	Grand County Council on Aging
35.	Bent County Transit
36.	Town of Telluride

37.	Horizons
38.	Pueblo
39.	El Paso Fountain valley Senior Citizens program
40.	San Miguel County

Appendix E
CDOT's Public Notice (English)



Request for Access to CDOT Programs & Activities

It is CDOT's objective to provide access to CDOT programs and activities for all individuals.

The following services are available:

Interpretation & Translation Services: CDOT provides reasonable language assistance free of charge upon request. Contact the Civil Rights & Business Resource Center at (800) 925-3427 to make translation or interpretation requests related to any CDOT public meeting or service.

Access for the Visually and Hearing Impaired: Dial 711 or (800) 659-3656 to reach Relay Colorado. Relay Colorado is a free service that provides full telephone access to people who are deaf, hard of hearing, deaf-blind, or speech-disabled.

Accessible Meeting Locations & Facilities: CDOT strives to provide services and hold meetings in locations accessible to people with disabilities. Contact the Civil Rights & Business Resource Center at (800) 925-3427 to make an accommodation request.

Your Rights Against Discrimination

The Colorado Department of Transportation operates its programs and services without regard to race, color, national origin, sex, age, and disability. Anyone who believes they have been excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any CDOT program or activity because of their race, color, national origin, age, sex, or disability may file a discrimination complaint with CDOT, the Federal Highway Administration, or the Federal Transit Administration.

To file a complaint, please contact one of the following:

CDOT Civil Rights & Business Resource Center 4201 East Arkansas Ave., Room 150 Denver, CO 80222 (800) 925-3427 dot_civilrights@state.co.us	Federal Highway Administration, Colorado Division 12300 West Dakota Avenue, Suite 180 Lakewood, CO 80228 (720) 963-3000	Federal Transit Administration, Region 8 1961 Stout Street, Suite 13-301 Denver, CO 80202 (303) 362-2400
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Si necesita informacion en Espanol, favor contactar (800) 925-3427.

Appendix F
CDOT's Public Notice (Spanish)



Solicitud de acceso a los programas y a las actividades del CDOT

El CDOT tiene el objetivo de proporcionar acceso a sus programas y a sus actividades a todas las personas.

Están disponibles los servicios siguientes:

Servicios de interpretación y traducción: El CDOT proporciona ayuda razonable en otros idiomas a pedido. Comuníquese con el Centro de Recursos de Negocios y Derechos Civiles (Civil Rights & Business Resource Center, CRBRC) en el (800) 925-3427 para solicitar traducciones o interpretaciones en relación con cualquier reunión pública o servicio del CDOT.

Acceso para las personas con problemas visuales y auditivos: Marque 711 o (800) 659-3656 para comunicarse con Relay Colorado. Relay Colorado es un servicio gratuito que ofrece acceso telefónico completo a las personas sordas, que tienen problemas para escuchar, sordas y ciegas o que tienen problemas del habla.

Ubicaciones para las reuniones e instalaciones: El CDOT se esfuerza por proporcionar servicios y llevar a cabo reuniones en ubicaciones accesibles para las personas con discapacidades. Comuníquese con el CRBRC en el (800) 925-3427 para solicitar accesibilidad.

Sus derechos contra la discriminación

El Departamento de Transporte de Colorado (CDOT) opera sus programas y servicios sin discriminar respecto de la raza, el color, el país de procedencia, el sexo, la edad o las discapacidades. La persona que piense que la excluyeron de la participación, que le negaron beneficios o que sufrió discriminación en relación con cualquier programa o actividad del CDOT debido a su raza, color, país de procedencia, edad, sexo o discapacidad puede presentar una queja ante el CDOT, la Administración Federal de Carreteras (Federal Highway Administration) o la Administración Federal de Tránsito (Federal Transit Administration).

Para presentar una queja, comuníquese con uno de los siguientes:

<p>CDOT Civil Rights & Business Resource Center 4201 East Arkansas Ave., Room 150 Denver, CO 80222 (800) 925-3427 dot_civilrights@state.co.us</p>	<p>Federal Highway Administration, Colorado Division 12300 West Dakota Avenue, Suite 180 Lakewood, CO 80228 (720) 963-3000</p>	<p>Federal Transit Administration, Region 8 1961 Stout Street, Suite 13-301 Denver, CO 80202 (303) 362-2400</p>
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Appendix G

CTS LanguageLink Interpretation Language List

INTERPRETATION LANGUAGE LIST

CTS LanguageLink provides spoken Interpretation Services in 240+ languages and/or dialects. If you do not see your target language listed here, please contact a CTS LanguageLink representative for more information at +1 800-208-2620.

A	Acholi	Duala	Ho
	Afrikaans	Dutch	Hunanese
	Akan	Edo	Hungarian
	Albanian	E	Iban
	American Sign Language	Efik	Ibang
	Amharic	Estonian	Icelandic
	Arabic	Ethiopian	Igbo (Ibo)
	Armenian	Ewe	Ilocano
	Ashanti	F	Indonesian
	Assyrian	Farsi (Persian)	Italian
	Azerbaijani	Fijian	J
B	Bambara	Filipino	Jaaxanke
	Basque	Finnish	Jakartanese
	Bassa	Flemish	Japanese
	Behdini	French	Javanese
	Belarusian	French Canadian	K
	Bengali	French Creole	Kakwa
	Bosnian	Frisian (West)	Kanjobal
	Bulgarian	Fujianese	Kankanay
	Burmese	Fukinese	Kannada
C	Cantonese	Fula	Karen
	Cape Verde	Fulani	Kashmiri
	Catalan	Fuzhou	Kayah
	Cebuano	G	Kazakh
	Chabacano	Ga	Khmer (Cambodian)
	Chaldean	Gaelic	Kikamba
	Cham	Ganda	Kikuyu
	Chamorro	Garre	Kinyarwanda
	Chau-jo	Georgian	Kirghiz
	Cherokee	German	Kirundi
	Chinese	Gilaki	Korean
	Choujo	Grebo	Kosrae
	Chuukese	Greek	Kpelle
	Creole	Greenlandic	Krahn
	Croatian	Gujarati	Kurdish
	Czech	H	Lakota
D	Danish	Haitian Creole	Laotian
	Dari (Persian)	Haka Burmese	Latin
	Dimli	Hakka	Latvian
	Dinka	Harari	Lebanese
		Hausa	Liberian
		Hebrew	Lingala
		Hindi	
		Hmong	

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INTERPRETATION LANGUAGE LIST

CTS LanguageLink provides spoken Interpretation Services in 240+ languages and/or dialects. If you do not see your target language listed here, please contact a CTS LanguageLink representative for more information at +1 800-208-2620.

M	Lithuanian	Q	Papiamento	T	Tagalog
	Luganda		Pashto		Tahitian
	Luo (Dhuluo)		Polish		Taiwanese
	Maay		Ponapean		Tajiki
	Macedonian		Portuguese		Tamal
	Malagasy		Portuguese Brazilian		Tamang
	Malay		Portuguese Creole - Cape Verdean Creole		Tamil
	Malayalam		Potwari		Tarasco
	Malaysian		Pulaar		Tatar
	Maltese		Punjabi		Telugu
	Mam		Quechua		Teochew
	Mandarin		Quiche		Thai
	Mandingo		Rhade		Thai Dam
	Mandinka		Romanian		Tibetan
	Mankon		Rundi		Tigrigna – Tigrinya
	Marathi		Russian		Toishanese
	Marshallese		Samoan		Tokelau
	Maylay		Sara		Tongan
	Meru		Serbian		Trukese (Chuukese)
	Mien		Serbo Croatian		Tshiluba
Mina	Shanghainese	Tsonga			
Mixteco	Shona	Tswana			
Mixteco Alto	Sichuan	Turkish			
Mixteco Bajo	Sicilian	Turkmen			
Moldovan	Sindhi	Twi			
Mongolian	Sinhala	U	Ukrainian		
Moroccan Arabic	Sinhalese	Urdu			
Myanmar	Slovak	Uzbek			
N	Nahuati	Slovenian	V	Vangali	
	Navajo	Somali	Vietnamese		
	Nepali	Soninke	Visayan (Cebuano)		
	Newari	Sorani	W	Welsh	
	Nigerian	Sotho	Wolof		
	Norwegian	Spanish (European)	Wu		
	Nuer	Spanish (Latin America)	Y	Yi	
	O	Ojibay	Spanish (Mexican)	Yiddish	
		Oromifa	Sudanese	Yoruba	
		Oromo	Swahili	Z	Zapoteco
P	Pahari	Swedish	Zulu		
	Palauan	Syrian			
	Pampangan				

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Appendix H
CTS LanguageLink Translation Language List

TRANSLATION LANGUAGE LIST

CTS LanguageLink provides written translation services in over 100+ languages. If you do not see your target language listed here, please contact a CTS LanguageLink representative for more information at +1 800-208-2620.

A	Afrikaans		Gujarati		Portuguese (European)
	Albanian		Haitian Creole		Punjabi (Panjabi)
	Amharic		Hebrew		R Romanian
	Arabic		Hindi		Russian
	Armenian (Eastern & Western)		Hmong		Rwanda
	Azerbaijani (Azeri)		Hungarian		S Samoan
B	Belarusian		Icelandic		Serbian
	Bengali		Igbo		Sinhala (Sinhalese)
	Bosnian		Ilocano		Slovak (Slovakian)
	Bulgarian		Indonesian		Slovene (Slovenian)
	Burmese		Italian		Somali
C	Cambodian (Khmer)		Japanese		Soninke
	Cape Verdean		J Karen		Spanish (European)
	Catalan		Kazakh		Spanish (Latin American)
	Cebuano		Kikuyu (Gikuyu)		Spanish (Mexican)
	Chamorro		Kirghiz		Swahili
	Chinese (Simplified)		Kirundi (Rundi)		Swedish
	Chinese (Traditional)		Korean		T Tagalog (Filipino)
	Chuukese		Kurdish		Tajik
	Croatian		Laotian		Tamil
	Czech		Latvian		Thai
D	Danish		Lithuanian		Tibetan
	Dari		M Macedonian		Tigrinya
	Dutch		Malay (Sabah)		Tongan
	Dzongkha (Bhutanese)		Malayalam		Turkish
E	Estonian		Maltese		Twì
F	Farsi (Persian)		Marshallese		U Ukrainian
	Finnish		Mien		Urdu
	Flemish		Mongolian		Uzbek
	French (African)		N Nepali (Nepalese)		V Vietnamese
	French (Canadian)		Norwegian		W Welsh
	French (European)		Nuer		Wolof
	Fula		O Oromo (Oromiffia)		Y Yiddish
G	Georgian		P Pashto (Pushto)		Yoruba
	German		Polish		Z Zande (Kizande)
	Greek		Portuguese (Brazilian)		Zulu

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Attachment 5-5. USDOT Standard Assurances

The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination

Assurances

DOT Order No. 1050.2A

The Colorado Department of Transportation (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA), is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including the FHWA, FTA, or FAA.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FHWA, FTA, and FAA assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all FHWA, FTA and FAA programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

"The Colorado Department of Transportation, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:

- a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the Colorado Department of Transportation also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA, FTA, and FAA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the FHWA, FTA, or FAA. You must keep records, reports, and submit the material for review upon request to FHWA, FTA, or FAA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

Colorado Department of Transportation gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FHWA, FTA, and FAA. This ASSURANCE is binding on Colorado Department of Transportation, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FHWA, FTA, and FAA funded programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

(Name of Recipient)

by _____
 Michael P. Lewis
(Executive Director)

DATED _____

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, (*Title of Modal Operating Administration*), as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the (*Title of Modal Operating Administration*) to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the (*Title of Modal Operating Administration*), as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the (*Title of Modal Operating Administration*) may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment,

unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the **(Title of Modal Operating Administration)** may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the Colorado Department of Transportation will accept title to the lands and maintain the project constructed thereon in accordance with **(Name of Appropriate Legislative Authority)**, the Regulations for the Administration of **(Name of Appropriate Program)**, and the policies and procedures prescribed by the **(Title of Modal Operating Administration)** of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the Colorado Department of Transportation all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto Colorado Department of Transportation and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the Colorado Department of Transportation its successors and assigns.

The Colorado Department of Transportation, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the Colorado Department of Transportation will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Colorado Department of Transportation pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, Colorado Department of Transportation will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the Colorado Department of Transportation will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the Colorado Department of Transportation and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by Colorado Department of Transportation pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, Colorado Department of Transportation will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, Colorado Department of Transportation will there upon revert to and vest in and become the absolute property of Colorado Department of Transportation and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

Attachment 5-6. CDOT FTA DBE Goal



**Colorado Department of Transportation
Federal Transit Administration
FFY 2017-2019 Disadvantaged Business Enterprise Goal**

Submitted by the
CDOT Civil Rights and Business Resource Center
August 1, 2016

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INTRODUCTION

This document details the methodology used by the Colorado Department of Transportation (CDOT) to establish its Disadvantaged Business Enterprise (DBE) overall goal for Federal Transit Administration (FTA) assisted contracts. This goal is established and tracked separately from CDOT's Federal Highway Administration (FHWA) overall goal. It applies primarily to CDOT's Division of Transit and Rail (DTR), which receives, distributes, and oversees the use of federal funds received by FTA.

CDOT established this goal in accordance with Part 26, Title 49 of the Code of Federal Regulations (49 CFR Part 26). As described below, CDOT evaluated the actual contracting opportunities to be offered using FTA funds, the ready, willing and able DBEs to participate in such opportunities, and other relevant evidence in order to determine its overall goal. CDOT proposes an FTA DBE goal of 2.88% for the three-year period, from October 1, 2016 through September 30, 2019 (FFY 2017-2019). CDOT expects to meet the full 2.88% with race-neutral measures.

CDOT FTA FUNDING BREAKDOWN

In FFY 2014-2016, CDOT received approximately \$57 million from FTA. While CDOT directly procures some services using FTA funds, most FTA funds (approximately \$48 million) are granted to transit providers in rural areas. CDOT anticipates administering approximately the same amount during the next three-year period.

CDOT grant partners (or subrecipients) use FTA funds for operating, administration and capital purchases. Subrecipients may contract for goods and services, creating indirect FTA-assisted contracting opportunities for DBE firms. CDOT's Civil Rights and Business Resource Center (CRBRC) surveyed DTR all of its grant partners to estimate available contracting opportunities in the FFY 2017-2019 period. Current grant partners reported actual spending amounts and perceived adjustments for the next three years. New grant partners were directed to complete the survey by estimating expenditures over the next three years. Approximately 75% of grant partners responded to the survey.

Of the total amount of FTA assistance CDOT received from FTA, CDOT determined that only 19% represents viable contracting opportunities. The other funds do not represent contracting opportunities to be included in the goal setting for one or more of the following reasons:

- The subrecipient meets the \$250,000 threshold for its own DBE program (38%);
- The funds are used for purchases from transit vehicle manufacturers (TVMs) (14%);
- The funds are used for non-contracting operating expenses (28%); or
- The funds are used for services provided by internal government offices (1%).

Contracting opportunities provided by grant partners who maintain their own DBE program are not included in CDOT's calculation. In accordance with USDOT guidance, the FTA funds provided to these grant partners are incorporated into the grant partner's direct FTA reporting. The funds and correlating opportunities are not included in CDOT's analysis.

The grant partners that maintain their own DOT-approved program include:

- Mesa County
- North Front Range Metropolitan Planning Organization

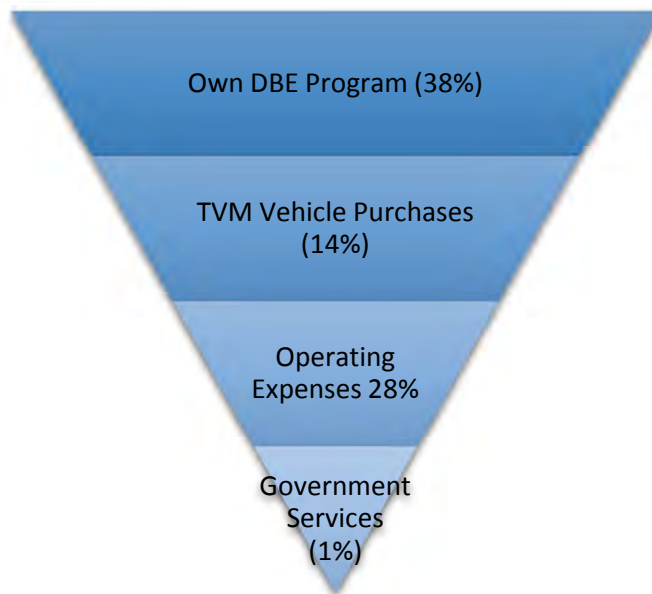
- City of Steamboat Springs
- Roaring Fork Transportation Authority
- Regional Transportation District
- City of Durango
- Greeley Evans Transit
- City of Colorado Springs dba Mountain Metropolitan Transit

CDOT has collected a copy of the DOT-approved DBE program for each direct recipient to confirm that each grant partner is a direct recipient. Due to changes in FTA funding, it is expected that Roaring Fork Transportation Authority will begin reporting to CDOT in FFY 2018.

Purchases from transit vehicle manufacturers (TVM) and operating expenses are also not considered contracting opportunities. TVM purchases are exempt since TVMs maintain their own DBE programs. Operating expenses are excluded per FTA guidance. Operating expenses include rent, utilities, employee wages, employment taxes, fringe benefits, licenses, fees, taxes, conferences, other travel expenses, and insurance.

Additionally, CDOT has exempted expenditures made within government organizations for services. For example, a subrecipient might use the services of a mechanical shop that is part of the city government to maintain its buses. As such, these expenditures with a local government do not represent a viable contracting opportunity for DBEs.

Below is a visual depiction of the use of FTA funds:



Contracting Opportunities = 19%

The FTA provides a significant and valuable financial contribution to support DTR and its grant partners. Yet, when exemptions are factored in, the potential for DBE contracting opportunities included in CDOT's overall goal setting is limited to approximately 19% of the FTA funding provided to CDOT.

The following goal calculations are based on the contracting opportunities created by the remaining 19%. The overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on these FTA-assisted contracts (hereafter, the “relative availability of DBEs”). To derive the overall goal, CDOT uses the two-step goal setting methodology specified in 49 CFR Section 26.45(c):

Step 1: Develop a base figure for relative availability of DBEs

Step 2: Adjust base figure, as needed, to arrive at an overall goal

STEP 1: DEVELOP A BASE FIGURE

Before beginning the base figure calculation, CDOT determined its local market area. As defined by the USDOT goal setting tips, the local market area in which the substantial majority of the contractors and subcontractors with which CDOT and its grant partners do business are located and the area in which CDOT and its grant partners spend the substantial majority of its contracting dollars. Although CDOT does not maintain statistical data regarding the local market, all grants awarded by CDOT were to rural providers located within Colorado. These grant partners primarily use these funds for local purchases. Therefore, CDOT has determined that the local market is the state of Colorado.

Additionally, before calculating weighted availability, CDOT determined the relative weight of each area of contracting. The survey completed by DTR and CDOT’s grant partners separated contracting opportunities into common areas of procurement, which include building construction, signage, non-TVM vehicle purchases, transportation materials, office equipment, office-related supplies, fuel, transit service provider, software, professional services, facilities maintenance, vehicle service, and other miscellaneous expenses. The Forecast Weight represents the percentage each anticipated contracting opportunity represents of the total estimated contracting opportunities.

Each contracting area was then correlated to NAICS codes so that CDOT could determine the relative availability of DBE. The relative availability of DBEs is defined as the total number of DBE firms that are ready, willing and able to perform the types of contracts CDOT anticipates awarding according. CDOT uses the approach suggested in 49 CFR 26.45(c)(1) which compares the number of available DBEs to all firms in the industry.

The number of available DBE firms within industry was derived from the CDOT Unified Certification Program (UCP) DBE directory. The Colorado UCP does not currently record primary NAICS codes for DBE firms. Therefore, CDOT evaluated all work codes assigned to the DBE firms and assigned one NAICS code that best correlated with the firm’s primary area of work.

Then, the total number of firms within each industry was identified from the most recent 2012 U.S. Census Bureau business data for Colorado. Consistent with DOT guidance, CDOT did not consider out of state DBE firms in order to ensure an “Apples to Apples” comparison of DBE firms to total number of firms for the specified NAICS codes.

CDOT’s calculations are provided in **Appendix A**. The Weighted Availability (Base Figure) of DBEs was determined by summing the following:

Relative Availability of DBEs = # of DBEs in industry/# of firms in industry

Forecast Weight = Contracting Area/Total Contract Opportunities

Weighted Availability = Relative Availability of DBEs x Forecast Weight

Total Weighted Availability (Base Figure) = **0.92%**

STEP 2: ADJUST BASE FIGURE

After calculating the base figure, CDOT examined all of the evidence available in its jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at the overall goal. This evidence included an evaluation of the past goal, past participation, participation in nearby states, and geographic distribution of DBEs.

The CDOT FTA goal for FFY 2014-2016 was 1.31%. This year's methodology was similar to the methodology used in FFY 2014-2016. CDOT considered subrecipients with their own DBE programs as exempt from the analysis because these subrecipients now report directly to the FTA. These subrecipients, their corresponding FTA funding, and the corresponding amount of DBE opportunities were all exempted from the calculations.

Similar to this analysis, last year's methodology indicated the largest contracting opportunities had little to no DBE availability. As shown in Appendix A, a larger number of DBE firms provide products and services in Building Construction, Engineering Services and Environmental Consulting, however, there are few FTA-funded contracting opportunities in these areas. In addition, there are little to no certified DBEs in several NAICS codes with larger annual contract spending such as Fuel (\$2,711,690), Transit Service Provider-Fixed Route (\$1,720,150), Non-TVM Vehicle Purchase (\$949,051), and Vehicle Service (\$885,476). Collectively, these NAICS codes represent over \$6.2 million in annual contracting opportunities for which there are little to no certified DBE firms.

The most significant difference in this year's methodology and the last methodology is the use of NAICS codes that more accurately correlate to the existing contracting opportunities. In this year's methodology, CDOT made the following adjustments:

- Removed the Urban Planning and the Road Construction categories because there were no contracting opportunities within these codes.
- Added the following codes to the Building Construction contracting opportunity: 238110 Poured Concrete Foundation and Structure Contractors, 238130 Framing Contractors, 238140 Masonry Contractors, 238150 Glass and Glazing Contractors, 238190 Other Foundation, Structure, and Building Exterior Contractors, 238210 Electrical Contractors and Other Wiring Installation Contractors, 238220 Plumbing, Heating, and Air-Conditioning Contractors, 238290 Other Building Equipment Contractors, 238310 Drywall and Insulation Contractors, 238330 Flooring Contractors, 238350 Finish Carpentry Contractors, 238390 Other Building Finishing Contractors, 238910 Site Preparation Contractors, and 238990 All Other Specialty Trade Contractors. These NAICS codes were added because the last methodology only included 236220 which limited the variety of potential firms that could participate in this category.
- Changed the NAICS code associated with software contracting from 541512 Computer Systems Design Services to 423430 Computer Peripheral Equipment and Software Merchant Wholesalers since grant partners reported that they were purchasing software, not hiring firms for software implementation.

- Removed 541810 Advertising Agencies and 541910 Marketing Research and Public Opinion Polling. These NAICS codes were used in the last methodology, but in this analysis CDOT determined they created a broader description than what was warranted by the contracting opportunity.
- Removed 811118 Other Automotive Mechanical, Electrical repair & Maintenance, 811192 Truck and bus washes, and 811198 All Other Automotive Repair and Maintenance included in the last methodology because NAICS codes 811111 General Automotive Repair and 811121 Automotive Body, Paint, and Interior Repair and Maintenance better described the contracting opportunities as reported by grant partners.
- Under transportation supplies, CDOT removed NAICS code 336 Transportation Equipment Manufacturing and replaced it with 423120 Motor Vehicle Supplies and New Parts Merchant Wholesalers and 423130 Tire and Tube Merchant Wholesalers which are more specific to the types of transportation supplies purchased by grant partners.

As a result of these changes, particularly the change from software services to goods, CDOT calculated less DBE availability than in the past. In the last methodology over 800 DBE firms were considered ready, willing, and able to perform contracting opportunities. In this year’s methodology, only 583 are considered to be ready, willing, and able pursuant to the correlating NAICS codes.

Past DBE Participation

Next, CDOT evaluated past participation. Table 1 lists CDOT’s annual DBE participation for the past five federal fiscal years.

Table 1: Awards Made on FTA-Assisted Projects

Time Period	\$ Awarded	# Awards	# of Awards to DBEs	\$ to DBEs	% Total to DBEs
FFY 2012	\$1,628,406	341	3	\$56,504	3.47%
FFY 2013	\$2,147,725	312	6	\$507,888	17.15%
FFY 2014	\$3,216,490	419	3	\$155,792	4.84%
FFY 2015	\$2,235,784	206	3	\$208,465	9.32%
FFY 2016 (1/2 of Year Only)	\$3,044,714	69	2	\$47,000	1.5%

As the table above demonstrates, CDOT has consistently exceeded its overall goal. While the accuracy of CDOT’s reporting is consistently improving, the proposed base figure of 0.92% is lower than all of the DBE participation from FFY 2012-2016. Therefore, pursuant to DOT guidance, CDOT chose to use the median past participation percentage to adjust the base figure and to ensure outliers were excluded. CDOT first determined the median past participation percentage (4.84%) and averaged it with the base figure percentage (.92%), resulting in a proposed DBE goal of 2.88%.

FTA Region 8 Comparison

CDOT also conducted a comparison of DBE goals within FTA Region 8. Region 8 includes Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. These mid-western states share similar geographic characteristics (mountains, plateaus and plains) and rural demographics.

As shown by Table 2, Colorado’s original DBE base figure was slightly lower than that of North Dakota and Wyoming, but significantly higher than Montana’s and Utah’s. However, the revised goal is significantly higher than all states in the Region. Nonetheless, this revised goal appears reasonable since Colorado has consistently exceeded its FTA DBE overall goal.

Table 2: Comparison with Region 8 States

State	FTA DBE Goal	Race Neutral	Race Conscious
Colorado (proposed)	2.88%	2.88%	0.00%
Montana	0.20%	0.20%	0.00%
North Dakota	1.15%	1.15%	0.00%
South Dakota	0.98%	0.98%	0.00%
Utah	0.36%	0.10%	0.26%
Wyoming	1.00%	1.00%	0.00%

DBE Geographic Distribution

CDOT also reviewed the geographic distribution of the DBE firms within NAICS codes that offered the greatest contracting opportunities. The review and analysis shows limited availability of DBE firms within areas that present upcoming opportunities on FTA-assisted projects. Most of the DBE firms are located within the Denver metropolitan area and along the Front Range, which extends from Ft. Collins through Colorado Springs to Pueblo.

The biggest contracting area and the highest weighted availability was in Fuel. However, as indicated by Table 3 below there are no DBE’s that are in rural areas where this contracting opportunity exist. Additionally, it should be noted that only one DBE out of the 65 shown below is in a rural area. This DBE is located in Elizabeth, Colorado. The majority of the DBEs that are ready, willing, and able are located in the Front Range which makes it difficult to have access to contracting opportunities in rural communities.

Table 3: Firm Distribution

Largest Contracting Opportunities	# DBE Firms	Front Range	Rural Areas
Non-TVM Vehicle Purchase	0	0	0
Office-related Supplies	2	2	0
Fuel	1	1	0
Software	1	1	0
Vehicle Service	3	3	0
Other Professional Services	55	54	1
Transit Provider-Paratransit	3	3	0
Transit Provider-Fixed Route	0	0	0

The table above shows a persisting issue of few DBEs in rural area. Nonetheless, CDOT and its grant partners often utilize DBE consultants who are willing to travel throughout the state. Therefore CDOT did not make an adjustment based upon the lack of DBEs in rural areas.

RACE-NEUTRAL VS. RACE-CONSCIOUS BREAKDOWN

To determine race-neutral and race-conscious split, CDOT evaluated the awards and commitments on FTA-funded projects to DBEs over the past year. Past opportunities from grant partners show that most DBE participation comes from contracts to DBE prime contractors. It may prove difficult to meet the goal if non-DBEs are selected for prime contracts that have traditionally gone to DBEs. However, CDOT will continue to attempt to achieve the participation through race-neutral measures.

CDOT employs the following race-neutral initiatives to increase DBE participation throughout the state:

- CDOT helps to maintain the **UCP DBE directory** as a primary source of DBE firms, certified by CDOT and the City and County of Denver, eligible to meet DBE participation requirements on FHWA, FAA and FTA-funded contracts in Colorado. The availability of the DBE directory makes it easier for subrecipients to identify and contact DBEs for potential contracting opportunities.
- CDOT developed the **Connect2DOT Program**, which is a partnership between CDOT and the Colorado Small Business Development Centers (SBDCs). The program is designed to help small businesses in the transportation industry become more competitive and successful in bidding and contracting. Connect2DOT offers business and technical support tailored to contractors and engineers, online access to bid plans, and various networking events to connect prime contractors and subcontractors. Connect2Dot also partners with industry organizations to ensure comprehensive support to help DBEs increase competitiveness, build capacity, and perform successfully.
- CDOT provides **training to subrecipients** to help them understand the DBE program and to encourage them to seek DBE participation on contracts. CDOT also encourages subrecipients to reach out to local businesses that may be eligible for certification.
- CDOT **provides education to DBEs** to understand opportunities with transit partners. For example, the CRBRC presented at the Southern Colorado Small Business Expo to educate DBEs about contracting opportunities with transit partners.

CONSULTATION

49 CFR 26.45(g)(1) requires consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and CDOT's efforts to establish a level playing field for the participation of DBEs. Because CDOT utilizes the Small Business Development Center (SBDC) network to provide supportive services to small businesses throughout the state, CDOT consulted with the SBDC directors at a regularly scheduled meeting and also reached out to each director to inquire about the availability of DBEs and potential barriers to contracting on FTA-assisted contracts.

The consultation indicated that DBEs were not aware of all of the contracting opportunities on the transit side of CDOT. It was also mentioned that very few DBEs existed in some of the rural areas of Colorado indicating very low availability of DBEs for available transit contracting opportunities. Furthermore, some of the directors reported difficulty finding DBEs. Finally, most transit providers on the western slopes are non-profits and do not produce a large amount of contracting opportunities.

The directors acknowledged the Connect2DOT Newsletter and CDOT and Connect2DOT attendance at local small business events as helping to increase participation. They suggested providing more information about potential opportunities with transit agencies.

PUBLIC PARTICIPATION

This proposed overall goal is currently posted on CDOT's Civil Rights and Business Resource website <http://www.coloradodot.info/business/equal-opportunity/dbe>. It was posted on July 8th and a notice to all DBE firms, industry organizations and grant partners was sent on the same day. CDOT welcomes input from all stakeholders. Questions and comments regarding this methodology can be submitted to Katherine Williams, Title VI and Small Business Programs Manager, Katherine.williams@state.co.us and/or Eboni Younger Riehl, Title VI Analyst and DTR Civil Rights Liaison, eboni.riehl@state.co.us.

APPENDIX A: Relative and Weighted Availability of DBE Firms


Contracting Opportunity	NAICS Code	NAICS Code Description	# of DBEs	Total Firms	Relative Availability	Forecast Weight	Weighted Availability
Building Construction	236220	Commercial and Institutional Building Construction	58	709	0.87%	1.48%	0.01%
	238110	Poured Concrete Foundation and Structure Contractors	31	1052			
	238130	Framing Contractors	2	1843			
	238140	Masonry Contractors	9	1206			
	238150	Glass and Glazing Contractors	2	371			
	238190	Other Foundation, Structure, and Building Exterior Contractors	13	659			
	238210	Electrical Contractors and Other Wiring Installation Contractors	52	3242			
	238220	Plumbing, Heating, and Air-Conditioning Contractors	17	4157			
	238290	Other Building Equipment Contractors	6	350			
	238310	Drywall and Insulation Contractors	19	1650			
	238330	Flooring Contractors	6	2342			
	238350	Finish Carpentry Contractors	7	3812			
	238390	Other Building Finishing Contractors	7	1337			
	238910	Site Preparation Contractors	33	1293			
	238990	All Other Specialty Trade Contractors	29	9365			
	Subtotal		291	33388			
Signage	339950	Sign Manufacturing	5	131	0.97%	0.02%	0.00%
	423990	Other Miscellaneous Durable Goods Merchant Wholesalers	6	999			
	Subtotal		11	1130			
Vehicle Purchase (non TVM)	423110	Automobile and Other Motor Vehicle Merchant Wholesalers	0	105	0.00%	11.45%	0.00%
Transportation Materials and Supplies for Vehicles (AB)*	423120	Motor Vehicle Supplies and New Parts Merchant Wholesalers	1	216	0.28%	0.20%	0.00%
	423130	Tire and Tube Merchant Wholesalers	0	37			
	Subtotal		1	358			

Office Equipment	423420	Office Equipment Merchant Wholesalers	1	53	1.89%	0.32%	0.01%
Office-related Supplies	424120	Stationery and Office Supplies Merchant Wholesalers	2	93	2.15%	1.09%	0.02%
Fuel	424710	Petroleum Bulk Stations and Terminals	0	39	1.15%	32.73%	0.38%
	424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)	1	48			
	Subtotal		1	87			
Transit Service Provider-Fixed route	485210	Interurban and Rural Bus Transportation	0	16	0.00%	20.76%	0.00%
Transit Service provider- Paratransit *	485999	All Other Transit and Ground Passenger Transportation	3	52	5.77%	4.42%	0.26%
Software	423430	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	1	1460	0.07%	5.12%	0.00%
Lawyer	541110	Offices of Lawyers	1	3665	0.03%	0.43%	0.00%
Accounting	541211	Offices of Certified Public Accountants	12	2298	0.52%	0.41%	0.00%
Engineering Services	541330	Engineering Services	90	4617	1.95%	0.35%	0.01%
Environmental Consulting	541620	Environmental Consulting Services	35	165	21.21%	0.01%	0.00%
Marketing/PR Services	541613	Marketing Consulting Services	20	968	2.83%	0.48%	0.01%
	541820	Public Relations Agencies	15	267			
	Subtotal		35	1235			
Other Prof. Services	541611	Administrative Management and General Management Consulting Services	44	2202	2.31%	8.49%	0.20%
	541614	Process, Physical Distribution, and Logistics Consulting Services	11	181			
	Subtotal		55	2383			
Facilities Maintenance	561720	Janitorial Services	18	12353	0.22%	0.85%	0.00%
	561730	Landscaping Services	23	6639			
	Subtotal		41	18992			
Vehicle Service	811111	General Automotive Repair	1	1516	0.15%	11.36%	0.02%
	811121	Automotive Body, Paint, and Interior Repair and Maintenance	2	514			

CDOT FTA DBE GOAL FOR FFY 2017-2019
 GOAL SETTING METHODOLOGY

	Subtotal		3	2030			
Drug Testing	621511	Medical Laboratories	0	78	0	0.02%	0.00%
	TOTAL		583	72,205	0.81%	100.00%	0.92%

APPENDIX B: CONTRACTING OPPORTUNITY SURVEY

	COLORADO Department of Transportation Office of the Chief Engineer
2016 DTR Overall Goal Survey	
Background Information	
* 1. Agency Name: <input type="text"/>	
* 2. Individual Completing Survey: <input type="text"/>	
* 3. Phone Number: <input type="text"/>	
* 4. Email: <input type="text"/>	
* 5. Are you a direct recipient of FHWA, FTA or FAA funds? <input type="radio"/> Yes <input type="radio"/> No	
6. If yes, from what agency and approximately how much each year? <input type="text"/>	
7. Do you expect to remain a direct recipient through September 2019? <input type="text"/>	

*** 8. Do you have a current DOT-approved DBE Program?**

Yes

No

9. If yes, on what date was your DBE program approved and when will it expire?



COLORADO

Department of Transportation

Office of the Chief Engineer

2016 DTR Overall Goal Survey

Use of Funds

Direct recipients that have a DBE approved program and expect to continue to maintain a DBE program through 2019 do not need to complete this page. Please email a copy of your DBE program to Eboni Younger-Riehl at eboni.riehl@state.co.us

- * 10. Enter the value of the total FTA dollars spent or encumbered by your agency between October 1, 2012 - September 30, 2015. Include contracts/expenditures as of the date they were awarded or the purchase was made, not the date they were invoiced or paid. If you are a new recipient or did not receive FTA funding for a full three year period, please estimate the FTA funds that will be used over the next three years for Q10-Q13.

Three Year FTA
Total

11. Exempt Expenses: From the total amount of FTA grants (Q10), how much did your agency use for the following? For the list of TVM manufactures, please cut and paste the following in your browser:
http://www.fta.dot.gov/12326_5626.html.

Rent and Utilities	<input type="text"/>
Payroll, employment taxes, and fringe benefits	<input type="text"/>
Licenses, fees, and other taxes	<input type="text"/>
Conferences and travel	<input type="text"/>
Insurance	<input type="text"/>
TVM purchases	<input type="text"/>
Government provided vehicle maintenance	<input type="text"/>
Government provided signs	<input type="text"/>
Government provided fuel	<input type="text"/>
Another government service provider	<input type="text"/>

* 12. Subtract the amount of the exempt expenses from the total amount of FTA grants (i.e. subtract the amount in Q11 from the amount in Q10). This is your remaining amount.

Remaining Amount:

13. Use of remaining amount: Of the remaining amount (Q12), provide the approximate amount that went or will go to each of the following (Round to the nearest \$100; If none, enter "0"). The total of the amounts listed below should equal the amount provided in your answer to Q12.

Fixed route transit service providers (non-government):	<input type="text"/>
Paratransit service providers	<input type="text"/>
Non-TVM vehicle purchase:	<input type="text"/>
Vehicle service and maintenance (non-government):	<input type="text"/>
Sign production (non-government):	<input type="text"/>

Transportation materials and supplies for vehicles (non-government):	<input type="text"/>
Transportation materials and supplies for shelters and facilities (non-government)	<input type="text"/>
Fuel (non-government):	<input type="text"/>
Building construction:	<input type="text"/>
Road construction and signage:	<input type="text"/>
Building/facility maintenance:	<input type="text"/>
Engineering Services:	<input type="text"/>
Urban planning:	<input type="text"/>
Environmental consulting services:	<input type="text"/>
Marketing and Public Relations Services:	<input type="text"/>
Accountants:	<input type="text"/>
Lawyers:	<input type="text"/>
Other professional services/consulting:	<input type="text"/>
Office related materials and supplies:	<input type="text"/>
Office equipment:	<input type="text"/>
Other - Please list and provide amount:	<input type="text"/>

14. Special Situations: If the past three year period does not reflect your average spending or if you have a special situation (i.e., large FTA funding project) coming up in the next few years, please explain these anomalies:

Attachment 5-7. DBE Program Subrecipient MOU



COLORADO DEPARTMENT OF TRANSPORTATION
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
SUBRECIPIENT MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into as of _____, 2015, by and between _____ (Subrecipient) and the Colorado Department of Transportation (CDOT).

WHEREAS, CDOT and Subrecipient are both direct recipients of federal funds from the United States Department of Transportation (USDOT) or a USDOT modal operating administration; and

WHEREAS, pursuant to 49 CFR Part 26, Subrecipient has a Disadvantaged Business Enterprise (DBE) Program Plan that was approved by _____ on _____ and valid until _____; and

WHEREAS, via a grant or other agreement CDOT also distributes USDOT funds to Subrecipient; and

WHEREAS, the guidance issued by USDOT provides that a direct recipient and subrecipient with a USDOT-approved plan may enter into an agreement whereby funds allocated to the subrecipient shall be incorporated into the subrecipient's DBE program and deducted from the base of the direct recipient's program (See FHWA Q & A 26.21, Posted 6/18/08); and

WHEREAS, CDOT and Subrecipient desire to enter into such agreement;

NOW THEREFORE, CDOT and Subrecipient agree to the following:

- Subrecipient will incorporate all USDOT funds received from CDOT in its reporting to the applicable USDOT operating administration and CDOT will reduce its base for reporting and goal calculations by the total amount of such funds;
- Subrecipient will continue to maintain a USDOT-approved DBE Program Plan and to set overall annual goals and contract goals in accordance with such plans;
- Subrecipient will provide CDOT with a copy of its semi-annual DBE report prior to June 1 and December 1 of each year;
- Subrecipient will monitor DBE compliance on USDOT-assisted projects and will provide CDOT's designated liaison with DBE reports and information upon request; and
- Subrecipient will promptly notify CDOT of concerns or complaints relating to subrecipient's DBE program or to DBE participation on USDOT-assisted projects.

This MOU sets forth the intent of the signatories hereto. This MOU may be executed in counterparts, each of which is an original and constitutes the same instrument. This MOU shall expire upon termination of Subrecipient's USDOT-approved DBE program.

SUBRECIPIENT

By: _____

Date: _____

Name: _____

Title: _____

COLORADO DEPARTMENT OF TRANSPORTATION

By: _____

Date: _____

Greg Diehl, CDOT DBE Liaison

Attachment 5-8. DBE Q&A



DBE FAQs for Subrecipients

1. What is a DBE?

Disadvantaged business enterprise or DBE means a for-profit small business concern—

(1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and

(3) Must be listed on the Colorado Unified Certification Program (UCP) DBE Directory at www.coloradodbe.org as a Colorado-certified Disadvantaged Business Enterprise.

2. What is the purpose of the DBE Program?

(1) To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs;

(2) To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;

(3) To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;

(4) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;

(5) To help remove barriers to the participation of DBEs in DOT-assisted contracts;

(6) To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients.

(7) To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and

(8) To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

3. When must I have my own DBE program?

If you are in one of these categories and let DOT-assisted contracts, you must have a DBE program meeting the requirements of this part:

- (1) All FHWA recipients receiving funds authorized by a statute to which this part applies;
- (2) FTA recipients receiving planning, capital and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) exceeding \$250,000 in FTA funds in a Federal fiscal year;
- (3) FAA recipients receiving grants for airport planning or development who will award prime contracts exceeding \$250,000 in FAA funds in a Federal fiscal year.

4. What are the subrecipient DBE requirements?

- (1) Reach out to DBEs to participate
- (2) Ensure non-discrimination in the award of a contract
- (3) Monitor and report DBE Participation semi-annually and triennially
- (4) Include DBE assurance and nondiscrimination language in contracts and solicitations

5. What are subrecipient responsibilities toward non-discrimination?

You must never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by this part on the basis of race, color, sex, or national origin.

In administering your DBE program, you must not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, sex, or national origin.

6. Are there specific provisions I must include in my contracts to ensure non-discrimination?

Each federal aid contract signed by your agency with a contractor, and each subcontract the prime contractor signs with a subcontractor must include the following assurance exactly as it is stated:

" The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor

shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible."

7. What Nondiscrimination language must be included in my agency's RFPs/Solicitations?

Include the following nondiscrimination assurance in all solicitations: "(Agency Name), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

8. What are my DBE requirements to subcontractors?

The DBE regulation requires that all subcontractors be paid within thirty (30) days of payment to the prime for work completed by the subcontractor. Colorado law requires payment within seven days on all construction contracts. Additionally, prime contractors must pay subcontractors all retainage within 30 days after the subcontractor's work is satisfactorily completed. This must be accomplished by one of the following methods:

- (1) decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors;
- (2) decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed; or
- (3) withhold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.

You must have methods to enforce the requirements of this section.

9. What are the DBE reporting requirements for subrecipients?

All sub recipients are responsible for reporting DBE participation. Direct recipients need to submit a copy of their FTA submitted semi-annual report. If you are not a direct recipient please complete all portions of the survey.

The Semi-Annual Survey was created by CDOT to collect information from subrecipients regarding contracting opportunities and DBE participation. A contracting opportunity refers to the procurement of any goods or services for which federal funds are used, not including salaries, benefits, utilities, or agreements with/payments to other public agencies. You will need to report the following information on the Semi-Annual Survey:

- In the Awarded/Committed section, you must report all contracts and subcontracts awarded during the reporting period. "Awarded" can include contracts awarded via a letting process or the procurement of goods and services in any other manner (i.e. purchasing supplies at a store).
- In the Actual Payment section, you must report payments on all completed contracts and subcontracts. "Completed" can include final payment (from you to the prime) on a large contract or more informal procurements that are awarded and completed in the same instant (i.e. purchasing supplies at a store). Therefore, informal purchases should be reported on both forms in the same period.
- In the "In progress" section, you must report payments on all contracts and subcontracts that have not yet been completed.

10. How often do I have to report?

The first reporting period is from October 1 to March 31st and the semi-annual Survey will be due no later than May 15th. The second reporting period is April 1st to September 30th and the semi-annual survey will be due no later than November 15th. At the end of each semi-annual reporting period, an e-mail will be sent to all subrecipients containing the link to the survey. Each subrecipient will have 2-3 weeks to complete the survey.

11. Where can I go to learn more about CDOT's DBE program?

CDOT's DBE webpage can be accessed at

<https://www.codot.gov/business/civilrights/dbe>

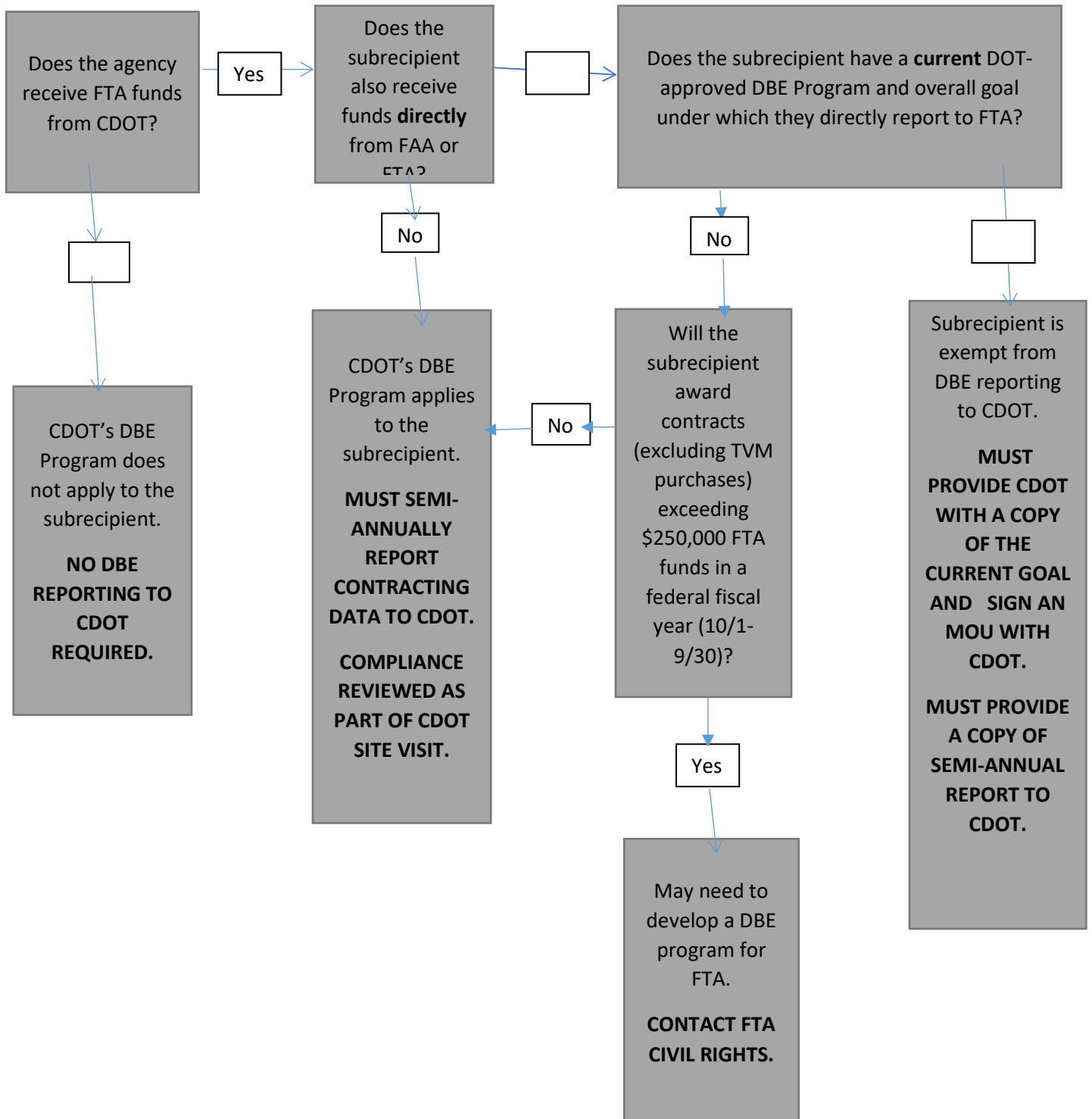
CDOT's DTR subrecipients webpage can be accessed at

<https://www.codot.gov/business/civilrights/DTR>

12. Where can I go to find DBE certified firms?

CDOT's DBE directory can be found at www.coloradodbe.org.

Overall DBE Goal Flowchart



Attachment 5-9. FTA EEO Program Review Checklist

Attachment 6

Sample EEO Program Contents Checklist

Recipient Name:				
TRAMS ID:				
Date EEO Program Was Reviewed:				
Review Conducted By:				
<p>This form serves as a sample internal checklist of the legal requirements and responsibilities of Federal Transit Administration (FTA) recipients under guidance provided in FTA Circular 4704.1A with regards to the Equal Employment Opportunity (EEO) Program Guidelines for Grant Recipients for purposes of regional Civil Rights Officer program review. This document is not intended to provide a comprehensive explanation of all requirements and responsibilities of FTA recipients related to EEO, nor is it intended to replace EEO guidance issued by the FTA or other related Federal Agencies. Refer to FTA Circular 4704.1A for specific and detailed guidance on preparing EEO Programs for FTA. This Circular can be found on FTA's website. This chart displays the main subject matter areas of Circular 4704.1A. Whenever possible, the numbering and lettering organization of this chart align with the organization of the Circular. Recipients are required to consider each of these topics in preparing their EEO Program documents.</p>				
2.2 EEO PROGRAM ELEMENTS	Addressed	Not Addressed	Inadequate	Review Comments
STATEMENT OF POLICY—C. 4704.1A 2.2.1				
Is there a written Statement of Policy by the CEO/GM:				
Does the statement:				
Express the agency's commitment that all employment actions, including but not limited to recruitment or recruitment advertising, hiring, upgrading, selection for training, promotion, transfer, demotion, layoff, termination, rates of pay or other forms of compensation, and treatment of employees will be administered without regard to race, color, religion, national origin, sex (including gender identity, sexual orientation, and pregnancy), age, genetic information, disability, veteran status, or other protected class				
Commit to develop a written nondiscrimination program that sets forth the policies, practices, and procedures, with goals and timetables, to which the agency is committed and make the EEO Program available for inspection by any employee or applicant for employment upon request				
Explain that the responsibility for implementing the EEO Program is assigned to an agency executive who reports directly to the CEO/GM				
State that applicants and employees have the right to file complaints alleging discrimination with the EEO Officer or office				
State that retaliation against an individual who files a charge or complaint of discrimination, participates in an employment discrimination proceeding (such as an investigation or lawsuit), or otherwise engages in protected activity is strictly prohibited and will not be tolerated				
State the agency's commitment to provide reasonable accommodations to applicants and employees who need them because of a disability or to practice or observe their religion, absent undue hardship				

State that all management and supervisory personnel share in this responsibility and are assigned specific tasks to ensure and achieve compliance				
State that the agency evaluates the performance of managers, supervisors, and others based on the success of the EEO Program in the same manner that the agency evaluates their performance in other agency programs				
Provide the name and contact information for the EEO Officer				
Provide the Signature and Date of GM or CEO				
DISSEMINATION—C. 4704.1A 2.2.2				
Does the dissemination section include:				
Providing written communications from the CEO/GM (i.e., policy statement)				
Posting official EEO materials (e.g., Federal and state labor laws poster(s) and the agency’s policy statement) on bulletin boards, near time clocks, in employees’ break rooms, and in the employment/personnel office				
Including the EEO policy statement in the agency’s personnel and operations manual, employee handbooks, reports and manuals				
Meeting with top management officials (e.g., bus operations, human resources, planning, marketing, etc.) at a minimum semiannually to discuss the EEO Program and its implementation				
Meeting with all employees and affinity groups to seek input on the program implementation				
Conducting periodic EEO training for all employees and for managers				
Conducting EEO training for all new supervisors or managers within 90 days of their appointment				
Externally, does the agency state:				
When there is outreach or advertising to recruitment entities (e.g., employment agencies, educational institutions, minority, and women organizations), the agency will disseminate their policy to those entities				
All recruitment ads (e.g., newspapers, magazines, websites, and social media) must state that the agency “is an equal employment opportunity employer”				
DESIGNATION OF PERSONNEL—C. 4704.1A 2.2.3				
Do the EEO program office responsibilities include:				
Developing the EEO policy statement and a written EEO Program				
Assisting management in collecting and analyzing employment data, identifying problem areas, setting goals and time tables, and developing programs to achieve goals				
Designing, implementing, and monitoring internal audit and reporting systems to measure program effectiveness and to determine where progress has been made and where proactive action is needed				
Reviewing the agency’s nondiscrimination plan with all managers and supervisors to ensure that the policy is understood				
Concurring in the hiring and promotion process				
In conjunction with human resources, periodically reviewing employment practices policies (e.g., hiring, promotions, training), complaint policies, reasonable accommodation policies, performance evaluations, grievance procedures, and union agreements				

Reporting at least semiannually to the CEO/GM on each department's progress in relation to the agency's goals and on contractor and vendor compliance				
Serving as liaison between the agency, Federal, state, county, and local governments, regulatory agencies, minority, women, disability organizations, and other community groups				
Maintaining awareness of current EEO laws, and ensuring the laws affecting nondiscrimination are disseminated to responsible officials				
Investigating complaints of EEO discrimination				
Providing EEO training for employees and managers				
In conjunction with human resources, advising employees and applicants of available training programs and professional development opportunities and the entrance requirements				
Auditing postings of the EEO policy statement to ensure compliance information is posted and up to date				
Do the agency officials, supervisors and managers' responsibilities include:				
Participating actively in periodic audits of all aspects of employment to identify and to remove barriers obstructing the achievement of specified goals and objectives				
Holding regular discussions with other managers, supervisors, employees, and affinity groups to ensure agency policies and procedures are being followed				
In conjunction with the EEO Officer, maintaining and updating the personnel database for generating reports required for the nondiscrimination program				
Cooperating with the EEO Officer in review of information and investigation of complaints				
Encouraging employee participation to support the advancement of the EEO Program (e.g., professional development and career growth opportunities, posting promotional opportunities, shadowing, mentoring)				
UTILIZATION ANALYSIS—C. 4704.1A 2.2.4				
Does the work force analysis include a statistical breakdown of the recipients' workforce by each department job category?				
Is the aforementioned cross-referenced by sex and race?				
Is the current percent of employees for each category cross-referenced by group?				
Is there an availability percentage identified for each category cross-referenced by group?				
Is the percentage of underutilization for each category cross-referenced by group?				
GOALS AND TIMETABLES—C. 4704.1A 2.2.5				
Are there specific and detailed percentage and numerical goals with timetables set to correct any underutilization of specific affected classes of persons identified in the utilization analysis? There are long-term (in percentages) and short-term (numbers and percentages).				
Are previous goals that were not met discussed and a justification given for not meeting those goals?				
EMPLOYMENT PRACTICES—C. 4704.1A 2.2.6				
Is there a detailed narrative assessment of present employment practices (e.g., hiring, recruitment, training)?				

Do the analyses contain statistical data to document the impact of the employment practices by sex and race?				
Does the statistical analysis contain:				
The number of applicants for employment in each job category and the number hired, cross-referenced by sex and race				
The number of employees in each job category who applied for promotion or transfer and the number in each job category promoted or transferred, cross-referenced by sex and race				
The number and types of disciplinary actions (e.g., indefinite suspension, loss of pay, demotion), tailored to the language used in union contracts and agency policies and procedures				
The number of voluntary/involuntary terminations, cross-referenced by sex and race				
Job category training that fosters promotion potential, cross-referenced by sex and race				
Individuals with Disabilities and Veterans, the number of applicants for employment and promotions in each job category and the number hired and promoted, cross-referenced by sex and race				
MONITORING AND REPORTING SYSTEMS-C. 4704.1A 2.2.7				
Is there a monitoring system that describes:				
Methods to monitor the EEO components identified in this chapter (e.g., dissemination, utilization analysis, statistical employment practices, timeframe to reach goals, all identified barriers and the progress of the action plan)				
Procedures used to determine EEO compliance of subrecipients and contractors such as collection and review of their EEO Programs, visits to facilities to ensure proper posting of the EEO Policy Statement, etc.				
Procedures for reviewing union contracts, in conjunction with human resources, to ensure there is not a disparate impact				
Process for monitoring complaints (e.g., describe the tracking system, monitoring of trends, timeliness of investigations, resolutions, reporting to management)				
Is there a reporting system that describes:				
Meetings held between the CEO/GM and the EEO Officer to discuss the progress of the EEO Program and the results of the monitoring (including but not limited to, hiring, promotions, status of EEO complaints)				
All program EEO-related meetings held between the EEO Officer and management, including topics covered, follow-up actions				
EEO Officer's meetings with human resources and hiring officials to review current EEO goals and statistics on employment practices and policies (e.g., verifying that job descriptions contain legitimate position requirements and that all testing has been validated)				
REQUIRED EEO PROGRAM ATTACHMENTS				
List of subrecipients and contractors who are being monitored and the services they provide				
Proof of review of subrecipients and contractors' EEO Program (e.g., letter or memo to the subrecipient)				
Organization chart showing the reporting relationships of all directors, department heads, and executive leadership (include names and titles)				
A copy of the goals and timetables from the previous program submission				

Attachment 5-10. CDOT's ADA Guide



COLORADO

Department of Transportation

CDOT ADA Guide

FOR BUS AND TRANSIT OPERATIONS

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This version of the ADA Guide was finalized on August 4, 2015. This guide is intended for use by CDOT and its contracted operators. Any questions concerning the content of this guide should be directed to CDOT's Civil Rights Office by calling (800)925-3427 or by sending email to: dot_civilrights@state.co.us.

Introduction to ADA Guide

This document outlines standard operating procedures for all CDOT-owned transit operations, in regards to persons with disabilities and the Americans with Disabilities Act of 1990. US Code of Federal Regulations Title 49, Subtitle A, Part 37.161 states, "Public and private entities providing transportation services shall maintain in operative condition those features of facilities and vehicles that are required to make the vehicles and facilities readily accessible and usable by individuals with disabilities. These features include, but are not limited to, lifts and other means of access to vehicles, securement devices, elevators, signage and systems to facilitate communications with persons with impaired vision or hearing." The procedures by which CDOT and its operators will maintain these standards shall be detailed throughout the remainder of this text. CDOT and its operators will follow ADA guidelines at all times with the intention of providing the highest level of service to persons with disabilities, and all passengers. Any reference to a "Part" is a referral to US Code of Federal Regulations Title 49, Subtitle A, Part 27, Part 37, Part 38, and their subsections.

Standard Operating Procedures

Pre-Trip Inspection

Prior to departing on a scheduled route, bus drivers will complete the following:

- Check to make sure the lift is working and you have the tools to operate it manually if the hydraulic operation fails- Part 38.23(b)(4).
- Make sure you have a complete set of securement straps (front and rear floor straps, seat belt and shoulder harness) for each wheelchair position on the vehicle
- If you have any trouble with the lift or you do not have the proper equipment, you must notify your immediate supervisor for instruction before you leave the yard. If the supervisor advises you to proceed without the proper equipment, you must note the name of the Supervisor and what he/she told you on your trip sheet.
- Keep wheelchair securement areas open, with seats flipped up, so that tie-down areas are readily available for passengers in wheelchairs.

Loading, Unloading, and Securement Procedure

Drivers shall adhere to the following procedure when loading, securing, and unloading passengers in wheelchairs:

- Load passengers with disabilities prior to loading all other passengers, unless passenger with disability expressly volunteers to be loaded after all other passengers are boarded.
- Always ask permission prior to assisting any passenger with a disability or mobility device. Never touch the person, their mobility device, or their service animal without first receiving permission to do so.
- Prior to loading a passenger in a wheelchair, inform the passenger of the maximum weight limit of the lift. Ask them to verify that their combined wheelchair weight falls within this weight limit.

- Always position the wheelchair on the lift with the rear wheels next to the bus and the passenger facing away from the bus.
- Before lifting the chair, make sure that the brakes on the chair work and are applied. Ask the passenger if they would like to remain in the wheelchair and be tied down, or if they would prefer to be transferred to a seat.
- Attach the safety strap across the lift. Ask the passenger if they would like to set the brake or power down the wheelchair before the lift goes into motion.
- Carefully lift the wheelchair. No other passenger should be on the lift at the same time as the passenger using the wheelchair.
- Move the passenger using the wheelchair into the vehicle, and into the furthestmost tie down position (on driver's side), FACING FORWARD. This will leave open the tie down position closest to the lift in case a second passenger in a wheelchair boards the bus.
- If the passenger wishes to transfer to a seat, ask if you may assist them in any way. Ask them to transfer to the nearest available seat to the lift/securement areas.
- If the passenger wishes to remain in the wheelchair and be tied down, ask them where to attach the straps to the wheelchair. Attach the front straps to an integral portion of the frame. Try to get as close to a 45-degree angle on the strap as possible. Attach the rear straps to an integral portion of the frame and tighten.
- Never attach straps to the wheels or any removal part of the device. Never use "front" straps in the rear tie down position. Try to get as close to a 45-degree angle as possible. This will give you the most secure tie down.
- Offer the seat belt and shoulder harness to your passenger- Part 38.23(b)(7). The passenger is not required to use the seat belt and shoulder harness, but may choose to do so if the wheelchair is fully secured to the floor. NEVER allow a passenger to use the seat belt and shoulder harness if the wheelchair is not fully secured to the floor of the bus.
- After unloading the passenger using a wheelchair be sure to remove the straps from the floor anchors and properly stow them.
- If a third passenger in a wheelchair needs to be loaded on the bus when two wheelchairs are already occupying the existing tie down areas, ask the passengers in wheelchairs if any of them are willing or able to move to a regular seat. Per Part 37.205, if none of the passengers are able to transfer to a seat, the driver has a right to deny service to the final passenger in a wheelchair.

Per Part 38.23(b)(12): ***"Lifts shall accommodate persons using walkers, crutches, canes or braces or who otherwise have difficulty using steps. The platform may be marked to indicate a preferred standing position."*** If a passenger indicates a need to use the wheelchair lift to board the bus, load them prior to loading additional passengers, unless they expressly volunteer to be loaded after all other passengers have boarded.

Onboard Procedure

During the trip, drivers shall accommodate people with disabilities in the following ways:

- Always keep wheelchair securement areas open and available for passengers with disabilities. The seats in the securement areas shall only be flipped down if all other seats in the bus are already occupied. Per Part 37.167(j)(4): ***In all signage designating priority seating areas for elderly persons and persons with disabilities,***

or designating wheelchair securement areas, the entity shall include language informing persons sitting in these locations that they should comply with requests by transit provider personnel to vacate their seats to make room for an individual with a disability.

- For trips under three hours, notify the passengers that there will be no restroom stops available. Per Part 37.201(c) of the US Code Title 49, unscheduled rest stops are not required for express runs under three hours.
- For trips over three hours, notify the passengers of the possible restroom stop locations and the corresponding timeline/duration until that stop. Part 37.3(c): *If an OTRB equipped with an inaccessible restroom is making an express run of three hours or more without a rest stop, and a passenger with a disability who is unable to use the inaccessible restroom requests an unscheduled rest stop, the operator shall make a good faith effort to accommodate the request. The operator is not required to make the stop. However, if the operator does not make the stop, the operator shall explain to the passenger making the request the reason for its decision not to do so.*
- All stops will be announced over the speaker system, with simultaneous stop announcements on the on-board messaging system. If the automated speaker system is not functioning, the driver will announce the stops over the intercom. This ensures compliance with the ADA's Effective Communication requirements.
- Per Part 37.129, personal care attendants ride free, while companions are charged the same fare as the passenger with a disability they are accompanying.
- As per Part 37.123, to prevent potential abuse, the rule provides that a companion (e.g., friend or family member) does not count as a personal care attendant unless the eligible individual regularly makes use of a personal care attendant and the companion is actually acting in that capacity. As noted under §37.125, a provider may require that, as part of the initial eligibility certification process, an individual indicate whether he or she travels with a personal care attendant. If someone does not indicate the use of an attendant, then any individual accompanying him or her would be regarded simply as a companion.

Service Animal Procedure

Per Part 37.167(d), public transit providers are required to allow service animals to accompany their handlers onto the transit vehicle.

- Part 37.3 defines a service animal as "*any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.*"
- Drivers may not ask for documentation or proof of service animal status. These are the only two questions a driver may ask regarding a service animal: 1) Is that a service animal? and 2) What tasks has your service animal been trained to perform?
- Service animals must be under the handler's control at all times. If the handler is unable to lead the animal onto the bus themselves, the driver may choose to assist in boarding the animal. If the driver is uncomfortable with the animal, they are not

required to assist. Remember, the service animal is the handler's responsibility at all times.

- If any service animal begins acting aggressively or is causing a disturbance that threatens the safety of the driver or other passengers, the driver may ask the service animal and its handler to leave the bus at the next stop. In such a situation, the driver should call the field supervisor and inform him/her of the reason the service animal and its handler are being asked to debark the bus.
- Service animals must lay at the feet of the handler. They are not allowed to block the aisle or occupy a seat.
- Emotional Support Animals and Therapy Animals are not considered service animals under the ADA.

Scooter Procedure

Per Part 37.3: ***“Wheelchair” is defined in this rule as a mobility aid belonging to any class of three-or more-wheeled devices, usable indoors, designed or modified for and used by individuals with mobility impairments, whether operated manually or powered.***

It is important to note that although scooters may be classified as wheelchairs, persons using these scooters are able to transfer to another seat. For their own safety, you must encourage them to transfer to a seat. If they refuse, then you must follow the procedures as if they are using a wheelchair. Scooters are, due to their design, difficult to secure with 4 straps. Every reasonable attempt must be made to transfer the passenger to a seat, keeping in mind the passenger will most likely not be riding on this device while the vehicle is in motion. Follow this procedure for scooters:

- All scooters are to be secured on the authorized equipment by utilizing the straps in a manner that best suits the scooter type. It is always best to work with the owner/operator of the scooter to make sure we secure it in a manner that they are comfortable with.
- All scooter passengers need to move off their scooter and sit in a normal seat of the vehicle, if able.
- If the scooter is to be stowed below in a baggage bin, it must be able to be broken down to 75-pound components due to operator requirements and safety of the drivers/operators.
- Weight restrictions for the wheelchair lifts still apply, and the scooter combined weight cannot exceed the lift maximum.

Tie Down Refusal Procedure

NO DRIVER/OPERATOR HAS THE AUTHORITY TO MOVE A VEHICLE WITH AN UNSECURED WHEELCHAIR OR SCOOTER. Never move a vehicle unless all passengers utilizing wheelchairs have their chairs properly secured to the floor. In the rare event that a passenger refuses to allow you to secure the wheelchair, this is the policy you must follow:

- Advise the passenger that we need to secure the chair for their safety and the safety of the other passengers on the transit vehicle.

- If they still refuse, ask them if they are able to transfer to another seat that is already secured to the floor as this would be a safe location for them to ride.
- If they are unable to move to another seat and continue to refuse to allow you to secure their chair to the floor, you CANNOT move the bus until a Supervisor arrives on scene. At that time, follow the instructions of the supervisor.
- You CANNOT deny or threaten to deny transportation because they refuse to have their wheelchair secured to the floor, however, we can delay transportation until the Supervisor arrives on scene. Stating that it will take at least 15 minutes for the Supervisor to arrive will usually be enough to encourage the passenger to allow you to secure the chair.
- NO DRIVER/OPERATOR HAS THE AUTHORITY TO MOVE A VEHICLE WITH AN UNSECURED PASSENGER USING A WHEELCHAIR. ONLY A SUPERVISOR CAN MAKE THAT DECISION.

Transportation of Oxygen Cylinders Procedure

Per Part 37.367(h), transit providers ***“shall not prohibit an individual with a disability from traveling with a respirator or portable oxygen supply, consistent with applicable Department of Transportation rules on the transportation of hazardous materials.”*** Because oxygen is flammable and can even contribute to explosions, the utmost care must always be taken when handling oxygen cylinders. For transportation of oxygen cylinders in the passenger compartment, adhere to the following procedures:

- Oxygen should be transported on a bus only when medically necessary.
- Oxygen should be transported in a cylinder maintained in accordance with the manufacturer’s instructions. The manufacturer’s instructions are usually printed on a label attached to the cylinder.
- Before boarding, inspect each cylinder to assure that it is free of cracks or leaks, including around the valve area and pressure relief device. Listen for leaks; do not load leaking cylinders on the bus. Visually inspect the cylinders for dents, gouges, or pits. A cylinder that is dented, gouged, or pitted should not be transported.
- Limit the number of cylinders to be transported on board the vehicle to the extent practical. Transportation of oxygen cylinders within the passenger compartment shall be limited to one cylinder per person.
- Cylinders used for medical oxygen are susceptible to valve damage if dropped. Handle these cylinders with care during loading and unloading operations. Never drag or roll a cylinder. Never carry a cylinder by the valve or regulator. Carry the cylinder carefully using both hands.
- Do not handle oxygen cylinders or apparatus with hands or gloves contaminated with oil or grease.
- Each cylinder should be secured to prevent movement and leakage. Each cylinder should be loaded and secured in an upright position. “Secured” means that the cylinder is not free to move when the vehicle is in motion. The driver shall assist the passenger with the inspection of the cylinder and with securing the cylinder in the passenger seating area.

- Oxygen cylinders or other medical support equipment should never be stored or secured in the aisle, nor in an emergency exit pathway. Make sure the seating of the passenger requiring oxygen does not restrict access to exits or use of the aisle.
- Since the release of oxygen from a cylinder could accelerate a fire, each cylinder should be secured away from sources of heat or potential sparks. Announcements shall be made to all passengers cautioning them not to use lighters, matches or any smoking materials.
- When the bus arrives at a final destination, all cylinders shall be immediately removed from the bus.

For transportation of oxygen cylinders in the cargo compartment, adhere to the following procedures:

- Additional oxygen cylinders shall be stored in the center bay (or in a storage area furthest away from axles and brakes), right side, front wall area. The cylinders shall be secured upright, in wooden, plastic, or heavy cardboard boxes and shall be secured by rope or bungee cords to a non-moveable structure within the bus.
- Valves should be protected against damage.
- The driver shall personally inspect each cylinder prior to loading. The driver shall load the cylinders or shall personally supervise the loading of oxygen cylinders.
- The total weight for oxygen cylinders permitted in a bus cargo compartment is 99 pounds.

Transit Facilities

All CDOT owned facilities on a designated transit route shall adhere to ADA regulations. This includes access to and from bus stops via curb ramps that are specified to code. Any shelters shall be wheelchair-accessible and any existing permanent restroom facilities shall also be accessible. Curb ramps shall meet all ADA requirements including detectable warnings at boundaries between pedestrian access routes and vehicular routes (note: detectable warnings are not required at residential driveways or commercial driveways without yield or stop control).

CDOT shall encourage the owners of all non-CDOT stops/stations on designated routes to comply with all ADA regulations. On routes exceeding 3 hours, CDOT shall designate a facility with accessible restrooms that may serve as a restroom stop for people with disabilities. Unscheduled rest stops are not required for express runs under three hours.

Final Comments

CDOT will do everything in its power, at all times, to ensure that CDOT and its contracted operators comply with US Code Title 49, Subtitle A, Parts 27, 37, and 38. CDOT will keep a comprehensive log of any complaints and assertions that the Americans with Disabilities Act of 1990 has been violated by CDOT or its contractors. Any violations will be promptly addressed and a record of the appropriate resolution will be made.

Attachment 5-11. ADA FAQ Sheet

ADA Subrecipient FAQ Sheet

What is the Americans with Disabilities Act (ADA) and why is it important?

ADA is a law that protects and prohibits discrimination against individuals with disabilities and ensures equal opportunity and access for individuals with disabilities. CDOT is responsible for complying with this law and ensuring its subrecipients comply with this law and all ADA-related federal regulations.

Nondiscrimination

What are my requirements against discrimination?

A clear statement of organizational policy can help you clarify exactly how you will deliver public transit service in a non-discriminatory manner. These requirements apply to both fixed route systems and rural programs operating other types of public transit service. The U.S. DOT regulations specifically address these points:

- You cannot discriminate against a person with a disability in the provision of transportation service. (Section 37.5(a))
- You cannot, on the basis of disability, deny an individual with a disability the opportunity to use the general transportation system if that person is capable of using that service. (Section 37.5 (b))
- You cannot require that an ambulatory person with a disability use priority seating. (Section 37.5 (c))
- You cannot impose special charges on individuals with disabilities, including those who use a wheelchair. (49 CFR 37.5(d)) **Note that this is not the same as charging an ADA-eligible paratransit fare that is equal to the base fixed route fare times two (see section on ADA Paratransit Service Criteria).
- You cannot require that an individual with a disability be accompanied by an attendant. (Section 37.5(e))
- You cannot refuse service to an individual with disabilities because your insurance coverage or rates are based on the absence of individuals with disabilities. (Section 37.5(g))
- You are NOT required to provide service to an individual with disabilities if that individual engages in violent, seriously disruptive or illegal conduct. However, you cannot deny service to an individual with disabilities because his/her disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees or other persons. (Section 37.5 (h))

Staff Resources

What are the ADA requirements regarding my agency's capacity to ensure ADA compliance?

All subrecipients that operate a fixed route or demand responsive system shall ensure that personnel are trained to proficiency, as appropriate to their duties, so that they operate vehicles and equipment safely and properly assist and treat individuals with disabilities who use the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities (49 CFR 37.173). Training to proficiency means that, once trained, personnel can consistently and reliably operate accessibility features, provide appropriate assistance to individuals with disabilities, and treat riders in a respectful and courteous way.

For example, as Appendix D to 49 CFR 37.173 explains, "A paratransit dispatcher probably must know how to use a TDD and enough about various disabilities to know what sort of vehicle to dispatch. A bus driver must know how to operate lifts and securement devices properly. A mechanic who works on lifts must know how to maintain them. Cross-training, while useful in some instances, is not required, so long as each employee is trained to proficiency in what he or she does with respect to service to individuals with disabilities."

Complaints

What are the ADA requirements regarding complaint procedures?

- All subrecipients are required to have ADA complaint procedures. The complaint process shall designate at least one person to coordinate its efforts to comply with (49 CFR 37.17(a))
- Complaint procedures must also incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by ADA regulations. Pursuant to 49 CFR Parts 27, 38 and 39 the procedures shall meet the following requirements:
 - (1) The process for filing a complaint, including the name, address, telephone number, and email address of the employee designated under paragraph (a) of this section, must be sufficiently advertised to the public, such as on the entity's Web site;
 - (2) The procedures must be accessible to and usable by individuals with disabilities;
 - (3) The entity must promptly communicate its response to the complaint allegations, including its reasons for the response, to the complainant and must ensure that it has documented its response" (49 CFR 37.17(b)). This requirement is also in § 27.13(b).
- Section 37.17(b)(1) requires transit agencies to sufficiently advertise the process for filing a complaint, so that individuals know where to direct their complaints.
- Per § 37.17(b)(3), a transit agency must promptly communicate its response to the complainant, including the reasons for the response, and document this response for purposes of recordkeeping.

Can I combine my ADA complaint procedures with my Title VI procedures?

FTA notes that agencies can use the same process for accepting and investigating ADA and Title VI complaints. While agencies may find consolidating the processes more efficient, ADA complaints must be categorized distinctly from Title VI complaints in internal and external communications. For example, it is not appropriate to have a “Title VI Complaint FTA C 4710.1 Form” that includes “disability” as one of the bases for filing a complaint; this incorrectly implies that disability is a covered basis under Title VI. Instead, an agency may elect to have one “Discrimination Complaint Form,” or a similarly titled form, that covers both the Title VI and ADA bases and clearly distinguishes the two statutes

How long do I have to keep records of ADA-related complaints?

Each recipient shall keep on file for one year all complaints of noncompliance received. A record of all such complaints, which may be in summary form, shall be kept for five years. Each recipient shall keep such other records and submit to the responsible Departmental official or his/her designee timely, complete, and accurate compliance reports at such times, and in such form, and containing such information as the responsible Department official may prescribe. In the case in which a primary recipient extends Federal financial assistance to any other recipient, the other recipient shall also submit compliance reports to the primary recipient so as to enable the primary recipient to prepare its report” (§ 27.121(b)).

What are the potential areas of noncompliance?

- Bus drivers passing by riders using wheelchairs waiting at a bus stop
- Vehicle operators not announcing stops or identifying routes
- Personnel refusing to allow a rider’s service animal in a station or on a vehicle
- ADA paratransit vehicles arriving late

Maintenance of Vehicles and Facilities

What are the ADA requirements concerning the maintenance of accessibility features?

Section 37 Subpart G of the U.S. DOT Americans with Disabilities Act regulations describes how carefully you must attend to maintaining the accessibility features of your transit operations. The ADA addresses safety issues only insofar as it describes equipment and maintenance. The following points are highlights of the contents of Section 37, Subpart G:

- *General maintenance of accessibility features:* You must ensure that your vehicles and related transit facilities are maintained in operative condition so that they are usable by individuals with disabilities. You must promptly repair accessibility features if they are damaged or out of order. If an accessibility feature is out of order, you must also take reasonable steps to accommodate individuals with disabilities who would otherwise use the feature. Examples of this are shoveling snow around bus stops and providing a ride in a paratransit or supervisor’s vehicle to a fixed route passenger who gets stranded by an inoperative lift.



- *Keep vehicle lifts in operative condition:* You must create and follow a system of regular and frequent maintenance checks of lifts to determine whether the equipment is operative. Your vehicle operators must report any failure of a lift to operate in service as quickly as possible. For example, if you have a spare vehicle, the vehicle with the inoperative lift must be taken out of service before the beginning of the vehicle's next day of service and the lift must be repaired before the vehicle returns to service. If you do not have a spare vehicle available, such that taking the vehicle out of service would reduce the transportation service you are able to provide, you may keep the vehicle with the inoperative lift in service for no more than five days.

- *Lift and securement use:* You are not required to permit wheelchairs to ride in places other than designated securement locations, but you cannot deny transportation to a wheelchair or its user on the grounds that the device cannot be secured or restrained satisfactorily by the vehicle's securement system. You may recommend, but cannot require, that a user of a wheelchair transfer to a vehicle seat. Your personnel must assist individuals with disabilities who need or request assistance with the use of securement systems, ramps and lifts. If this requires the vehicle operator to leave his/her seat they must do so. You must permit individuals with disabilities who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle.

- *Training requirements:* Whether you are a public or private entity, if you operate a fixed route or demand responsive system you must ensure that your personnel are trained to proficiency, as appropriate to their duties. They must be able to operate vehicles and equipment safely and properly assist individuals with disabilities using the service in a respectful and courteous way, with appropriate attention to the difference among individuals with disabilities.

Service requirements

What are the general ADA service requirements as a transit provider?

- Your vehicle operators and other personnel must make use of the accessibility-related equipment or features required by 49 CFR Part 38.
- Your service information must be available in accessible formats to individuals with disabilities. This means your printed materials must be available, upon request, in accessible formats such as large print format, Braille, or CD. Online information should avoid the use of Flash and should be available in plain text to accommodate screen readers.
- You cannot refuse to permit a passenger who uses a lift to disembark from a vehicle at any designated stop, unless the lift cannot be deployed, the lift will be damaged if it is deployed, or temporary conditions at the stop, not under the control of the transit operator, preclude the safe use of the stop by all passengers.
- You cannot prohibit an individual with a disability from traveling with a respirator or portable oxygen supply provided the devices are properly secured under 49 CFR subtitle B, chapter 1, subchapter C. U.S. DOT Office of Pipeline Safety and Hazardous Materials.

- You must ensure that individuals with disabilities have adequate time to complete boarding or disembarking from the vehicle.
- You must ask that individuals sitting in the priority seating area, or fold-down seats in the wheelchair securement area, relocate if an individual needs to use that priority seating because of a disability or needs to secure a wheelchair.

Reasonable Modifications

What is a Reasonable Modification?

- Reasonable modification means that “the nature of an individual’s disability cannot preclude a public transportation entity from providing full access to the entity’s service unless some exception applies.”

What are my responsibilities under ADA to provide reasonable modifications to my services?

- “Public entities that provide designated public transportation shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability or to provide program accessibility to their services, subject to the limitations of 49 CFR 37.169(c)(1)–(3). This requirement applies to the means public entities use to meet their obligations under all provisions of this part” (§ 37.5(i)(3)).

What is my agency’s responsibility regarding reasonable modification requests?respond to reasonable modification requests?

“(1) A public entity providing designated public transportation, in meeting the reasonable modification requirement of 49 CFR 37.5(i)(3) with respect to its fixed route, demand responsive, and complementary paratransit services, shall respond to requests for reasonable modification to policies and practices consistent with this section.

(2) The public entity shall make information about how to contact the public entity to make requests for reasonable modifications readily available to the public through the same means it uses to inform the public about its policies and practices.

(3) This process shall be in operation no later than July 13, 2015” (§ 37.169(a)).

“The process shall provide a means, accessible to and usable by individuals with disabilities, to request a modification in the entity’s policies and practices applicable to its transportation services.

(1) Individuals requesting modifications shall describe what they need in order to use the service.

(2) Individuals requesting modifications are not required to use the term ‘reasonable modification’ when making a request.

(3) Whenever feasible, requests for modifications shall be made and determined in advance, before the transportation provider is expected to provide the modified service, for example, during the paratransit eligibility process, through customer service inquiries, or through the entity’s complaint process.

(4) Where a request for modification cannot practicably be made and determined in advance (e.g., because of a condition or barrier at the destination of a paratransit or fixed route trip of which the individual with a disability was unaware until arriving), operating personnel of the entity shall make a determination of whether the modification should be provided at the time of the request. Operating personnel may consult with the entity's management before making a determination to grant or deny the request" (§ 37.169(b)).

Subrecipient/Contractor Oversight

What are my agency's oversight requirements?

CDOT's subrecipients are required to sufficiently monitor their recipient and contractor ADA compliance. FTA does not dictate the specifics of an agency or state's monitoring efforts. When subrecipients contract with other entities (public or private), these other entities "stand in the shoes" of the subrecipient. 49 CFR 37.23 requires the subrecipient to ensure that the other entity meets the relevant Part 37 requirements. (See Circular 4710.1 Section 1.3.2.) FTA recommends that subrecipients enter into clearly worded and concise contracts with explicit service provision requirements, including minimum performance standards, incentives and penalties, and regular reporting.

Additional considerations regarding oversight include:

- Are the contractor's service provisions consistent with my agency?
- How is my agency verifying ADA compliance for contractors and subrecipients?
- Are my contractors and subrecipients aware of my agency's ADA-related policies and service provisions?
- Are my agency's ADA policies advertised?

Fixed Route

What other requirements specific to fixed route services should I be aware of?

If your system has stops that serve more than one bus line the ADA requires that you provide riders with a disability with the means of identifying which bus has arrived or to identify themselves as a person seeking a ride on a particular route. These external route identification announcements can be automated or spoken by the driver.

Just as external announcements can be used to identify the bus line and destination, it is required that internal announcements are made to inform riders of upcoming stops. Announcements should be made in advance of the stop, and they should follow a standard format.

This obligation can be met by requiring bus operators to announce stops or by using an automated stop announcement system on board the vehicle. It is recommended that the disability community and bus drivers be consulted when deciding what stops to announce to ensure the effectiveness of the system.

If your system includes fixed route service, you are required to provide complementary paratransit service to your customers who are unable to use the fixed route system

Demand Response

What are the demand specific ADA requirements?

If your organization runs a general public demand response system, it is not required that you also provide ADA complementary paratransit service; however, you are required to provide equivalent service for your passengers with disabilities (see the Equivalent service standards section below). Your system may operate non-accessible vans and buses as long as you provide equivalent service for people with disabilities in accessible vehicles. Unlike paratransit, you can have capacity constraints when operating general public demand response service as long as those capacity constraints effect all riders, those with and without disabilities, equally.

What are the applicable serve standards?

Service provided to individuals with disabilities should be equivalent to the service provided to other individuals in the following ways (49 CFR 37.105):

- Response time.
- Fares.
- Geographic service area.
- Hours and days of service.
- Restrictions or priorities based on trip purpose.
- Availability of information and reservation capability.
- Any constraints on capacity or service availability.

Deviated Route

What is the difference between deviated fixed route and demand response?

To be considered demand responsive rather than fixed route, route deviation services must accept deviation requests from all riders. Deviated fixed route services that limit route deviations only to riders with disabilities are not demand responsive services. These are fixed route services that require complementary paratransit. Some transit agencies operate a mix of route deviation and fixed route services. FTA considers the routes that permit all riders to request deviations as demand responsive. Routes that do not allow deviations are fixed route, and therefore complementary paratransit is required.

In other words, if your agency provides route deviations only to customers with disabilities, this service is then regarded as complementary paratransit service, and is held to the paratransit service criteria. If your agency with flexible service provides complementary paratransit service for its riders with disabilities, it must implement an eligibility determination (and appeal) process for those who would like to use the service. If the system's service allows all riders to request route deviations, the system is considered demand responsive and must follow the equivalent service requirements when serving riders with disabilities.

What are some common discriminatory practices subrecipients should avoid regarding deviated routes?

Subrecipients should ensure that deviated fixed route service policies and procedures do not discriminate against individuals with disabilities. Some examples of discriminatory practices include:

- Designating services as route deviation in plans and other documents, but not advertising them as such. To ensure that riders are aware of and able to use the service, FTA requires that transit agencies advertise the availability of route deviations (e.g., including the information on schedules and in other public information).
- Establishing restrictive policies for deviations that would significantly limit the use of the service by individuals with disabilities who are not able to get to and from designated stops and can therefore only use the service by requesting deviations. This would include:
 - Charging excessive surcharges for deviations
 - Establishing overly restrictive areas within which riders can request deviations
 - Limiting deviations to only certain trip purposes
 - Unreasonably capping the number of permitted deviations

Vehicles

What are the ADA requirements regarding vehicles?

All vehicles are required to have accessible features and each feature must be fully operational any time the vehicle is in use. This includes the following:

- Mobility aid accessibility – you must ensure that all vehicles have a lift or ramp to allow individuals with a disability, including individuals who use wheelchairs, to safely board, and there must be sufficient clearances to permit a user of a wheelchair or other mobility aid to reach a securement location. Vehicles in excess of 22 feet must have at least two securement locations, and smaller vehicles must have at least one. (49 CFR 38.23)
- You must ensure that doors, steps, and thresholds are slip resistant, and all steps, edges, thresholds, and the boarding edge of the ramp must have a band of contrasting color running the full length of the step or edge. Door height must be a minimum of 68 inches for vehicles in excess of 22 feet and a minimum of 56 inches for smaller vehicles. (49 CFR 38.25)
- You must place priority seating signs at the front of the bus, and your operators must ask other passengers to make those seats available to individuals with disabilities when necessary. You must also place signs at securement locations. (49 CFR 38.27)
- You must ensure that interior handrails and stanchions permit sufficient turning and maneuvering space for wheelchairs and other mobility aids to reach a securement location from the lift or ramp. Handrails or stanchions must also be located at the entrance to the vehicle. (49 CFR 38.29)
- You must install lighting at any stepwell or doorway. (49 CFR 38.31)

- If you have fare boxes, they must be located as far forward as practicable so as not to obstruct traffic in the vestibule. (49 CFR 38.33)
- You must install a public address system in any vehicle in excess of 22 feet that is used in multiple-stop, fixed route service. (49 CFR 38.35)
- You must ensure that stop request controls are located adjacent to the securement location in vehicles in excess of 22 feet that make multiple stops. These controls must be located between 15 inches to 48 inches off the ground, and must be operable with one hand. (49 CFR 38.37)
- Where you display destination or route information on the exterior of the vehicle, each vehicle must have illuminated signs on the front and boarding side of the vehicle. (49 CFR 38.39)

Facilities

What are the general requirements for constructing a facility?

If you are a public entity and you construct new facilities to be used for providing designated public transportation services, they must be readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs (49 CFR 37.41). If you are a public entity and you alter an existing facility or part of an existing facility used for providing designated public transportation services, and that alteration affects or could affect the usability of the facility, you must make the alterations in a way that is readily accessible to and usable by individuals with disabilities (49 CFR 37.43).

Complementary Paratransit

What are the service criteria for providing Complementary Paratransit?

ADA complementary paratransit service must be comparable to the fixed route service in a number of areas. Paratransit service criteria include the following (Section 37.131):

- Geographic area of service – transit systems that run fixed routes must also provide ADA complementary paratransit service within $\frac{3}{4}$ mile on either side of the fixed route; this is considered to be the maximum distance a rider would travel to reach a bus or train stop.
- Response time –the paratransit ride may not be provided more than an hour before or after the requested time.
- Fare- the one-way paratransit fare may be no more than twice the full fixed route fare for a similar trip. A rider’s personal care attendant may not be charged a fare. However, at least one additional accompanying individual must be permitted to board and will be required to pay the same fare as the rider (additional companions may accompany the ADA-eligible customer, if space is available).
- Hours and days of service—ADA paratransit service must be provided on the same days and during the same hours as fixed route service.
- Trip purpose—there may be no restrictions or priorities based on trip purpose. Service must be provided regardless of the nature of the trip.

When would “Origin-to Destination” service be necessary?

Pursuant to 49 CFR 37.129, you are required to provide complementary paratransit service that is “origin-to-destination.” As a transit provider, you can establish whether you will provide door-to-door or curb-to-curb service as your basic mode of paratransit service, but there may be times when you must offer service beyond this base level when required due to a passenger’s disability. FTA, in its Disability Law Guidance document, gives the following examples of when “origin-to-destination” service might be necessary:

The nature of a particular individual’s disability or adverse weather conditions may prevent him/her from negotiating the distance from the door of his/her home to the curb.

A physical barrier (e.g., sidewalk construction) may prevent a passenger from traveling between the curb and the door of his/her destination point.

Providing this level of service may require more time from the driver than on a base-level service stop, and because of this the FTA has deemed it reasonable that transit providers ask for advance notice from any passenger in need of this assistance when the reason for the additional assistance is known in advance of the trip.

You are permitted to temporarily suspend service to individuals who are repeated no-shows. A no-show does not count, however, if the ride was missed due to circumstances outside of the rider’s control. You should consult the DREDF Topic Guide on No-Shows in ADA Paratransit in order to establish what qualifies as a no-show and what situations are qualified to be beyond a rider’s control.

Service Animals

What is a Service animal?

Any guide dog, signal dog, or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing animal protection or rescue work, pulling a wheelchair, or fetching dropped items.”

You may ask if an animal is a service animal or ask what tasks the animal has been trained to perform, but you cannot require special ID cards for the animal or ask about the person’s disability.

What is the ADA-related requirement regarding service animals?

You must allow service animals to accompany individuals with disabilities in vehicles and facilities.

Accessible Formats

What constitutes an accessible format?

Accessible formats (also called alternate formats) are types of auxiliary aids and services provided to ensure communications access for people with impaired vision, speech, or hearing.

What are common accessible formats for blind or visually impaired persons?

- **Websites:** There are ways to format webpages and present text, photos, and graphics in order to make a website accessible to persons with disabilities. Key examples include: providing alternate text to describe images; using primary colors (like red or blue) for layout design and links; avoiding the use of Flash; providing closed captioning for videos; using plain fonts and appropriate sizes; and designing navigation that is easy to follow.
- **Electronic documents:** Blind or visually impaired persons who use computer screen-reading programs can read standard Word documents (the program speaks the monitor display). You will need to edit your materials to describe all photos, maps, and other graphics, as those elements are often not readable. US Department of Veterans Affairs' [Creating Accessible PDFs with Adobe Acrobat Professional](#) guide offers helpful information and step-by-step instructions.
- **Large print:** Font size should be 14-point or larger (usually 18-point) and the font typeface should be simple, like Arial or Helvetica. For some documents the text can be made bigger by simply using the enlarge feature of a photocopier or by revising the document and printing it with the larger font. Alternatively you can order large print formats of your materials from a printing company.
- **Braille:** It is important to offer materials in Braille format for those who need it. You can pay to have documents translated and printed into Braille, or you may consider purchasing a Braille printer, depending on the size of your agency and the needs of your community.
- **Audio recordings:** If requested, you should be able to provide an audio recording of printed information. This means the document is read out loud and recorded, usually onto a CD.
- **Deaf or hearing impaired persons:** TTY relay services consist of a relay operator (or communications assistant) that connects TTY calls with people who communicate by telephone. The operator converts voice-to-text and vice versa, with the text displayed on the user's TTY. TTY relay services are important to make sure deaf or hearing impaired individuals can access information about your services and the paratransit eligibility application process. A TTY is a teletypewriter, or text telephone, that allows a user to type text to another TTY user. TTYs are also known as Telecommunications Devices for the Deaf (TDD).
- **Colorado resource for hearing impaired or speech loss persons:** Relay Colorado is a free public service that enables people with hearing or speech loss who use a teletypewriter (TTY) or other assistive device to communicate with standard telephone users. The conversation is relayed between the two parties by a specially trained Relay Colorado Communications Assistant. Relay Colorado is available 24 hours a day 365 days per year.

Other considerations

It is important to note that you cannot assume what type of accessible format would be best for a customer with a disability, as explained in Part 37, Appendix D:

“A document does not necessarily need to be made available in the format a requester prefers, but it does have to be made available in a format the person can use. There is no use giving a computer disk to someone who does not have a computer, for instance, or a Braille document to a person who does not read Braille.” (App. D, 49 CFR 37.125)

It is also important to let your customers know that other formats are available and how they can request those formats. For example, the Roaring Fork Transportation Authority (RFTA) in Aspen, Colorado includes the following sentences at the top of the Paratransit page of their website:

“Schedule information is available in large print and audio tape. TTY (Text Telephone) users may call Colorado Relay at 1-800-659-3656. For a large print copy of a schedule call (970) 920-1905 ext. 4971.”

Resources

What resources are available to my agency regarding ADA-related requirements?

1. Title VI of the Civil Rights Act of 1964
2. 49 CFR part 27, 37, 38, and 39
3. FTA ADA Circular 4710.1
4. National RTAP: <http://nationalrtap.org/adatoolkit/>
5. ADA 101 Webinar: <http://nationalrtap.org/adatoolkit/Resources/ADA-101-Webinar-Q-A>
6. Easter Seals Project Action: Website Accessibility Online Toolkit
7. For more information, see the Federal Communications Commission's [711 for Telecommunications Relay Service](#) on the FCC website. For more information about TTY and TTY Relay Services in general, visit the [National Association of the Deaf website](#).
8. FTA ADA webpage: <https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/americans-disabilities-act>
9. CDOT’s ADA related website: <https://www.codot.gov/business/civilrights/ada>

For more information regarding CDOT’s ADA program please visit <https://www.codot.gov/business/civilrights/ada> or contact Civil Rights Specialist, Eboni Younger-Riehl at 303-757-9072 or eboni.riehl@state.co.us.

Attachment 5-12. ADA Review Checklist

ADA Review Checklist

If a subrecipient provides public transportation, complying with ADA includes:

- Requiring all fixed route providers to have a complementary paratransit program for individuals who are prevented from accessing the fixed route system.
- Requiring all new vehicles and facilities to be accessible.
- Providing alternative format information and services, such as sign language interpretation at public meetings upon request.
- Meeting signage requirements for stops and facilities.
- Fixed route stop call outs for persons with visual impairment.

1. Does subrecipient have evidence of notice to the public that the recipient does not discriminate in admission or access to, or treatment or employment in, its programs or activities? The notification shall also include an identification of the responsible employee designated pursuant to §27.13(a)

Yes No

Does the subrecipient provide information to the public regarding the availability of accessible services? Via:

Yes No

2. Is the subrecipient's staff knowledgeable regarding ADA service requirements appropriate to the specific services offered by the subrecipient to the public?

Yes No

3. Have the vehicle operators and other relevant staff been trained to interact with disabled individuals?

Yes No

4. Do you have a mechanism to capture, investigate and track ADA complaints?

Yes No

5. Have there been any complaints or lawsuits alleging discrimination on the basis of disability?

Yes No

If yes, what is the status or resolution of these complaints or lawsuits? Describe and please include the following information:

- Date of complaint, investigation or lawsuit filed.
- A summary of the allegation(s).
- The status of the complaint, investigation or lawsuit.
- Actions taken by the organization.

- Actions taken by any third-party organization receiving the complaint or notification of investigation or lawsuit.

6. Is there a fare schedule for riders with disabilities? (review operations schedule)

Yes No

7. Have you encountered any circumstances where your insurance provider would not cover a potential rider?

Yes No

8. Does the subrecipient require the driver to assist passengers with disabilities, if they need assistance, to board and de-board the vehicle?

Yes No

9. Does the subrecipient allow service animals to travel with persons with disabilities?

Yes No

10. Do the subrecipient's policies ensure adequate time for boarding and deboarding for persons with disabilities?

Yes No

11. Does the subrecipient require individuals with disabilities to use designated priority seats?

Yes No

12. Does the subrecipient have a policy for dealing with individuals who engage in violent, seriously disruptive, or illegal conduct?

Yes No

13. If yes, are supervisors, dispatchers, and vehicle operators trained on this policy?

Yes No

14. Is there an appropriate appeal process for any service refusals?

Yes No



Vehicles – General

15. Does the subrecipient pre-trip checklist include cycling the lift to ensure that it is in working order and checking for the presence and condition of the tiedowns in the securement area?

Yes No

16. Does the subrecipient require use of securements?

Yes No

17. Does the subrecipient have a written policy requiring use of securements?

Yes No

18. Does the subrecipient's allow the lift to be used by standees to board/deboard the vehicle?

Yes No

19. Are there any restrictions on the type of mobility devices allowed on the vehicles?

Yes No

20. How do you respond to mechanical issues (failures) to the lift or ramp while the vehicle is in service?

- What is the response time to actually providing the service?
- How many days out of service is the vehicle on average?
- Are there other accessible vehicles to fill in?

Yes No

Paratransit Only

21. Does the subrecipient allow Personal Care Attendants (PCA) to travel with persons with disabilities and at no cost?

Yes No

22. Does the subrecipient allow persons with disabilities using respirators or portable oxygen?

Yes No

23. Are fares charged to accompany individuals? Yes No

24. Who can accompany ADA paratransit eligible passengers?

25. Does the subrecipient have any non-accessible vehicles in their fleet?

Yes No



26. In situations where only non-accessible vehicles are available, how do you ensure that the needs of non-ambulatory persons are met?

Explain:

27. How are eligibility standards established for ADA paratransit passengers?

28. How quickly are decisions on eligibility made?

29. Do individuals have the ability to appeal a decision?

Yes No

30. How is the appeal process handled? Describe:

Demand-Response Services: Equivalent Service Standards

If entities operating demand response services plan to purchase vehicles that are not accessible, they must first make a determination that the services they will be providing (after the purchase of the inaccessible vehicle or vehicles) are “equivalent.” Therefore, if entities have inaccessible vehicles as part of their fleet that were purchased since the issuance of the regulations, the services they provide must be “equivalent.” If inaccessible vehicles are purchased, certification of equivalency must also be provided to CDOT.

31. What is the makeup of your fleet with regard to accessibility?

32. Is the demand response service provided for persons with disabilities equivalent to the service provided to other individuals with respect to the following service characteristics:

- Response time, Availability of information Fares Reservations capability
 Yes No
- Geographic area of service Constraints on capacity or service availability
 Yes No
- Hours and days of service Restrictions/priorities based on trip purpose
 Yes No

33. Are route deviations provided as part of the demand-response service?

Yes No

34. If so, are equivalency standards met for the route deviation service?

Yes No

35. Are trip denials documented?

Yes No



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36. Is the FTA definition of a trip denial used to record denials?

Yes No

37. Are the reasons for trip denials documented?

Yes No

38. Does the service operate without a substantial number of trip denials?

Yes No

Number of denials last year: _____

39. Is it noted on the trip denial form if the caller is disabled?

Yes No

40. Does the service operate without a substantial number of trip denials?

Number of denials last year: _____

Yes No

41. Do the reasons for trip denials include equipment?

Yes No

Website

Does your agency maintain the organization's website (if applicable) to include current ADA service provisions, information regarding Reasonable Modification requests, ADA policy statement, ADA complaint form, and ADA complaint procedures?

42. Does your agency website contain ADA Complaint Procedures?

Yes No

43. Does your agency website contain ADA Complaint Form?

Yes No

44. Does your agency website contain ADA-related service provisions?

Yes No

45. Does your agency website contain ADA nondiscrimination notice?

Yes No

46. Does your agency website contain information regarding your Reasonable Modifications Request?

Yes No

Attachment 5-13. Title VI and Environmental Justice Comparison Chart

D. What Are the Similarities and Differences Between Title VI and Environmental Justice?

Environmental justice principles have been confused with the requirements of Title VI. Here is a summary of the key differences between environmental justice and Title VI.

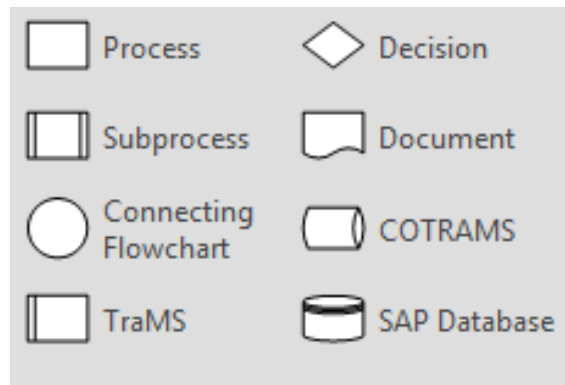
Key aspects of the authorities	Title VI	Environmental Justice
What is the basis for the authority?	Title VI is a Federal statute and provides that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.	The basis for addressing environmental justice is an Executive Order: EO 12898 directs each Federal agency to "make achieving environmental justice part of its mission." The EO was intended to improve the internal management of the executive branch and not to create legal rights enforceable by a party against the U.S.
What is the purpose of the authority?	Title VI prohibits recipients of Federal financial assistance (e.g., states, local governments, transit providers) from discriminating on the basis of race, color, or national origin in their programs or activities, and it obligates Federal funding agencies to enforce compliance.	EO 12898 calls on each Federal agency to achieve "environmental justice ... by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations...."
To whom does the authority apply?	Title VI is a Federal law that applies to recipients and subrecipients of Federal financial assistance (e.g., states, local governments, transit providers), and not to DOT itself.	EO 12898 applies to Federal agency actions, including DOT's and FTA's actions. Title VI is one of the tools used by Federal agencies to implement this directive.
What does the authority require, and of whom?	Under Title VI, DOT has the responsibility to provide oversight of recipients and to enforce their compliance with Title VI, to ensure that recipients do not use DOT funds to subsidize discrimination based on race, color, or national origin.	EO 12898 is a directive from the President of the United States to Federal agencies intended to improve the internal management of the Federal government. DOT issued its own Order implementing EO 12898, and updated the Order in May 2012 (Order 5610.2(a)).

Key aspects of the authorities	Title VI	Environmental Justice
<p>What does the authority say with regard to negative effects or impacts?</p>	<p>In accordance with 49 CFR part 21, and Title VI case law, if an otherwise facially neutral program, policy or activity will have a discriminatory impact on minority populations, that program, policy or activity may only be carried out if (1) the recipient can demonstrate a substantial legitimate justification for the program, policy or activity; (2) there are no comparably effective alternative practices that would result in less disparate impacts; and (3) the justification for the program, policy or activity is not a pretext for discrimination.</p>	<p>DOT implemented EO 12898 in its order on EJ, which provides that if a DOT program, policy or activity will have a disproportionately high and adverse effect on minority or low-income populations, that program, policy or activity may only be carried out if further mitigation measures or alternatives that would reduce the disproportionately high and adverse effects are not practicable. In determining whether a mitigation measure or an alternative is “practicable,” the social, economic (including costs) and environmental effects of avoiding or mitigating the adverse effects will be taken into account.</p>
<p>Does the authority create any rights or remedies?</p>	<p>Title VI allows persons alleging discrimination based on race, color, or national origin by recipients of Federal funds to file administrative complaints with the Federal departments and agencies that provide financial assistance. Persons alleging intentional discrimination (i.e., disparate treatment) may bring a court action seeking to enforce Title VI but cannot do so with regard to allegations of discrimination based on agency disparate impact regulations. Disparate impact complaints may be filed with the Federal agency.</p>	<p>EO 12898 establishes the Executive Branch policy on environmental justice; it is not enforceable in court and does not create any rights or remedies.</p>

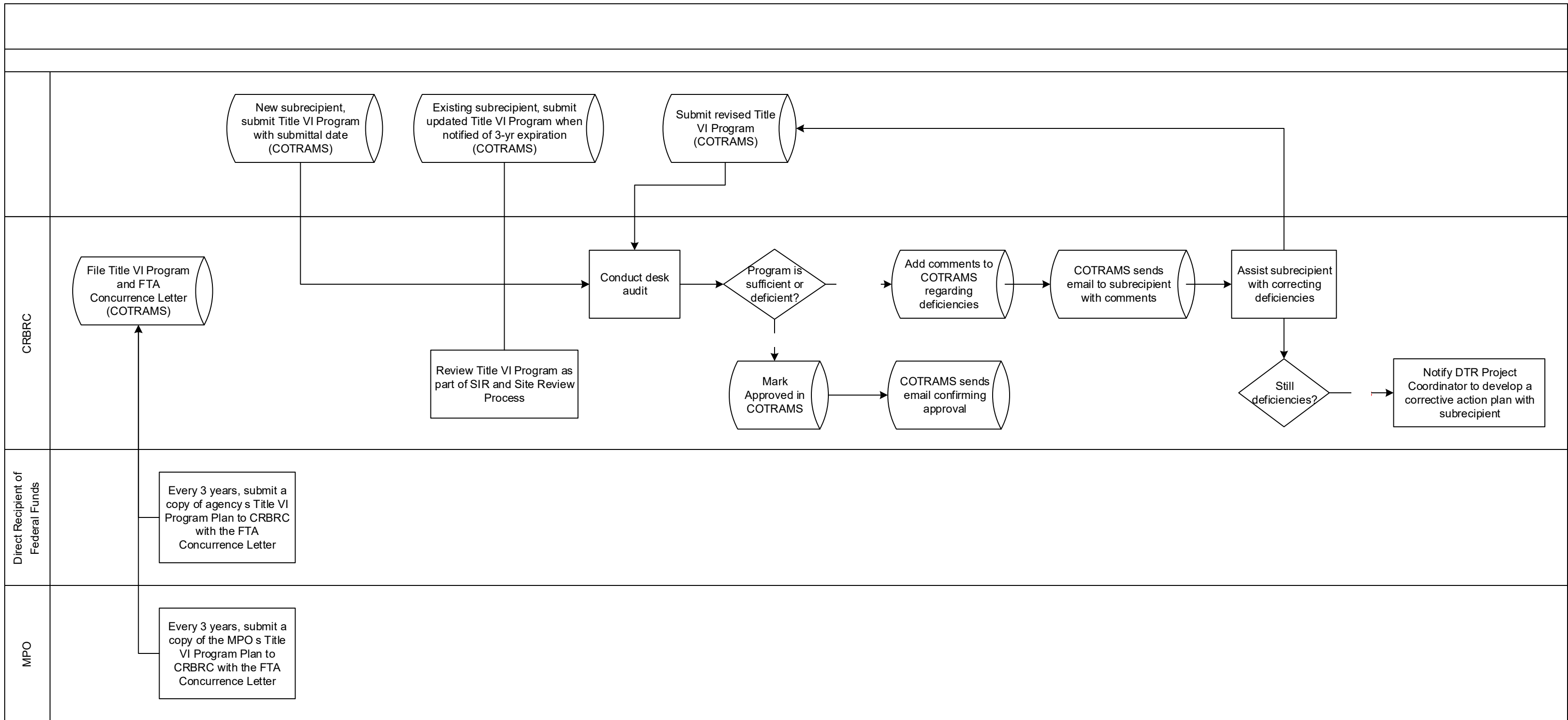
Thus, while Title VI is one tool for agencies to use to achieve the principles of environmental justice, it is important to recognize that Title VI imposes statutory and regulatory requirements that are broader in scope than environmental justice. You are cautioned that while there may be overlap, engaging in an EJ analysis under Federal transportation planning and the National Environmental Policy Act of 1969 (NEPA) provisions will not satisfy Title VI requirements, as outlined in FTA’s Title VI Circular. Similarly, a Title VI analysis will not necessarily satisfy environmental justice, given that Title VI does not include low-income populations. Moreover, Title VI applies to all activities

CHAPTER 5 FLOWCHARTS

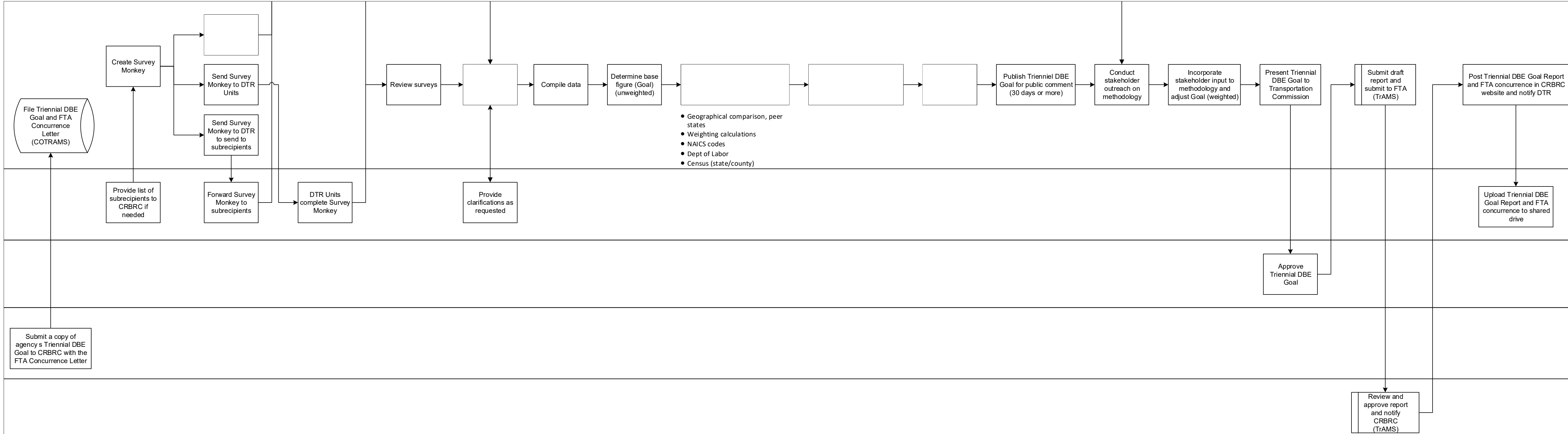
Flowchart Shapes/Key



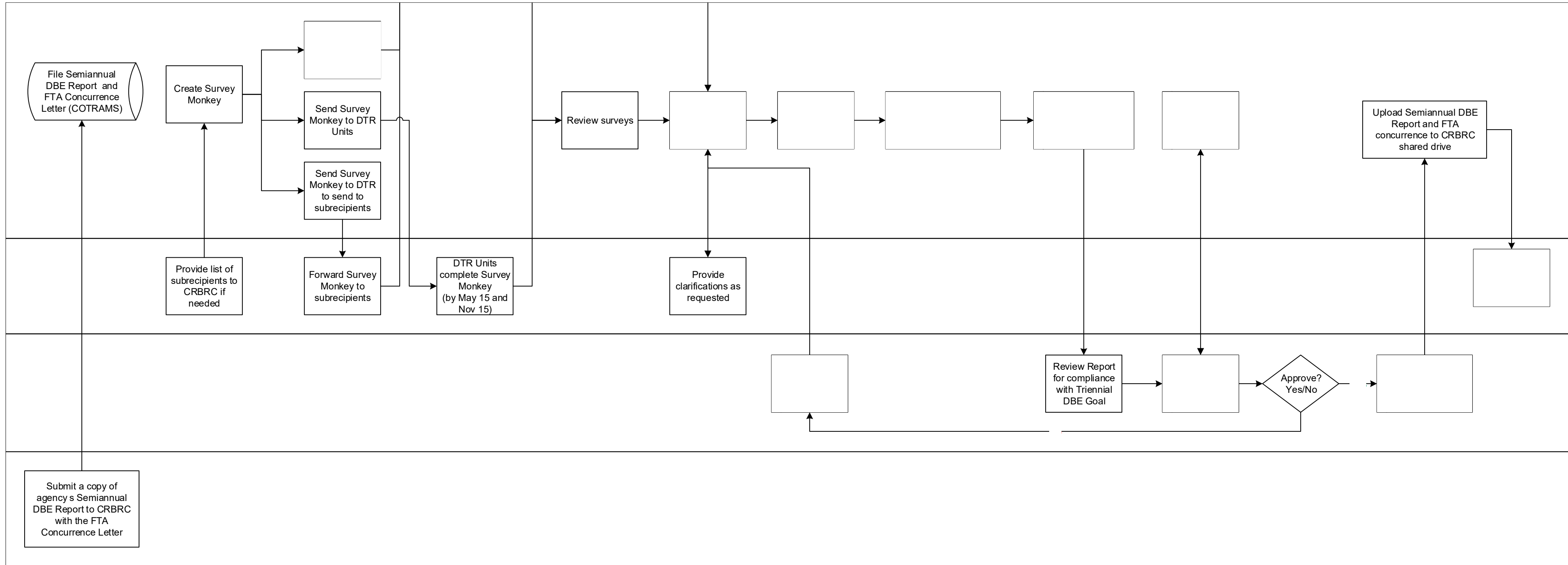
Flowchart 5-1. Title VI Program Submittal



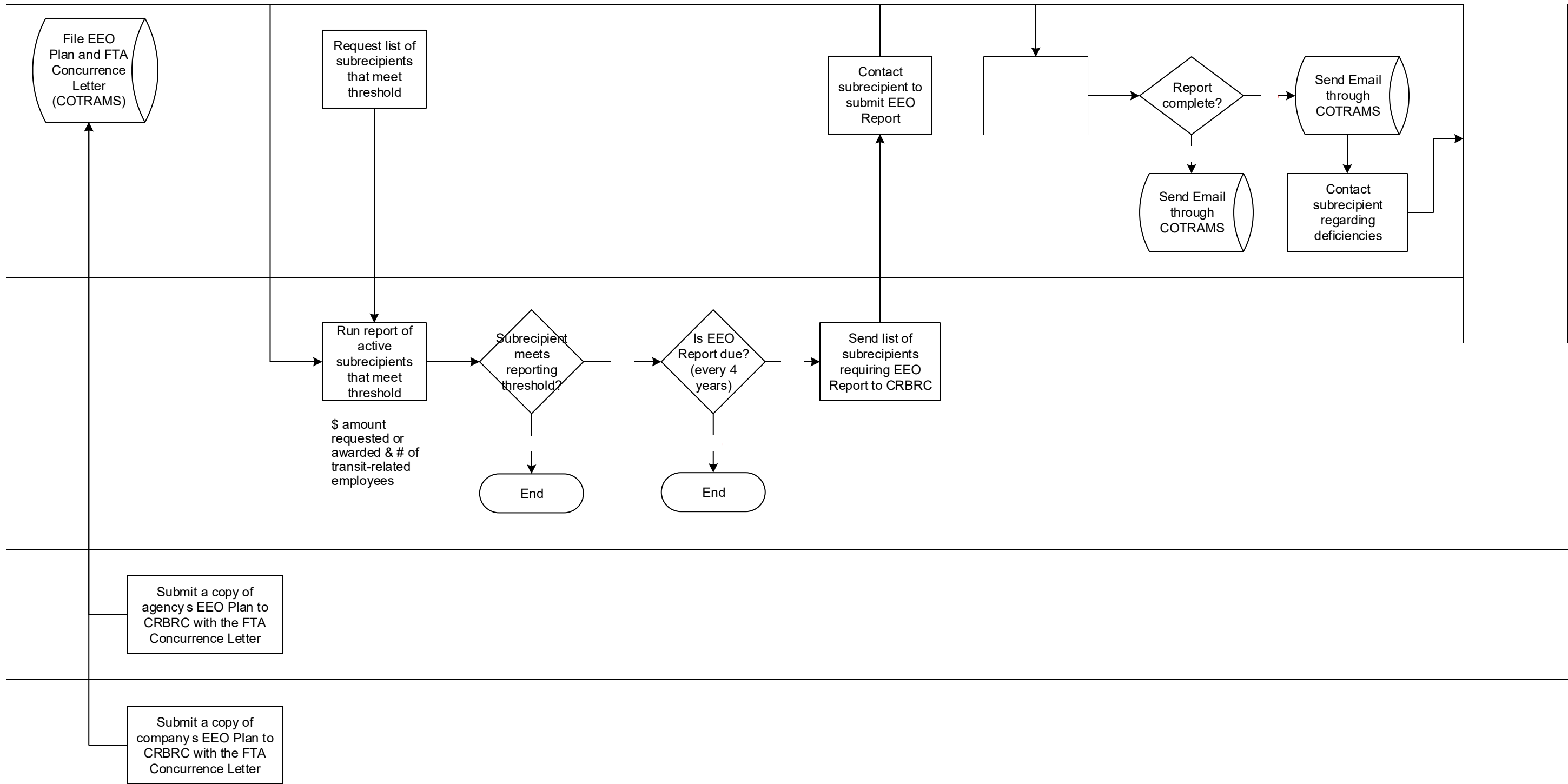
Flowchart 5-2. DBE Triennial DBE Participation Goal (FTA)



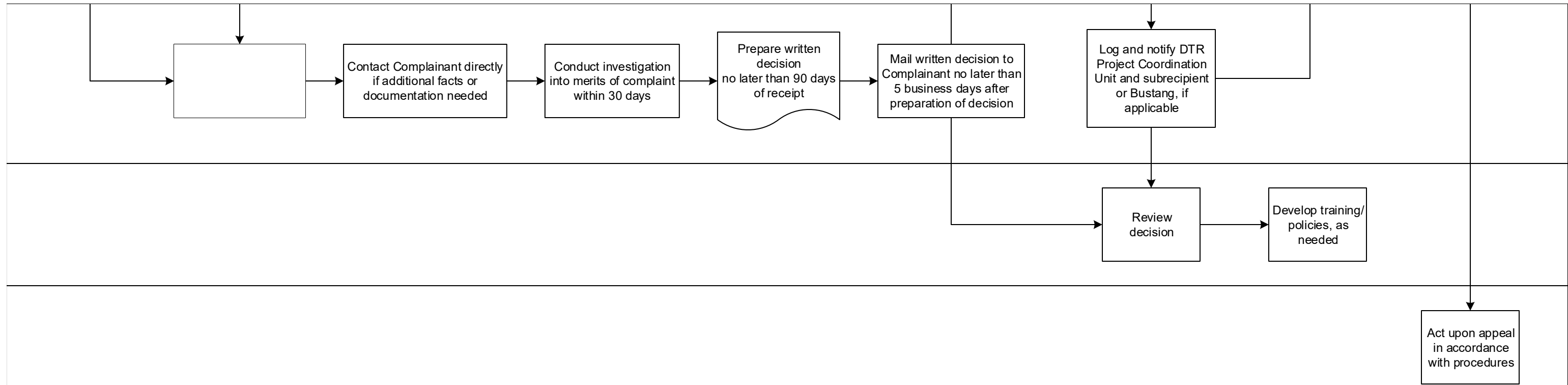
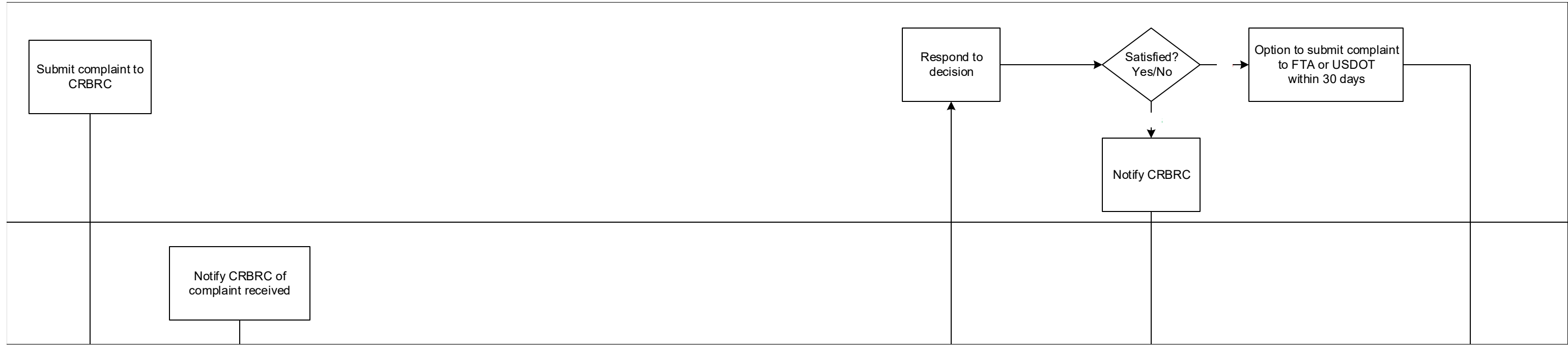
Flowchart 5-3. DBE Semiannual Report to FTA



Flowchart 5-4. EEO Tracking and Reporting



Flowchart 5-5. ADA Complaint Process





COLORADO
Department of Transportation

**DIVISION OF
TRANSIT AND RAIL
STATE MANAGEMENT PLAN**

CHAPTER 6
Program Management

Outline

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6 PROGRAM MANAGEMENT

6.1 Continuing Control

The Federal Transit Administration (FTA) has specific requirements related to assets purchased with FTA funds, such as real property, facilities, equipment, and rolling stock vehicles. The requirements are outlined in FTA Circular 5010.1E

(https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Grant%20Management%20Requirements%20Circular_5010-1E.pdf).

Project property means any real property, equipment, supplies, or improvements included in the costs of an FTA-assisted project, regardless of whether such property was acquired using FTA assistance, was provided as the nonfederal share, donated by a third party, or acquired in some other way.

The Division of Transit and Rail (DTR) is responsible for monitoring **a subrecipient's processes** and procedures related to the assets, as well as the condition and eventual disposal of the **asset. DTR's oversight of the assets occurs through monitoring of the asset inventory** maintained by subrecipient in Colorado Transit & Rail Awards Management System (COTRAMS), at scheduled Site Reviews (Chapter 4), and through coordination of the disposition of the assets.

6.1.1 Insurance Coverage

A subrecipient must provide adequate insurance coverage and documentation of the coverage for real property and equipment acquired or improved with federal and state funds. The Colorado Department of Transportation (CDOT) must be listed as the loss payee for the property and equipment. Insurance requirements are specified in the subaward agreement.

In the event of damage or loss, a subrecipient must notify DTR staff and enter the incident into the inventory in COTRAMS.

6.1.2 Safety & Security

A subrecipient is required to have procedures in place to securely store federal- and state-funded assets.

During a scheduled **Site Visit, DTR staff review the subrecipient's procedures. DTR staff** check to see if there are proper controls in place to safeguard property against loss, damage, or theft through the use of locked fences or garages, lighting, security systems, etc. DTR staff may also check to see how and where keys are secured.

6.1.3 Real Property/Facilities/Equipment/Supplies

6.1.3.1 Title

If a subrecipient uses federal or state funding to purchase real property or facilities valued at \$5,000 or more, the subrecipient must list CDOT as the first lienholder on the title.

If a title is available for equipment and supplies that exceeds \$5,000 in value, the title stays with the subrecipient, and CDOT is not listed as a lienholder.

6.1.3.2 Real Property

As defined in 2 Code of Federal Regulation (CFR) Part 200.85, real property means land, including land improvements, structures, and appurtenances thereto, but excludes moveable machinery and equipment. It includes anything permanently affixed to the land, such as buildings, fences, and those things attached to the buildings that, if removed, would deface the structure or integrality of the building, such as plumbing, heating fixtures, etc.

Except as otherwise provided by federal or state statutes or by DTR, real property must be used for the originally authorized purpose as long as needed for that purpose, during which time the subrecipient must not dispose of or encumber its title or other interests. When real property is no longer needed for the originally authorized purpose, the subrecipient must obtain disposition instructions from DTR.

When the subrecipient is directed to sell the property, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return.

DTR requires a subrecipient to submit reports at least annually on the status of real property in which the FTA retains an interest, unless the federal interest in the real property extends 15 years or longer. A subrecipient is required to update inventory on a yearly basis, including facilities, in COTRAMS.

Additional information about Transit Asset Management Plans is included in Chapter 2.

6.1.3.3 Facilities

Facilities mean all or any portion of a building or structure that is used in providing public transportation, including related roads, walks, parking lots, and parking facilities. Facilities could include the following capital assets:

- Passenger shelters
- Signs
- Amenities, such as passenger benches and bicycle lockers
- Bus barns and storage sheds
- Bus parking areas

- Bus maintenance facilities
- Transit infrastructure such as transfer facilities
- Park and ride lots, facility parking lots, sidewalk improvements
- Transit administration facilities

6.1.3.4 Equipment and Supplies

Equipment means an article of nonexpendable, tangible personal property (including information technology systems) used in the provision of public transit service having a useful life of more than 1 year and a per-unit acquisition cost that equals or exceeds the lesser of the capitalization level established by the recipient or subrecipient for financial statement purposes, or \$5,000. Supplies mean all tangible personal property, other than equipment, with a unit value of less than \$5,000.

Equipment could include the following:

- Vehicle equipment (e.g., fare boxes and bike racks)
- Shop equipment for vehicle maintenance
- Computer equipment and software required to put the equipment into service (e.g., servers, computers, printers)
- Computer software systems of \$5,000 or more (e.g., scheduling software, maintenance/fleet management software)
- Communications equipment (e.g., telephone systems, radio systems, and security systems with an aggregate cost of \$5,000 or more)
- Security and surveillance equipment (e.g., lighting, video surveillance systems)
- Light-duty sedans, cargo vans, and trucks that are not used for passenger transportation (e.g., maintenance vehicles, staff vehicles)

Designated assets below the capitalization threshold, such as software or electronics, should be inventoried according to CDOT guidelines. For a listing of such assets, consult the CDOT Finance Department.

6.1.3.5 Incidental Use

If a subrecipient has an incidental use for a property or facility, the incidental use must be submitted to and approved by DTR according to the process shown in Flowchart 6-1 Facility Incidental Use. Incidental use must be compatible with the approved purposes of the project award and may not interfere with either the intended uses of the property or the **subrecipient's** ability to maintain satisfactory continuing control. Additional requirements about incidental use are in FTA Circular 5010.1E.

Examples of incidental use include:

- Temporary use of transit property as a staging area for nearby construction.
- Allowing nearby theaters and restaurants to use transit parking spaces during the transit **system's off-hours**.
- Leasing of space in a station for a newspaper stand or coffee shop when the additional use does not interfere with the original purpose authorized in the award.
- The lease of air rights over transit facilities or utilities associated with transit facilities (such as spare capacity in general utilities and fiber optics communications utilities) that do not impact the structural configuration of the transit facility.

6.1.3.6 Facility and Equipment Inventory Requirements

A subrecipient is responsible for including inventory data on all facilities and equipment used to support transit services in the COTRAMS Inventory module, including, and in addition to, **those purchased with federal or state funds. DTR consolidates the data in DTR's Statewide Asset Inventory.**

This is in addition to the other requirements of use, management, and disposal of special purpose equipment and supplies acquired under a project in accordance with 2 CFR § 200.313 and 2 CFR § 200.314, respectively.

Facility inventory fields in the COTRAMS Inventory module include, but are not limited to:

- Descriptive name of facility
- Property location
- Total square footage
- Transit dedicated square footage
- Original cost
- Date purchased/constructed
- Minimum useful life (as set forth in FTA Circular 5010.1E for facilities)
- Condition of the facility
- Date removed from revenue service (if applicable)
- Disposal method (if applicable)
- Method to determine fair market value
- Sale price

Equipment inventory valued at over \$5,000 should include the following data elements, among others, and should be updated as new equipment is acquired or old equipment is replaced:

- Equipment type
- Equipment description
- Date purchased
- Minimum useful life (DTR provides)
- The funding source and percentage of federal/state participation in the cost
- Date removed from revenue service (if applicable)
- Disposal method (if applicable)
- Method to determine fair market value
- Sale price

6.1.3.7 Facility Insurance

All major structures and facilities funded under state or federal programs must have adequate insurance throughout the life of the facility. The level of insurance coverage should be commensurate with the cost and risk potential for replacing the facility. Agencies must immediately contact the DTR in the event a program-funded facility is severely damaged or destroyed from vandalism, fire, accident, or other causes.

If the subrecipient has or plans to construct facilities in an area identified as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, the subrecipient must acknowledge this during the Subrecipient Information Request (SIR) and Site Review Process (Chapter 4).

6.1.3.8 Facility and Equipment Maintenance

All program-funded facilities must have a written facility and equipment maintenance plan and develop and implement adequate maintenance procedures that keep the property in good condition. Facility and equipment maintenance plans are collected in COTRAMS and reviewed during the SIR and Site Review Process. The plan should describe a system of periodic inspections and preventative measures to be performed at certain defined intervals.

As a best practice, a facility and equipment maintenance plan could include the following:

- A form or checklist, a schedule and dates of periodic inspection (typical inspection areas would include roof, flooring, plumbing and electrical panels).
- A maintenance schedule for installed equipment, appliances, and furnishings, based on manufacturer recommendations for each item or system (for example, heating, ventilation, and air conditioning [HVAC] equipment).
- A process for managing and monitoring any facility related warranties, including installed equipment.

- A procedure for follow-up repairs arising from building inspections, as well as for unplanned equipment breakdowns of installed equipment and documentation, such as a form (example: work order) or online system for recording the repairs.

6.1.3.9 Facility and Equipment Disposition

Federal- or state-funded facilities and equipment must meet or exceed established minimum useful life standards to qualify for disposition. Minimum useful life standards are outlined in FTA Circular 5010.1E. Prior to initiating disposal, a subrecipient must contact DTR to confirm that the asset is eligible for disposition and to confirm the process and requirements for disposal of facilities and equipment.

6.1.3.10 Facility Leasing

A subrecipient can use federal or state funds for leasing a facility with written authorization from DTR. DTR may review the lease documents during the Site Review Process. Lease agreements should be submitted to DTR prior to executing any contract with service **providers. It is the subrecipient's responsibility to ensure that contractors comply** with all federal and state requirements.

6.1.4 Vehicles

6.1.4.1 Vehicle Title

CDOT (written out as Colorado Department of Transportation) must be named as first lienholder on the title of the vehicle.

Refer to Procurement flowchart.

6.1.4.2 Vehicle Maintenance

CDOT requires that a subrecipient receiving funds to purchase vehicles have a vehicle maintenance plan. This plan outlines how to maintain the rolling stock assets. FTA allows subrecipients discretion in determining the appropriate intervals for preventative maintenance inspections to accommodate manufacturer recommendations, current conditions, etc. However, whatever is outlined in the preventative maintenance plan for vehicles should be followed.

A subrecipient must submit its vehicle maintenance plan in COTRAMS. DTR reviews the plans during the SIR and Site Review Process. DTR also collects a sampling of oil change records to check for a 10% deviation or lower from the determined interval during the Site Visit.

As a best practice, a vehicle maintenance plan could include the following:

- Maintenance procedures for wheelchair lifts and other accessibility features.
- System of periodic inspections policy.

- Reference to the manufacturer’s minimum maintenance requirements.
- Preventative maintenance performed at certain intervals.

6.1.4.3 Vehicle Minimum Useful Life

The useful life of a vehicle begins on the date the vehicle is placed in revenue service (In-service date) and continues until it is removed from revenue service. The minimum useful life in years refers to total time in transit revenue service, not time spent stockpiled or otherwise unavailable for regular transit use. A subrecipient is required to notify DTR if a vehicle has been out of service for 30 consecutive calendar days as this may affect its useful life.

Refurbished vehicles that are now at the end of their second useful life (after a refurbishment extension) are eligible for replacement again. A life-extending overhaul is an eligible capital expense, and is not considered a replacement. The "beyond useful life" determination on an overhauled vehicle is based on upon the original expected life plus the additional years added by the overhaul.

DTR follows minimum useful life standards for rolling stock purchased with state or federal funds set forth in FTA Circular 5010.1E, and summarized as **CDOT’s standards** in Table 6.1.

Table 6.1. FTA/CDOT Vehicle Minimum Useful Life Standards

CDOT Category	Length (feet)	Approximate Weight (lbs)	FTA Minimum Useful Life (yrs)	FTA Minimum Useful Life (miles)
Large Heavy-Duty Bus; articulated buses	35-40+	26,000-40,000	12	500,000
Small Heavy-Duty Bus	30	26,000-33,000	10	350,000
Medium medium-duty bus Purpose-built bus Sprinter bus	25-35	16,000-26,000	7	200,000
Medium light-duty bus Body on chassis vehicle (>19 seats) Expansion van	25-35		5	150,000
Light-duty vehicle (van, sedan, light-duty bus) Support vehicle Body on chassis vehicle (15-19 passengers)	< 30		4	100,000

6.1.4.4 Vehicle Inventory Requirements

All agencies with vehicles purchased with federal or state funds must enter the entire inventory of vehicles **in DTR's COTRAMS system, regardless of how the vehicle was acquired.** The **subrecipient's** vehicle inventory should include the following elements:

- Vehicle type
- Year of manufacture
- Vehicle manufacturer (body manufacturer for cutaway vehicles)
- Vehicle model
- Vehicle length
- Seating and accessibility
- Fuel type
- Vehicle Identification Number, license plate, and title number
- The original cost of the asset
- Date placed into service
- Minimum useful life (as set forth in FTA Circular 5010.1E for vehicles)
- **The vehicle's Expected Life (per agency policy)**
- The funding sources and percentage of federal/state/local participation in the cost
- Current mileage (annual update required)
- Vehicle condition (annual update required)
- Modes of usage (regular update required)
- Date of disposal (if applicable)
- Disposal method (if applicable)
- Method to determine fair market value (if applicable)
- Sale price (if applicable)

6.1.4.5 Vehicle Disposition

A subrecipient cannot dispose or otherwise release capital assets to any other party while there is federal or state interest in the capital asset without approval from DTR.

There are four justifications for vehicle disposition:

- Accident, insurance (use casualty loss): insurance settlement will be used toward the replacement.
- End of useful life: agencies may choose to refurbish, donate, or sell.
- Transfer before end of useful life: a pro-rata share of the local investment based on the fair market value of the vehicle will be used.
- Agency goes out of business: vehicles will be redistributed.

Prior to the disposal of any program-funded vehicle, the subrecipient must contact DTR with a request to release the lien. The request must be made through COTRAMS in a timely manner with the appropriate documentation for CDOT to process the release of the lien. CDOT and the subrecipient then work in conjunction with the Colorado Department of Revenue to assure the lien is released according to state rules.

After the lien is released, the subrecipient disposing of a vehicle with a fair market value of more than \$5,000 is required to invest all proceeds back into its transit program.

The process for vehicle disposition is illustrated in Flowchart 6-2 Vehicle Disposition.

6.1.4.6 Vehicle Casualty Loss

If a vehicle is withdrawn from service due to damage from an accident, theft, or vandalism, a subrecipient must immediately notify DTR. The following actions will be taken:

- If the damaged vehicle can be repaired, the subrecipient is responsible to make necessary repairs to restore the vehicle to its original working condition. The cost of such repairs shall be borne by the agency, from local funds, and/or insurance proceeds.
- If the vehicle cannot be adequately repaired, is stolen, or otherwise unrecoverable, the following steps must be taken:
 - An insurance adjustor determines the Fair Market Value of the vehicle at the time it was removed from service. The transit agency will need to provide the last mileage reading and condition.
 - The subrecipient must promptly file an insurance claim for damage or loss of vehicle and provide DTR a copy of the insurance claim and subsequent correspondence with the insurance carrier or agent.
 - The subrecipient is required to use the entire insurance settlement to purchase a replacement vehicle.

6.1.4.7 Vehicle Leasing

A subrecipient may lease vehicles with state or federal funds only under special circumstances, for example as an emergency or to fill a service gap to maintain service levels. Long-term leases are not allowed.

If a subrecipient must lease a vehicle, the subrecipient must contact DTR to review the lease. DTR must approve the lease agreement prior to the subrecipient entering into that agreement. **It is a subrecipient's responsibility to ensure that the contracted service provider complies with all of the requirements that the subrecipient must meet.** DTR informs the FTA of the lease agreement through the Program of Projects.

In general, DTR and the FTA check the lease to ensure that the following clauses are incorporated:

- Contractor responsibility to maintain the vehicle in good operating condition
- **Contractor adherence to manufacturer's standards for preventative maintenance**
- **Contractor's use of warranty** when possible
- **Contractor's responsibility for maintaining maintenance records**
- **Contractor's responsibility to provide maintenance reports as scheduled or needed**
- **Contractor's responsibility for ensuring staff are trained on the maintenance of the vehicle(s) leased**
- Performance standards for contractor with liability held by contractor
- Requirement for insurance coverage (must meet FTA/CDOT minimums)

6.2 Intangible Property

Intangible property means property having no physical existence, such as trademarks, copyrights, patents and patent applications, and property, such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property at issue is tangible or intangible).

Intangible property may be funded through FTA Section 5312 and Section 5304 programs. Additional information regarding intangible property is included in the specific FTA program requirements in SMP Appendix A (FTA Programs).

6.3 School Bus Service

6.3.1 Use of Assets

Subrecipients are prohibited from providing school bus service in competition with private school bus operators unless the service qualifies and is approved by the FTA Administrator under an allowable exemption. Federally funded equipment or facilities cannot be used to provide exclusive school bus service. Contractors, lessees, and subrecipients must also comply with school bus regulations.

DTR is responsible to ensure that exclusive school bus service operated by a subrecipient is provided under one of the statutory exemptions.

6.3.2 School Bus Exemptions

Allowable exemptions for operating a school bus service in competition with private school bus operators are defined in 49 CFR Part 605 and include:

- The recipient operates a school system in its urban area and also operates a separate and exclusive school bus program for that school system.
- Existing private school bus operators in the urban area are unable to provide adequate transportation at a reasonable rate and in conformance with applicable safety standards.

- The recipient, a governmental authority, has operated exclusive school bus service.

A recipient wishing to engage in school bus operations under one of these exemptions must provide an opportunity for public comment, including providing written notice to all private school bus operators and publishing notice in the local newspaper.

The FTA Administrator makes the determination of whether to permit a recipient to operate exclusive school bus service under one of the statutory exemptions. Upon notice of approval by the Administrator, the recipient enters into an agreement with the FTA.

6.3.3 Tripper Service

Tripper service is regularly scheduled mass transportation service that is open to the public and that is designed or modified to accommodate the needs of school students and personnel, using various fare collections or subsidy systems. Tripper service allows a subrecipient to:

- Modify the frequency of service.
- Make *de minimis* route alterations from route paths in the immediate vicinity of schools to stops located at or in close proximity to the schools.

Buses used in tripper service must:

- Be open and promoted to the public.
- **Not carry designations such as “school bus” or “school special.”**
- Stop at regular bus stops.

DTR is responsible for ensuring that school tripper service operated by subrecipients, contractors, and lessees operates and looks like all other regular service. All routes traveled by tripper buses must be within the regular route service in the published route schedules. Schedules listing tripper routes should be on the subrecipient’s regularly published schedules or on separately published schedules that are available to the public with all other schedules, including on a website. Demand responsive service does not qualify for the tripper service exception.

6.4 Charter Bus Service

6.4.1 Charter Program

Details about the FTA charter service regulations and reporting requirements (49 CFR Part 60) are available at: <https://www.transit.dot.gov/regulations-and-guidance/access/charter-bus-service/charter-bus-service-regulations-0>.

Subrecipients are prohibited from using federally funded equipment and facilities to provide charter service if a registered private charter operator expresses interest in providing the

service. Recipients are allowed to operate community-based charter services excepted under the regulations.

The regulations define charter service as:

- Transportation provided at the request of a third party for the exclusive use of a bus or van for a negotiated price.
- Transportation provided to the public for events or functions that occur on an irregular basis or for a limited duration. In addition, a premium fare is charged that is greater than the usual or customary fixed-route fare, or the service is paid for in whole or in part by a third party.

Examples of services that do not meet FTA's definition of charter service and, therefore, are not considered charter services are:

- Service requested by a third party that is irregular or on a limited basis for an exclusive group of individuals and the recipient does not charge a premium fare for the service and there is no third party paying for the service in whole or in part.
- Shuttle service for a one-time event if the service is open to the public, the itinerary is determined by the recipient, the recipient charges its customary fixed-route fare and there is no third-party involvement.
- When a university pays the recipient a fixed charge to allow all faculty, staff, and students to ride the transit system for free so long as the recipient provides the service on a regular basis along a fixed route and the service is open to the public.
- When the recipient sees a need, and wants to provide service for a limited duration at the customary fixed-route fare.

The charter regulations do not apply to equipment that is fully funded with local funds, is stored in a locally funded facility, and is maintained only with local funds. A complete segregation is necessary to avoid the application of these requirements to charter services operated with locally owned vehicles.

6.4.1.1 Charter Service Exemptions

Certain charter services are not considered charter service and require no notification to registered charter providers, record-keeping, quarterly reporting, or other requirements. These services, which are more fully described in the FTA Comprehensive Review Guide for Triennial and State Management Reviews. The most current Comprehensive Review Guide can **be found through a link on FTA's Program Oversight web page** (<https://www.transit.dot.gov/regulations-and-guidance/program-oversight/program-oversight>):

- Transportation of employees, contractors, and government officials

- Private charter operators
- Emergency preparedness planning and operation
- Section 5310, 5311, 5316 and 5317 recipients
- Emergency response
- Recipients in non-urbanized areas

6.4.1.2 Community-Based Charter Services

Certain community-based charter services are considered exempt from the charter bus regulations. These services have administrative, record-keeping, and reporting requirements, as listed in Table 6.2.

Table 6.2. Charter Service Exceptions (49 CFR Part 604)

Exception	Notification to Registered Charter Providers	Trip Record Keeping	Quarterly Reporting	Other Requirements
Government officials on official government business	Yes (if the recipient petitions the Administrator for additional charter service hours)	Yes	Yes	If additional charter service hours are needed (beyond the 80 annual service hours allowed), the recipient must petition the Administrator. The petition must include: <ul style="list-style-type: none"> – Date and description of the official government event and the number of charter service hours requested. – Explanation of why registered charter providers in the geographic service area cannot perform the service (e.g., equipment, time constraints, or other extenuating circumstances). – Evidence that the recipient has sent the request for additional hours to registered charter providers in its geographic service area.
Qualified Human Service Organization	No	Yes	Yes	Evidence that the Human Service Organization receives funding, directly or indirectly, from the programs listed in Appendix A of the charter regulation or was registered at least 60 days before the date of the first request.
Leasing FTA-funded	No	Yes	Yes	Evidence that registered charter provider has exhausted all of the available vehicles of all registered

Table 6.2. Charter Service Exceptions (49 CFR Part 604)

Exception	Notification to Registered Charter Providers	Trip Record Keeping	Quarterly Reporting	Other Requirements
equipment and drivers				charter providers in the recipient’s geographic service area.
When no registered charter provider responds to notice from a recipient	Yes	Yes	Yes	None.
Agreement with registered charter provider	Yes (if a newly registered charter provider joined the Urbanized Area after the initial agreement)	No	No	Properly executed agreements with all registered charter providers in recipient’s geographic service area.
Petitions to the Administrator	Yes	No	No	Recipient must demonstrate how it contacted registered charter providers and how the recipient will use the registered charter providers in providing service to the event. Recipient must also certify that it has exhausted available registered charter providers’ vehicles in the area.

6.4.2 Reporting

All recipients that operate charter service under an authorized exception are required to maintain notices and records for at least 3 years and report to the FTA quarterly. The records must include a clear statement identifying which exception the recipient relied upon when it provided the charter service.

- Government officials (49 CFR Part 604.6)
- Qualified Human Service Organizations (49 CFR Part 604.7)
- Leasing (49 CFR Part 604.8)
- No response from a registered charter provider (49 CFR Part 604.9)

Recipients must post the required records on the FTA charter website within 30 days of the end of each calendar quarter. Charter service hours include time spent transporting passengers, time spent waiting for passengers, and “deadhead” hours.

The recipient reports for itself and its subrecipients, contractors, and lessees except subrecipients that are also direct FTA recipients for Section 5307 formula funds. Reports are only required for quarters during which charter service was provided. An FTA Charter Service Quarterly Exceptions Reporting Form and the instructions are available for downloading at <https://www.transit.dot.gov/regulations-and-guidance/access/charter-bus-service/charter-bus-service-regulations-0>.

6.5 Lobbying

6.5.1 Federal Funds

Recipients and subrecipients are prohibited from using appropriated federal funds to lobby for federal funds. Recipients and subrecipients of federal funds in excess of \$100,000 must file a written certification annually that states that no federal funds have been paid for lobbying.

CDOT's Office of Financial Management and Budget submits the Office of Management and Budget (OMB) Standard Form LLL (Rev. 7-97), Disclosure of Lobbying Activities, annually through TrAMS (omnibus and apportionments). The required lobbying form is included as Attachment 6-1 Lobbying Disclosure Form.

A subrecipient certifies through its executed subaward agreement that it shall not use federal assistance funds for publicity or propaganda purposes designed to support or defeat legislation or appropriations pending before Congress or a state legislature. DTR requires all applicants and subrecipients to submit the Standard Form LLL through COTRAMS as part of the annual Certifications and Assurance submittals. CDOT also requires firms that are awarded CDOT personal service/professional service contracts in excess of \$100,000 to submit lobbying certifications with their proposals or bids.

6.5.2 Local Funds

If an applicant or subrecipient uses local funds to lobby for transit purposes, the agency must submit the disclosure form OMB Standard Form LLL (Rev. 7-97) as often as once per calendar quarter, depending on whether their lobbying activities change materially. If there are material changes during any given quarter, the agency must file an updated form.

DTR requires applicants to upload the lobbying disclosure form to COTRAMS annually and quarterly if the following material changes occur:

- A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for **influencing or attempting to influence a “covered Federal action.”**
- A change in the person(s) attempting to influence such action.
- A change in the officer(s), employee(s), or member(s) contacted to attempt to influence such action.

6.6 Litigation, Breaches, and Defaults

DTR is required to promptly notify the FTA Chief Counsel or FTA Regional Counsel for the region in which the recipient is located of any current or prospective legal matters that may affect the federal government. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming of the federal government as a party to litigation or a legal disagreement in any forum for any reason.

At the same time, DTR notifies Colorado Attorney General's Office as CDOT's legal counsel, who handles the legal matter.

The FTA Master Agreement, Section 39, has details about FTA requirements regarding disputes, breaches, defaults, or other litigation. The Master Agreement is included in SMP Appendix D. DTR provides updates regarding any litigation, breaches, or defaults occurring during its State Management Review with the FTA every 3 years.

6.7 DTR Technical Assistance to Subrecipients

DTR provides technical assistance to applicants and subrecipients across all program areas reviewed by FTA. In addition to those in the following sections, DTR and the Civil Rights and Business Resource Center staff support applicants and subrecipients in developing and maintaining Civil Rights programs described in Chapter 5. The staff seek to assist agencies with targeted technical services in traditionally undeserved areas.

6.7.1 Drug & Alcohol Testing Program

All recipients of FTA Section 5307, 5309, 5311, 5316, or 5339 program funding are required to have and implement a Drug & Alcohol Testing Program for safety-sensitive employees that meets the requirements of 49 CFR Parts 40 and 655. Part 40 describes required procedures for conducting workplace drug and alcohol testing for the federally regulated transportation industry (<https://www.transportation.gov/odapc/part40>). Part 655 addresses Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations (<https://transit-safety.fta.dot.gov/drugandalcohol/regulations/regulations/49cfr655/49cfr655.pdf>. (<https://transit-safety.fta.dot.gov/drugandalcohol/regulations/Regulations/default.aspx>)

FTA's regulation requires each subrecipient to establish and implement a substance abuse prevention program consisting primarily of a testing program, but with elements requiring training, educating, and evaluating safety-sensitive employees. The regulation requires that a detailed policy statement be distributed to all safety-sensitive employees and employee organizations. In addition, 49 CFR part 655 Subpart D establishes prohibited alcohol concentration levels and behavior, and employers are directed to take specific action on the basis of the level of alcohol concentration.

6.7.1.1 CDOT's Drug & Alcohol Program

CDOT's Drug & Alcohol program is governed by CDOT's Procedural Directive (PD) 81.1 Drug and Alcohol Testing, included as Attachment 6-2 PD 81.1 Drug and Alcohol Testing.

6.7.1.2 Subrecipient Monitoring

DTR has contracted with a drug and alcohol program consultant that works directly with subrecipients to comply with the regulations. The consultant is responsible for subrecipient training, compliance monitoring, and technical assistance.

The consultant reviews the subrecipient drug and alcohol testing program at a minimum every 3 years. Through review of the policy and records, the consultant confirms that the program meets federal requirements, that there is a compliant process for conducting random tests, that reports are adequate, secure and complete, that post-accident and pre-employment testing are conducted appropriately, and that collection sites meet federal requirements.

Training is provided to new recipients of Section 5307, 5309, 5311, 5316, or 5339 funds, as well as refresher training at the spring and fall Colorado Association of Transit Agencies (CASTA) conferences. The refresher training centers around determining reasonable suspicion for supervisors, training employees on drug and alcohol programs, and best practices for drug and alcohol programs.

The consultant monitors the subrecipient testing programs throughout the year. Subrecipients are required to **report program testing results in the FTA's Drug & Alcohol Testing Management Information System (DAMIS)** by March 15 for the prior year. DTR and the consultant work with subrecipients to make sure the reports are accurately submitted by the annual deadline.

6.7.2 Rural Transportation Assistance Program

As required by FTA Circular 9040.1G, CDOT is responsible for providing technical assistance, support, and training to its rural providers through the Rural Transportation Assistance Program (RTAP). CDOT publishes a Request for Proposals (RFP) every 5 years to identify a company or organization to assist CDOT with this program.

The goal of the RTAP program is to:

- Promote the safe and effective delivery of public transportation in rural areas and to make more efficient use of public and private resources.
- Foster the development of state and local capacity for addressing the training and technical assistance needs of the rural transportation community.
- Improve the quality of information and technical assistance available through the development of training, technology, and technical assistance resource materials.

- Facilitate peer-to-peer self-help through the development of local networks of transit professionals.
- Support the coordination of public, private, specialized, and human service transportation services.
- Build a national database on the rural segment of the public transportation industry.

To achieve these goals, CDOT's RTAP program provides the following:

- A statewide transit resources library, housed at the CASTA website (<https://coloradotransit.com/>).
- Training opportunities by providing regional and statewide training courses, including at the CASTA spring and fall conferences.
- Scholarship opportunities for rural providers to attend in- and out-of-state training opportunities.
- Peer-to-peer networking opportunities for sharing best practices, developing mentoring opportunities, and encouraging regional sharing of resources.
- A statewide transit and transportation directory to encourage and facilitate networking opportunities, updated annually.
- Tailored technical assistance provided for specific requests that are made by the rural transit providers, e.g., RFP assistance, technology assistance, coordination assistance.

To assist in ensuring that these efforts meet the needs of its rural transit providers, CDOT has established an RTAP Committee, made up of rural area members, that meets at least 4 times per year to provide guidance on training topics, discuss issues of importance to rural providers, and maintain input on policy decisions relevant to the FTA Section 5311 program.

Each year, DTR works with its RTAP Committee to identify assistance needs of its rural agencies. This training curriculum is then presented to the contractor and negotiations then occur to determine the specific course catalog for the year. This catalog is subject to change based on changes in demand for training, the availability of training through other resources, **and the state's ability to** collaborate with other organizations to provide this assistance.

The RTAP contractor provides regular reports on the status of the program consisting of:

- Lists of trainings provided during the quarter including topics and attendance.
- Scholarships provided to subrecipients.
- Meetings held/attended related to rural transportation.
- Other activities that impact RTAP.

CHAPTER 6 ATTACHMENTS

Attachment 6-1. Lobbying Disclosure Form

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C.1352

Approved by OMB
0348-0046

1. * Type of Federal Action: <input type="checkbox"/> a. contract <input checked="" type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. * Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input checked="" type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. * Report Type: <input checked="" type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change
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4. Name and Address of Reporting Entity:
 Prime SubAwardee

* Name

* Street 1 Street 2

* City State Zip

Congressional District, if known:

5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime:

6. * Federal Department/Agency: <input type="text"/>	7. * Federal Program Name/Description: <input type="text"/> CFDA Number, if applicable: <input type="text"/>
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8. Federal Action Number, if known: <input type="text"/>	9. Award Amount, if known: \$ <input type="text"/>
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10. a. Name and Address of Lobbying Registrant:

Prefix * First Name Middle Name

* Last Name Suffix

* Street 1 Street 2

* City State Zip

b. Individual Performing Services (including address if different from No. 10a)

Prefix * First Name Middle Name

* Last Name Suffix

* Street 1 Street 2

* City State Zip

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when the transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

* Signature:

* Name: Prefix * First Name Middle Name
* Last Name Suffix

Title: Telephone No.: Date:

Attachment 6-2. PD 81.1 Drug and Alcohol Testing



COLORADO

Department of Transportation

Office of Policy and Government Relations
2829 W. Howard Place, Suite 562
Denver, CO 80204

RELEASE MEMORANDUM

TO: All CDOT Employees
FROM: Michael P. Lewis, Executive Director
RE: Updated Procedural Directive 81.1 “Drug and Alcohol Testing”
DATE: December 20, 2018

1. Name of Updated Procedural Directive: “Drug and Alcohol Testing”
2. Rationale for Updated Directive: Procedural Directive 81.1 provides CDOT’s requirements regarding drug testing, as well as general requirements on employees’ use of drugs and alcohol. Updated PD 81.1 has been revised with language making it clear that the use, possession, manufacturing, selling, trading, transferring, and offering for sale of alcohol or any drug covered under the Federal Controlled Substances Act (including marijuana) on state property is prohibited at all times, regardless of whether it is during or outside of work hours.
3. Individuals/Entities/Projects Impacted by Procedural Directive: All employees
4. PD 81.1 will be implemented by: Office of Transportation Safety and Division of Transit and Rail.



COLORADO DEPARTMENT OF TRANSPORTATION		<input type="checkbox"/> POLICY DIRECTIVE <input checked="" type="checkbox"/> PROCEDURAL DIRECTIVE
Subject Drug and Alcohol Testing		81.1
Effective 12.20.18	Supersedes 2.9.15	Originating Office Office of Transportation Safety (OTS) (Re: DOT requirements) and Division of Transit and Rail (Re: FTA requirements)

I. PURPOSE

The Colorado Department of Transportation (“CDOT”) seeks to maintain a safe, healthy, efficient work environment for its Employees, volunteers and the public. Employees who are impaired by alcohol and/or drugs during working hours may cause disruption in the workplace and pose safety and health risks not only to themselves, but to others. In order to ensure the safety of all employees, volunteers, and the public, use of alcohol, other drugs or Controlled Substances that adversely impacts the Employee and volunteer’s ability to perform his or her job will not be tolerated. It is CDOT’s intent to balance our respect for individuals with the need to maintain an alcohol and drug free environment by complying with the provisions of the Drug-Free Workplace Acts of 1988 and 1998.

II. AUTHORITY

Federal Authority

Federal Drug-Free Workplace Act of 1988 and 1998, as amended, and Implementing Regulations, 41 U.S.C. § 8101, *et seq.*

Omnibus Transportation Employee Testing Act of 1991, (FOTETA), 49 U.S.C. 5331, as amended, and Implementing Regulations

The Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C § 801, *et seq.*, including the Federal Controlled Substances Act of 1970, as amended, and Implementing Regulations

42 U.S.C. § 12114, Illegal Use of Drugs and Alcohol

49 C.F.R. Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs

49 C.F.R. Part 382, Controlled Substances and Alcohol Use and Testing

49 C.F.R. Part 655 “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations”

State Authority

CDOT Executive Director pursuant to § 43-1-105, C.R.S.

Executive Order D0002 91 Regarding Substance Abuse Policy for Colorado State Employees

State of Colorado Constitution, Article XVIII – Section 14 (10) (b)

State of Colorado Constitution, Article XVIII – Section 16 (6) (a)

§ 42-4-1301, C.R.S.

Colorado Revised Statutes Title 18, Article 18, Part 2, Schedules I-V

State Personnel Board Rules and Personnel Director’s Administrative Procedures 4 CCR 801.

Department of Public Safety, Minimum Standards for the Operation of Commercial Vehicles, 8 CCR 1507-1.

III. APPLICABILITY

This Procedural Directive applies to all CDOT Employees. Employees who are designated as “safety sensitive” must adhere to all related federal and state laws, regulations and policies as well as CDOT policies and procedures. All CDOT employees are subject to the provisions of this Procedural Directive, and in addition, CDOT employees in the Division of Transit and Rail must also be familiar with and adhere to the Federal Transit Administration requirements in section V. D.

IV. DEFINITIONS

“Appointing Authority” refers to the status of a CDOT employee as defined under Colorado Constitution art. XII, Sec. 13 (7) and may also include his/her Designee.

“CDOT Property” means land, buildings, vehicles or other assets owned, leased, borrowed, or otherwise used by CDOT.

“Controlled Substance” means any drug or substance listed in the Federal Controlled Substances Act.

“Employee” means any individual who is an employee or volunteer who conducts business for CDOT, is representing CDOT, or is conducting business in or on CDOT property.

“Impairment” may be present when an Employee’s behavior or condition adversely affects job performance, threatens the safety of her or himself or others or property,

and/or exhibits unprofessional conduct detrimental to the public's perception of state personnel as a result of the use of alcohol, Controlled Substances or other drugs.

"Safety-Sensitive" means an Employee who holds a CDL license necessary for conducting business on behalf of CDOT. For FTA funded positions, "Safety Sensitive" also includes any Employee engaged in the direction or maintenance of a passenger vehicle. This includes operators of revenue service vehicles, CDL-holding operators of non-revenue service vehicles, vehicle controllers, revenue service vehicle mechanics, firearm-carrying security personnel. See Appendix "C".

"Trained Supervisor" means a CDOT Employee who supervises other CDOT Employees and who has undergone the required Reasonable Suspicion training to act as a Trained Supervisor for purposes of this Directive.

"Work Hours" mean hours during which an Employee is conducting business on behalf of CDOT, representing CDOT, while in or on CDOT property, and while on-call or paid standby for CDOT. For Safety-Sensitive positions "Work Hours" also means the time when an Employee is required to be in readiness to work until the time he/she is relieved from all responsibility for performing work. See 49 CFR § 395.2.

V. PROCEDURE

A. General Requirements

1. Employees are required to report to work unimpaired, and while at work will remain unimpaired by alcohol, Controlled Substances including marijuana, and other drugs including prescription and non-prescription medications.
2. It is a violation of this Directive for an Employee to use, possess, manufacture, sell, trade, transfer, and/or offer for sale alcohol or any drug covered under the Federal Controlled Substances Act, including marijuana, at any time on CDOT Property except as stated in paragraph 3, below. Any drug covered under the Federal Controlled Substances Act, including marijuana, and drug paraphernalia, is prohibited on CDOT property except as stated in paragraph 3, below.
3. Use and possession of prescription drugs is permissible when possessed by the individual to whom it is prescribed and when used in the stated dosage, according to labeling, and a physician's prescription. The sale, trade, transfer, and/or offer for sale of any prescription drug is prohibited on CDOT property. Marijuana, including medical marijuana, is not a prescribed drug. Over-the-counter drugs are not prohibited when used at the stated dosage according to labeling.
4. Violations of this Directive may be cause for management/supervisor intervention that may result in a referral to mandatory treatment and/or corrective or disciplinary action up to and including termination.

5. It is the responsibility of all management and supervisory personnel to implement and enforce this Directive and ensure compliance by Employees.

6. CDOT will comply with the model collection and drug testing standards issued by the U.S. Department of Health and Human Services.

7. Immediately contact the CDOT Drug and Alcohol Program Manager in the Office of Transportation Safety when there is a question related to testing or training procedures, and if problems are encountered in the testing process. See Appendix "C" for contact information. If unable to reach the Program Manager, contact the Director of Transportation Safety and Risk Management and as a final option the Statewide Safety Manager.

B. Applicable Testing

1. The following chart provides an overview of the testing pertaining to different stages of the testing process.

Type of Testing	Non-Safety Sensitive Employees	Safety Sensitive Employees
Pre-Employment (Drug)		✓
Reasonable Suspicion	✓	✓
Post-Accident		✓
Random Alcohol/Drug		✓
Return-to-Duty	✓	✓
Follow-Up	✓	✓

2. When directed to participate in a controlled substance test, the Employee must provide the appropriate sample. When an Employee cannot meet this requirement, the responsible supervisor should contact the CDOT Drug and Alcohol Program Manager in the Office of Transportation Safety as soon as possible to be advised of the next required steps in the process. If unable to reach the Program Manager, the responsible supervisor should call the Director of Transportation Safety and Risk Management and then the Statewide Safety Manager. When contacting any or all of the above individuals, detailed messages should be left on voice mail if the individual is not available. See Appendix "C" for contact information.

1. Pre-Employment (Drug). Safety-Sensitive candidates for employment with CDOT shall be subject to pre-employment testing and may not be approved for employment if they test positive or refuse to test. *See* CDOT Form 1200, "Pre-Employment Physical/DOT Physical/ All Drug and Alcohol Testing."

a) The candidate must provide written consent to CDOT to contact the candidate's previous employer(s) so that they may provide CDOT with:

(1) Alcohol test results with a concentration of .04 or greater;

(2) Positive controlled substance(s) test results;

(3) Refusals to submit to a required alcohol or controlled substance(s) test; and

(4) Information that the candidate participated in a Return-to-Duty Program in accordance with 49 CFR part 40.

2. Reasonable Suspicion

a) All Employees are subject to reasonable suspicion testing. Reasonable suspicion testing is designed to provide management with a tool to identify Employees who may use alcohol, Controlled Substances, or other drugs including prescription and non-prescription medications that result in Impairment on the job.

(1) Reasonable suspicion testing for alcohol should be performed within 2 hours of the reasonable suspicion determination whenever possible, but must be performed within 8 hours following the reasonable suspicion determination.

(2) When alcohol testing is not administered within 2 hours following the reasonable suspicion determination, written documentation must be provided stating the reason for the test delay. When alcohol testing is not performed by the 8 hour time limit, attempts to administer the test shall cease and a written record shall be prepared and maintained by the supervisor indicating why the test could not be performed.

b) Employees have a duty to inform a supervisor or Appointing Authority if he or she observes an Employee who appears impaired on the job.

c) If an Employee who first observes behavior that appears to be indicative of Impairment is not a Trained Supervisor, a Trained Supervisor must be contacted to conduct the reasonable suspicion screening process.

d) When a Trained Supervisor observes that reasonable suspicion may exist to suggest that an Employee is impaired on the job, he or she may request the presence of a second Trained Supervisor. A second Trained Supervisor is recommended but

not required during the reasonable suspicion screening process.

e) Training coordinators in the regions and headquarters have access to their respective training records which is located in SAP in the ZH40 Report. Enter Object ID 50000940. This pulls up the names, the positions, the organizations, and the dates of individuals trained in reasonable suspicion and the date training was completed. The Drug and Alcohol Coordinator can act as a resource if needed to locate CDOT employees trained in reasonable suspicion.

f) Trained Supervisors must:

(1) Meet all training and record keeping requirements of this Procedural Directive.

(2) Complete the Reasonable Suspicion checklist, CDOT Form 946a.

(3) Upon completing Form 946a, contact the Appointing Authority for a reasonable suspicion determination and to get authorization to send the Employee for drug and/or alcohol testing.

g) The Appointing Authority is encouraged to meet with the Employee, either in person or on the telephone to inform him or her of the reason for sending the Employee for testing, and allow the Employee an opportunity to explain the circumstances surrounding the behavior underlying the reasonable suspicion.

h) All Employees shall be temporarily removed from the performance of their duties on the day of the test. The following day, Employees are required to report for regularly scheduled duty and the Appointing Authority will re-evaluate whether the Employee should resume regular duties.

i) The Appointing Authority or designee must arrange for safe transportation of the Employee to and from the testing site. The individual who transports the Employee must remain with him or her until the completion of the testing and the Employee is safely transported back to work or home following testing.

j) The CDOT Drug and Alcohol Coordinator receives the test results along with the Region DER (Designated Employee Representative).

k) If the test result is negative, the Employee may return to normal duty and no further action is required.

l) If the test result is positive, the Appointing Authority must determine the appropriate course of personnel action. The Appointing Authority is encouraged to consult with Employee Relations / Legal Office during this phase of the process.

m) If the Appointing Authority does not take personnel action that results in the Employee's separation from employment, then the following applies:

- (1) If the Employee is Safety-Sensitive, the Appointing Authority must refer the Employee to Drug or Alcohol Counseling with a qualified Substance Abuse Professional ("SAP");
- (2) If the Employee is non-Safety-Sensitive, the Appointing Authority may refer the Employee to Drug or Alcohol Counseling with a qualified SAP.

n) The Employee who is referred to Drug or Alcohol Counseling must contact the SAP Referral Service to find a SAP to provide the counseling. The Employee has ten working days to contact and make an appointment with the (SAP), and inform the Appointing Authority or designee of the scheduled appointment, and name, address, and phone number of SAP.

o) The Employee must successfully complete the Drug or Alcohol Counseling including but not limited to any follow-up or return-to-duty testing prescribed by the SAP and/or Appointing Authority.

3. Post-Accident

a) Safety Sensitive Employees who drive a state vehicle are subject to post accident testing. Safety sensitive Employees are subject to immediate drug or alcohol testing following any accident that meets one or more of the following.

b) The Safety Sensitive Employee must be tested for **alcohol** if he or she:

(1) Was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(2) Receives a citation within 8 hours of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

c) A Safety Sensitive Employee shall be tested for **Controlled Substances** for if

the Safety Sensitive Employee:

(1) Was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

(2) Who receives a citation within thirty-two hours of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident involved:

(i) Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

(ii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

d) The following table notes when a post-accident test is required to be conducted by paragraphs (a), (b) and (c) above:

Type of Accident Involved	Citation Issued to the Safety Sensitive Employee	Test Must be Performed
Human fatality	YES	YES
	NO	YES
Bodily Injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

e) A Safety sensitive Employee who is involved in an accident must immediately report the accident to the Appointing Authority. The Appointing Authority will:

(1) Consult with law enforcement and/or arrive at the scene of the accident to determine if testing should be completed;

- (2) Transport or arrange for transport of the Employee to the appropriate collection site.
- f) A Safety-sensitive Employee who is involved in an accident must refrain from consuming alcohol until after he/she submits to an alcohol test or for 8 hours following the accident or, whichever occurs first.
- g) If an alcohol test could not be administered within 2 hours of the accident, the supervisor must prepare and maintain a record stating the reason a test was not promptly administered.
- h) If an alcohol test could not be administered within 8 hours, efforts to administer the test must cease and the supervisor must prepare and maintain a record stating the reason a test was not promptly administered. Records shall be submitted to the FMCSA upon request.
- i) If a required drug test could not be administered within 32 hours, the supervisor shall cease attempts to administer a controlled substances test, and must prepare and maintain a record stating the reason a test was not promptly administered. Records shall be submitted to the FMCSA upon request.
- j) CDOT may substitute a test administered by law enforcement officials under separate authority.
- k) A Safety Sensitive Employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the employer to have refused to submit to testing.
- l) As stated above, when directed to participate in a controlled substance test, the Employee must provide the appropriate sample. When an Employee cannot meet this requirement, the responsible supervisor should contact the CDOT Drug and Alcohol Program Manager in the Office of Transportation Safety as soon as possible to be advised of the next required steps in the process. If unable to reach the Program Manager, the responsible supervisor should call the Director of Transportation Safety and Risk Management and then the Statewide Safety Manager. When contacting any or all of the above individuals, detailed messages should be left on voice mail if the individual is not available. See Appendix "C" for contact information.
- m) Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a Safety Sensitive Employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

4. Random Testing. Employees who are designated as “Safety Sensitive” due to a CDL license or under FTA regulations are subject to random drug testing following CDOT procedures as implemented in accordance with applicable Federal laws, policies and regulations.

5. Positive Test Results

a) “Positive Alcohol Test” means the result of a test that is administered by a breath alcohol technician (“BAT”) or other SAP in which an Employee’s breath or blood sample tests 0.02 BAC (Blood Alcohol Content) or greater.

b) “Positive Drug Test” means a test in which a drug or metabolite has been confirmed to be over the cutoff limits by the testing facility and verified by the Medical Review Officer.

c) A Safety-Sensitive Employee may be placed off duty for 24 hours from the time the alcohol test results were rendered if the results are between 0.02 and 0.039 BAC. Safety-sensitive Employees with results of 0.04 BAC or greater shall be removed from performing Safety-Sensitive duties, and be referred to a SAP.

d) In conformance with DOT standards, CDOT will require an HHS-certified laboratory to test on a 5-panel drug test regimen, which will include marijuana (THC), Cocaine, Amphetamines, Opiates, and Phencyclidine (PCP). An Appointing Authority has the discretion, pursuant to reasonable suspicion or post-accident testing procedures, to request additional testing which are not included in the 5-panel drug test regimen.

e) Any Employee who tests positive for alcohol or the metabolites of drugs through breath, blood, or urine may be in violation of this directive and subject to corrective and/or disciplinary action up to and including termination.

f) An Employee who refuses to cooperate in the testing process, or who adulterates, tampers with, or otherwise interferes with accurate testing will be treated as if his/her test returned as a positive test result, making the Employee subject to corrective or disciplinary action up to and including termination.

g) Employees who test positive will be given the opportunity through the Medical Review Officer process to provide a legitimate medical explanation, such as a valid physician’s prescription, for the positive result.

h) The Department shall provide a Safety Sensitive Employee with necessary post-accident information, procedures and instructions, prior to the Employee operating a state vehicle, so that the Employee will be able to comply with these requirements.

6. Return-to-Duty and Follow-Up.

- a) An Appointing Authority must implement Return-to-Duty agreements for Safety-Sensitive Employees and may implement for non-Safety Sensitive Employees who violate this Directive but are not separated from employment.
- b) An Appointing Authority shall consult with a SAP, which may include C-SEAP, when developing a Return-to-Duty Agreement.
- c) An Employee who violates a Return-to-Duty agreement may be subject to corrective and/or disciplinary action up to and including termination.

C. Education and Training

1. All Appointing Authorities, including their Designees, and Employees who are intended to be designated as Trained Supervisors shall receive drug and alcohol training to identify reasonable suspicion. Those who complete the training shall be designated as Trained Supervisors. Supervisors of safety sensitive Employees and any other supervisors who are expected to initiate a reasonable suspicion drug and alcohol testing process must also be trained to identify reasonable suspicion to be used as a Trained Supervisor for purposes of the reasonable suspicion testing process.
2. CDOT's Drug and Alcohol Coordinator shall be responsible for overseeing CDOT's training and will comply with all applicable reporting requirements under federal regulations.

D. Federal Transit Administration Requirements Regarding CDOT Employees

1. CDOT Employees in the Division of Transit and Rail ("DTR") are subject to all applicable requirements in this Directive. In addition, the following requirements in this part E. apply to Employees who are governed by the requirements of the Federal Transit Administration, pursuant to 41 U.S.C. § 8102.
2. As the designated recipient of Federal Transit Administration funds, DTR is responsible for the following:
 - a) Publishing a statement informing Employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specify the disciplinary actions for violations of the statement;
 - b) Establishing a drug-free awareness program to inform Employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The policy of maintaining a drug-free workplace;
 - (3) Available drug counseling, rehabilitation, and Employee assistance programs; and

- (4) The penalties that may be imposed on Employees for drug abuse violations.
- c) Providing all CDOT Division of Transit and Rail Employees with a copy of the Procedural Directive;
3. DTR shall notify the Employee in the statement required above that as a condition of employment the Employee will:
- a) Abide by the terms of the statement; and
- b) Notify CDOT of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 calendar days after the conviction;
- c) Have a sanction imposed upon, or be required to satisfactorily participate in a drug abuse assistance or rehabilitation program if convicted, as required by 41 U.S.C. § 8104; and
- d) Make a good faith effort to continue to maintain a drug-free workplace through implementation of the requirements set forth herein.
4. Within 30 days after receiving notice from an employee of a conviction pursuant to 41 U.S.C. 8102 (a)(1)(D)(ii) or 8103(a)(1)(D)(ii), the Appointing Authority shall:
- a) Take appropriate personnel action against the Employee, up to and including termination; and/or
- b) Require the Employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for those purposes by a federal, state, or local health, law enforcement, or other appropriate agency.

E. Voluntary Disclosure of Alcohol Use or Controlled Substance Use Process

1. Employee Self-Disclosure.

- a) CDOT encourages self-disclosure of alcohol use or Controlled Substance Use as a means of supporting an Employee and maintaining a valued Employee in the workforce. Whenever practicable and with due regard for the safety of the public and CDOT Employees, CDOT encourages the rehabilitation of Employees who

voluntarily seek assistance or self-report alcohol and drug abuse problems. It is CDOT's goal that Employees will take responsibility for their own behavior and be encouraged to voluntarily seek professional assistance.

b) An Employee may self-report an alcohol and/or drug problem to the Appointing Authority. In the absence of a documented job performance problem, an Employee in a non-safety-sensitive position who voluntarily admits to drug or alcohol problems should be strongly encouraged to seek assistance through C-SEAP or another SAP for assessment. Self-reporting by an Employee in a Safety-Sensitive position is governed by the conditions below.

c) Self-disclosure will not alleviate alcohol and drug testing requirements as set forth in this Directive, including random testing and post-accident testing.

d) In the context of a voluntary disclosure, CDOT shall pay for all drug and alcohol testing in connection with evaluating the Employee's compliance to this directive. The Employee shall be responsible to pay for any SAP substance dependency assessments and education and treatment programs the SAP may mandate.

2. Appointing Authority Responsibility

a) For all Employees, the Appointing Authority must notify the CDOT Drug and Alcohol Coordinator that the self-disclosure has occurred.

b) An Appointing Authority must immediately remove an Employee from the Safety-Sensitive position.

c) A Safety-Sensitive Employee who voluntarily admits to a drug and/or alcohol problem shall receive a mandatory referral by the Appointing Authority to a SAP and may be subject to return-to-duty testing.

d) For Non-Safety-Sensitive Employees, the Appointing Authority may, within his or her discretion, enter into a Return-to-Duty Agreement with the Employee, which shall be retained by the Coordinator and remain confidential.

e) The Appointing Authority must coordinate a return-to-duty meeting with the Employee and C-SEAP or the SAP and must receive the SAP Return-to-Duty documentation before returning the Employee to duty following self-disclosure-related alcohol or drug treatment.

3. Employee Responsibility

a) The Employee may voluntarily disclose alcohol or Controlled Substance use to a supervisor prior to the start of their work shift or during off-duty hours and before being notified of a required test or reasonable suspicion testing.

- b) Upon voluntary disclosure, the Employee must comply with all educational and treatment programs recommended by a SAP or other qualified person.
- c) If the Employee fails to comply with the provisions of the Return-to-Duty Agreement, management/supervision intervention may result in referral to further treatment and/or corrective or disciplinary action up to and including termination.
- d) CDOT shall pay for all drug and alcohol testing in connection with evaluating the Employee's compliance to this directive. The Employee shall be responsible to pay for any SAP substance dependency assessments and education and treatment programs the SAP may mandate.

F. Confidentiality

1. CDOT respects the privacy of all Employees. Therefore, reasonable precautions will be taken to ensure the privacy and confidentiality of an Employee throughout the testing process and to make certain that procedures are administered fairly, consistently, and in accordance with CDOT's directives. Access to this information is limited to those who have a legitimate "need to know" in compliance with relevant laws and directives. All alcohol and drug testing information will be maintained in confidential records separate from official personnel files.
2. The Drug and Alcohol Coordinator will maintain test results data. Region DERs maintain negative test records for a period of one year and positive test records for a period of five years.
3. CDOT is prohibited from releasing individual test results, or medical information about an Employee to third parties without the Employee or his or her legal representative's written consent, or as required by applicable law.

VI. DOCUMENTS REFERENCED IN THIS PROCEDURAL DIRECTIVE AND OTHER RESOURCES

Appendix "A" Reasonable Suspicion Guidance

Appendix "B" Requirements Applicable to Safety-Sensitive Positions

CDOT Form 946a (available on the CDOT Forms Library)

CDOT Form 1200, "Pre-Employment Physical/DOT Physical/ All Drug and Alcohol Testing"

DOT Guidance: <http://www.dot.gov/odapc/documents> and <http://www.dot.gov/sites/dot.gov/files/docs/ODAPC%20EmployeeHandbook%20En.pdf>

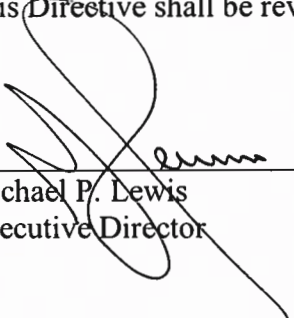
FTA Guidance: http://www.fta.dot.gov/13057_6124.html

VII. IMPLEMENTATION PLAN

- A. This Procedural Directive shall be effective upon signature.
- B. This Procedural Directive shall be implemented by the Office of Transportation and Safety regarding DOT requirements, and the Division of Transit and Rail regarding FTA requirements. The Office of Transportation Safety and the Division of Transit and Rail will provide all applicable Employees with a copy of this Procedural Directive.
- C. All Appointing Authorities, designees and direct reports must be trained in the reasonable suspicion process within ninety days of the effective date of this Directive.

VII. REVIEW DATE

This Directive shall be reviewed on or before December 2023.



Michael P. Lewis
Executive Director

12/20/18

Date of Approval

Appendix “A”

Reasonable Suspicion Guidance

In making a determination of reasonable suspicion, the factors to be considered may include, but are not limited to, the following:

- Personal observation of specific, current, and articulable observations based on the behavior, odor, appearance and speech (“BOAS”) behavioral indicators of drug or alcohol use, physical withdrawal symptoms, and may include potential job performance issues;
- Occurrence of a serious or potentially serious work-related accident that may have been caused by human error or flagrant violations of safety, security or other operating procedures;
- Evidence of prohibited substance use, including possession, sale, delivery while on duty and/or possession of drug paraphernalia;
- Fighting (physical contact) and assaults, or erratic, aggressive or violent behavior;
- Arrest or conviction for a drug-related offense, or the identification of an Employee as the focus of a criminal investigation into illegal drug use or trafficking;
- Past admissions or statements made by the Employee;
- Information provided either by a reliable and credible source, independently corroborated or having corroborative evidence from a manager or supervisor with training and experience in identifying signs and symptoms of alcohol or drug impairment.

Appendix "B"**Requirements Applicable to Safety-Sensitive Positions**

This table lists the types of Safety-Sensitive duties subject to DOT drug and alcohol testing relevant to CDOT under FMCSA and FTA:

Transportation Industry	Safety-Sensitive Duties
Commercial Motor Carriers (FMCSA)	Commercial Drivers' License (CDL) holders who operate a Commercial Motor Vehicle.
Public Transportation (FTA)	Operators of revenue service vehicles, CDL-holding operators of non-revenue service vehicles, vehicle controllers, revenue service vehicle mechanics, firearm-carrying security personnel.

1. Safety-Sensitive Employees:

- A. Must not use or possess alcohol or any illicit drug while assigned to perform Safety-Sensitive functions or actually performing Safety-Sensitive functions.
- B. Must not use alcohol or any illicit drug during the 4 hours before performing Safety-Sensitive functions and 8 hours following an accident or until he/she undergoes a post-accident test, whichever occurs earlier.
- C. Must not report for service, or remain on duty if he/she:
 - Is under the influence or impaired by alcohol;
 - Has a blood alcohol concentration .04 or greater; (with a blood alcohol concentration of .02 to .039, CDOT does not permit the Employee to continue working for 24 hours);
 - Has used any illicit drug.
 - Has used alcohol within four hours of reporting for service or after receiving notice to report.
 - Is using any Controlled Substance unless used pursuant to the instructions of an authorized medical practitioner, and then only if the authorized medical practitioner has advised the Employee that the Controlled Substance will not adversely affect the Employee's ability to perform the Safety-Sensitive function.
- D. Must not refuse to submit to any test for alcohol or Controlled Substances.

E. Must not refuse to submit to any test by adulterating or substituting the specimen.

F. Must inform their supervisor of any medication that is being taken that could interfere with performance of safety-sensitive functions.

For further guidance, see:

<http://www.dot.gov/sites/dot.gov/files/docs/ODAPC%20EmployeeHandbook%20En.pdf>

Appendix "C"**Contact Information for Questions on Drug and Alcohol PD**

Current as of 12.10.18

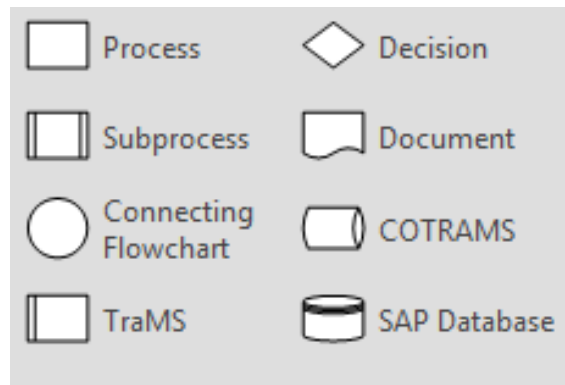
Drug and Alcohol Program Manager: Elbert Hunt office (303) 757-9420 / cell (303) 809-9069

Director of Transportation Safety and Risk Management: Darrell Lingk office (303) 757-9465 / cell 303-257-8486.

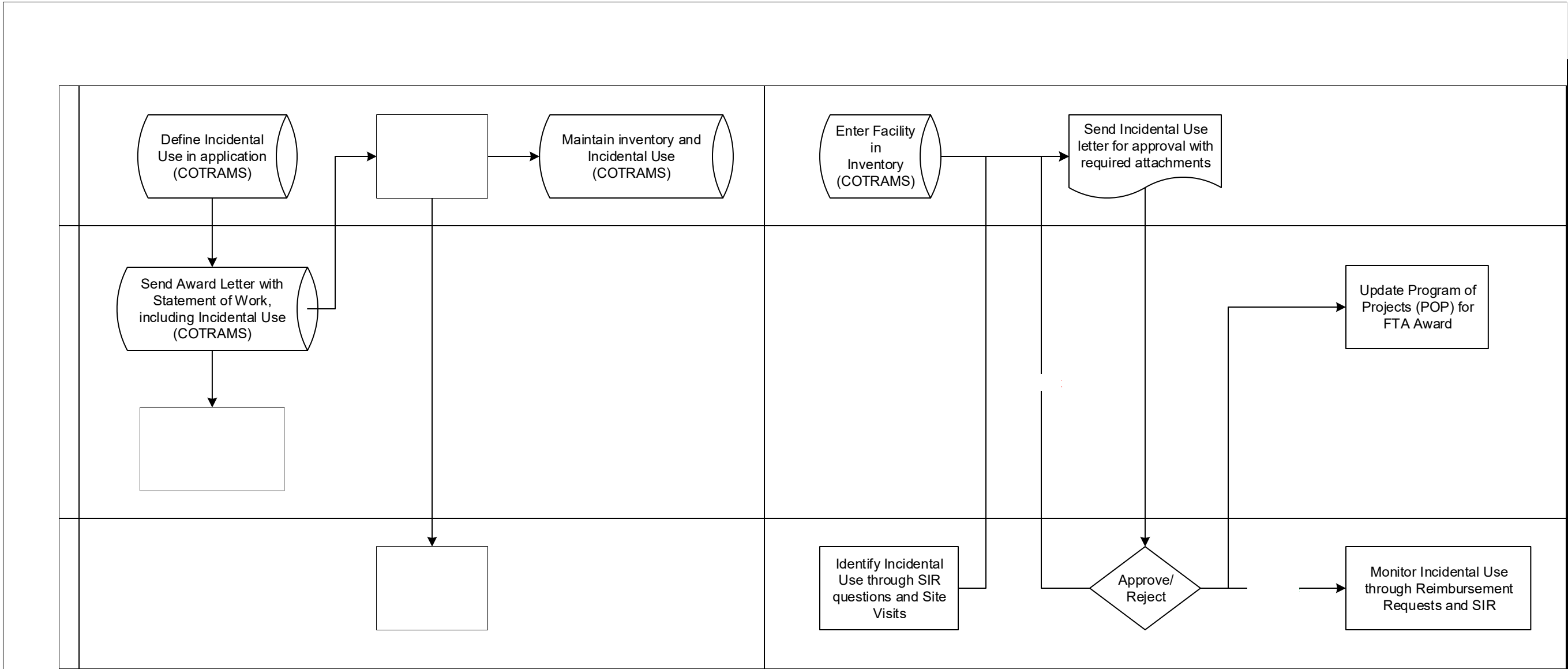
Statewide Safety Manager: Steve Gasowski office (303) 757-9463 / cell (303) 515-1655

CHAPTER 6 FLOWCHARTS

Flowchart Shapes/Key



Flowchart 6-1. Facility Incidental Use



Flowchart 6-2. Vehicle Disposition

