

Nantucket Regional Transit Authority

3 East Chestnut Street, Nantucket, MA 02554

Phone: 508-325-9571 • Fax: 508-325-0788 • TTY: 508-325-7516

www.nrtawave.com • nrt@nantucket-ma.gov

AGENDA FOR THE MEETING OF THE NRTA ADVISORY BOARD

March 18, 2015

5:45 P.M.

COMMUNITY ROOM, NANTUCKET POLICE STATION
4 FAIRGROUNDS ROAD
NANTUCKET, MASSACHUSETTS

- I. Public Comment.
- II. Approval of Minutes from the April 2, 2014, November 5, 2014 and January 21, 2015 Meetings.
- III. Public Hearing to Consider an Increase in the Cost of Season Passes.
- IV. Legislative Mandate Updates.
- V. Approval of Approval of FY16 NRTA Administrator's Salary.
- VI. Report from Finance and Audit Committee.
- VII. Approval of FY16 Budget.
- VIII. Approval of 2015 Fixed Route Operations.
- IX. Approval of Agreement with Bruce D. Norling CPA, PC – Audit Services
- X. Approval of Amended Employee Manual Policies and Procedures – Hiring of Administrator Process.
- XI. Approval of Updated Title VI Plan.
- XII. Approval of Updated Disadvantaged Business Enterprise Plan.
- XIII. Other Business.



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Minutes of the Meeting of April 2, 2014. The meeting took place in the Community Room of the Nantucket Police Station, 4 Fairgrounds Road, Nantucket, MA 02554. Members of the Board present were: Rick Atherton, Robert DeCosta, Bruce Miller, Matthew Fee, Tobias Glidden and Karenlynn Williams. Chairman Atherton opened the meeting at 9:25 p.m.

This was joint meeting of the NRTA Advisory Board and Board of Selectmen

Continued Discussion of Fast Ferry Park and Ride Service. Mr. Miller outlined three components of the proposed fast ferry shuttle: the parking lot at 2 Fairgrounds Road; an operations plan which will cost approximately \$250,000; and how to fund the plan as there is no money in the budget. He stated he has a list of prospective contributors including the Steamship Authority, Hy-Line Cruises, Nantucket Island Resorts, ReMain Nantucket, and Stop and Shop, and it is not unreasonable to think that the money can be raised. Chairman Atherton requested clarification that the operational money is not coming from the Town. Mr. Miller stated that the Town is contributing the parking lot and associated improvements to it. NRTA Administrator Paula Leary said any plan utilizing exiting NRTA equipment can be done relatively soon, and the Airport route could possibly be used. Mr. Miller said he feels the money has to be raised by 30 April 2014 to have the service in place for this summer, noting that if an alternate plan is used it would require new equipment which would take longer to procure and more money. Some discussion followed on the type of service to be provided, routes, and schedules. Ms. Gibson noted that if the Board and NRTA agree to proceed, the Town will use the DPW staff and equipment and its operating fund to make the necessary improvements to the parking lot. Mr. Miller stated that Mark Snider of the Nantucket Hotel is willing to fundraise from private parties. The Board and NRTA consensus is to move forward with a pilot program for 2014. Some discussion followed on overnight parking downtown.

The meeting was unanimously adjourned at 9:45 pm.

Approved:



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Minutes of the Meeting of November 5, 2014. The meeting took place in the Community Room of the Nantucket Police Station, 4 Fairgrounds Road, Nantucket, MA 02554. Members of the Board present were: Rick Atherton, Robert DeCosta, Bruce Miller, Matthew Fee, Tobias Glidden and Karenlynn Williams. Chairman Atherton opened the meeting at 6:00 p.m.

Presentation: Fast Ferry Connector Post Season Analysis and Survey Results. Paula Leary, NRTA Administrator presented data and information on the 2014 Fast Ferry Connector Pilot Program: service was operated 145 days from 7:00 a.m. to 8:00 p.m. and was incorporated into the existing airport route much of the season providing 20 minute headways, and after Labor Day service was provided to/from the park and ride lot to specific boats. Operational data included: 6,015 passenger boardings, 3,331.5 hours of service were provided, total operating costs were \$197,426.05 a savings of \$52,573.95, cost per hour was \$59.26 well below the NRTA's \$75/hr cost. The identified issues were: the approval to implementation time frame, the impact to the NRTA's regular fixed route services by using a fleet spare to provide this service, boats consistently arriving late this created issues with one bus operations but the 20 minute service provided convenience to passengers, outbound and inbound designated stop at the park and ride lot, bus stop at Steamship Authority was very difficult, eliminate the wait time on Washington Street for the airport route, and there was confusion with 2 stops at the Hy-Line. Ms. Leary recognized and thanked her operations team for their efforts in providing this service. Ms. Leary suggested if the service is to continue in 2015 that the incorporation in to the existing airport route be done in June and for the shoulder seasons to operate 2 buses to/from the park and ride lot the boats. Ms. Leary stated it was a worthwhile venture and investment. Susan Richards from SR Concepts and the marketing consultant presented the survey results and analysis. Ms. Richards commended Ms. Leary and her team for implementing the service in such a short time period and so efficiently, she stated in her 20 years of working in transit all across the country



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she has never seen a new service implemented so quickly and well done. Surveys were conducted August 18 through the 22, 2014 by riding the buses, taking the ferries, talking to people in line for the ferries, and on line. A total of 162 surveys were completed. Interviews were also conducted with bus operators, Hy-Line and Steamship Authority employees. There were four target audiences that completed the survey: 79 contractors, 53 year round residents, 17 seasonal residents, 18 seasonal employees and 18 others that work on Nantucket but did not consider themselves contractors. Overall the Fast Ferry Connector was a worthwhile venture. The majority of the people using the service rated it very effective. Building ridership on a year round transit system takes at least three years and more focused marketing is needed to attract new riders, especially Island residents. Matt Fee provided an update on the Stake holders meeting that was held on November 4th: the meeting went well, Hy-Line and ReMain seem committed to funding, Steamship Authority asked for more information including a breakdown of the embarkation fee use, the boat lines didn't seem receptive to raising the embarkation fee, the private stake holders felt long term funding should come from the Town, Ms. Leary and Mike Burns will explore other state funding grants, and the Steamship Authority wants to have more of a hub at their terminal attached to other routes. The group plans to meet again in early December. Mr. Glidden asked if successful if capacity would become an issue. Ms. Leary responded that it could but the 20 minute headways will help with dealing with that issue. Ms. Leary stated that tonight's presentations and survey results are available on the NRTA's website and at the NRTA office.

The meeting was unanimously adjourned at 6:25 p.m.

Approved: DRAFT



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DRAFT

Minutes of the Meeting of January 21, 2015. The meeting took place in the Community Room of the Nantucket Police Station, 4 Fairgrounds Road, Nantucket, MA 02554. Members of the Board present were: Rick Atherton, Robert DeCosta, Matthew Fee, Tobias Glidden and Karenlynn Williams. Absent was Bruce Miller. Chairman Atherton opened the meeting at 6:01 p.m.

Announcement: Regional Transit Plan public comment and review period. Paula Leary, NRTA Administrator announced the public comment and review period for Chapters 1 through 4 of the NRTA's Regional Transit Plan that includes the project overview and purpose, performance analysis and determining need. The comment period concludes at 4:00 pm on Friday, February 27, 2015. The chapters are available on the NRTA's website or at the Administrative Office. Written comments are to be submitted to the NRTA Administrator at its Administrative Office or emailed to the NRTA. Ms. Leary also stated the regional transit plan is being developed in accordance with State legislation of the Transportation Finance Bill and is specific to fixed route services. Mr. Glidden asked if the town contributed funding to the NRTA would the state match the funding. Ms. Leary responded that unfortunately it does not work that way. Mr. Atherton asked if this would be an appropriate time to comment on services like off season and extended hours. Ms. Leary stated that public comment is specific to the first four chapters of the plan but people could certainly submit those types of comments as subsequent chapters on service improvements are being developed.

There being no other business before the Authority Mr. DeCosta moved adjournment at 6:02 p.m.; seconded by Mr. Fee. So voted and adjourned.

Approved: **DRAFT**




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TO: NRTA ADVISORY BOARD

FROM: PAULA LEARY, NRTA ADMINISTRATOR 

RE: PUBLIC HEARING – INCREASE TO SEASON PASS RATES

DATE: FEBRUARY 26, 2015

Below please find the season pass categories, the current cost and the proposed cost effective for the 2015 season. The cost of season passes has not increased since 2004.

PASS CATEGORY	CURRENT COST	PROPOSED COST
Season	\$80	\$90
Commuter*	\$70	\$80
Nantucket Student	\$40	\$50
Off Island Student	\$70	\$80
Senior	\$40	\$50
Disability	\$40	\$50
Veteran and Active Military	\$40	\$50

*business purchased

I recommend the Board vote to approve the proposed cost for season passes effective for the 2015 season.

Thank you.



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TO: NRTA ADVISORY BOARD

FROM: PAULA LEARY, NRTA ADMINISTRATOR

RE: LEGISLATIVE MANDATE UPDATES

DATE: MARCH 3, 2015



1. Regional Transit Plan – this has been an on-going project that is in the final stages. The public comment and review period for the first 4 Chapters has ended. Although the comments received were not specially to the first 4 chapters of the plan they will be included in the final document. Three of the comments supported year round service and the fourth supports direct service to the Steamship Authority dock. The NRTA's RTP is expected to be completed on or about June 1st. A public hearing on the plan is required by legislation. This will be scheduled for June 17th to meet the completion deadline of June 30, 2015.
2. Open Check Book – Massachusetts General Laws Chapter 7, Section 14C – this legislation speaks to accountable and open government requiring quasi-public entities that are independent Commonwealth authorities performing a public function to provide a searchable website that allows the public free of charge to search spending information, including payroll and pension data, and vendor payments. We are in the process of converting the information into the platform database that will be available on the NRTA's website. We expect this to be completed by the end of April meeting the June 30, 2015 deadline.
3. Transit Asset Management – MAP-21 Section 5326, federal requirement. The goal of improved asset management is to implement a strategic approach for assessing needs and prioritizing investments for bringing the nation's public transit systems into a state of good repair. The 15 regional transit authorities have been working with an FTA consultant that has developed an assessment management system and database. Training has been and will continue to be



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provided to the RTA's. Submission of data on physical equipment and infrastructure has been completed. This federal requirement will enable FTA and MassDOT to have all RTA fixed asset information in one database that can then be used to determine state of good repair (replacements, rehabilitation) for capital funding. There is no cost to the NRTA as we are not a direct recipient of federal funds.




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TO: NRTA ADVISORY BOARD

FROM: PAULA LEARY, NRTA ADMINISTRATOR 

RE: APPROVAL OF NRTA ADMINISTRATOR FY16 SALARY

DATE: MARCH 13, 2015

I am requesting an adjustment to the base pay and a cost of living increase for FY16.

Since 2000 the transit system has grown, service has increased, with the system rebranding ridership has grown, an additional facility has been added with additional responsibility, new technologies have been added, the fleet has grown, legislative, federal and state laws have increased requiring additional regulation and mandate compliance and reporting requirements, internal control issues have been addressed and audits are clean. The amount of responsibility and time required to perform the duties of the administrator has significantly increased. There has been no increase to administrative staff since 2001 when the NRTA began providing elderly and disabled van service (seasonal part time staff has been hired to provide customer information at the Greenhound Building since 2011). I believe the transit authority has been successful and a great benefit to the community.

The current base salary is \$84,731.00, The last base pay adjustment was in 2000. I am proposing an increase to the base salary of \$94,731.00. I am proposing a 2% cost of living increase in the amount of \$1,694.62. (Cost of living increases: FY10 – 0, FY11 – 1%, FY12 – 2.5%, FY13 – 1.5%, FY14 – 1.5% and FY15 – 1.5%). The FY16 Administrator salary being proposed is \$96,425.62.

Thank you for your consideration.




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TO: NRTA ADVISORY BOARD

FROM: PAULA LEARY, NRTA ADMINISTRATOR 

RE: REPORT FROM NRTA FINANCE AND AUDIT COMMITTEE

DATE: MARCH 11, 2015

The Finance and Audit Committee will report to the NRTA Advisory on the FY16 Final Budget.




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TO: NRTA ADVISORY BOARD

FROM: PAULA LEARY, NRTA ADMINISTRATOR 

RE: APPROVAL OF FY16 BUDGET

DATE: MARCH 11, 2015

The final FY16 budget is attached for review.

- Expenses for Operations \$2,057,701
- Revenue \$1,167,705
- Federal 5311 Operating \$ 550,000
- Local Assessment \$ 406,996
- State Contract Assistance \$ 483,000

Any changes recommended by the Finance and Audit Committee will be reported.

Please note the following:

- 2015 Ferry Connector Service has been finalized - the private funding is included as a line item under revenue that covers the cost of the operations included as a line item under expenses. The cost only includes service for the 2015 season, July 1 through October 12, 2015.
- Expenses for extended service hours - is included as a line item under expenses, funding is included in the local assessment line item
- Transportation services revenue includes - season pass increases and additional farebox revenue from extended service hours
- Purchased Transportation includes fixed route and demand response services, other line items support those levels of service. 2015 proposed service is attached.
- State Contract Assistance reflects a 2 ½% increase.
- FY14 Actual state contract assistance line item -includes the state share of the NRTA's RAN paydown to facilitate current financing for FY15.

I recommend the Board vote to approve the FY16 Budget as presented.

Please do not hesitate to contact me if you have any questions

Thank you.



NRTA FY16 FINAL BUDGET

Revenue	FY14 ACTUALS	FY15 APPROVED	FY16 PROPOSED
Transportation services revenue:Farebox revenue	\$ 396,558.23	\$ 386,000	\$ 435,000
Contract revenue	\$ 3,464.24	\$ 3,200	\$ 7,000
Transportation services revenue:Other income	\$ 225.00	\$ 4,000	\$ 2,000
Federal 5311	\$ 531,803.00	\$ 537,588	\$ 550,000
Interest income	\$ 3,270.93	\$ 1,000	\$ 3,700
Fully Funded Staff	\$ 17,550.00	\$ 20,000	\$ 22,000
Other Income	\$ 6,533.00		\$ 6,500
Fast Ferry Connector (July 1 thru October 12, 2015)		\$ 190,000	\$ 141,505
Total Revenue	\$ 959,404.40	\$ 1,141,788	\$ 1,167,705
Expenses			
Other salaries & wages	\$ 175,918.85	\$ 172,000	\$ 190,000
Fringe benefits	\$ 54,531.32	\$ 51,000	\$ 56,000
Post Employment Benefits	\$ 23,700.00	\$ 19,000	\$ 22,000
Purchased Transportation	\$ 1,031,248.67	\$ 1,110,000	\$ 1,169,934
Extended Service Hours			\$ 41,145
Fast Ferry Connector	\$ 86,192.71	\$ 190,000	\$ 141,505
Legal expense	\$ 52.50	\$ 100	\$ 100
Accounting expense	\$ 35,144.51	\$ 43,000	\$ 45,000
Consulting	\$ 10,188.75	\$ 11,588	\$ 8,500
Auditing expense	\$ 7,818.13	\$ 14,000	\$ 19,000
Outside services	\$ 40,301.60	\$ 53,800	\$ 42,000
Vehicle repairs	\$ 4,840.86	\$ 3,000	\$ 3,000
Fuels and lubricants	\$ 118,800.76	\$ 109,000	\$ 119,000
Tires	\$ 5,227.11	\$ 3,000	\$ 5,000
Parts	\$ 17,275.54	\$ 20,000	\$ 19,057
Vehicle Supplies	\$ 4,663.10	\$ 1,200	\$ 1,000
Miscellaneous maintenance expense	\$ 1,392.58	\$ 3,000	\$ 3,000
Insurance - Vehicle	\$ 64,689.22	\$ 63,000	\$ 66,000
Insurance - Other	\$ 12,559.66	\$ 13,000	\$ 18,000
Utilities	\$ 6,014.88	\$ 5,700	\$ 5,700
Promotion & marketing	\$ 12,967.10	\$ 16,000	\$ 10,000

Miscellaneous operating expense		\$ 1,000	\$ 1,000
Office supplies and expense	\$ 17,874.32	\$ 12,500	\$ 10,000
Leases	\$ 47,827.90	\$ 44,500	\$ 48,000
Travel	\$ 4,098.75	\$ 6,271	\$ 10,000
Training	\$ 1,647.97	\$ -	\$ 500
Uniforms	\$ 476.00	\$ 1,000	\$ 500
Interest expense	\$ 9,682.00	\$ 10,000	\$ 2,760
Total costs and expenses	\$ 1,795,134.79	\$ 1,976,659	\$ 2,057,701
Net Cost of Service	\$ 1,709,600.00	\$ 834,871	\$ 889,996
Local Assessment	\$ 346,532.00	\$ 356,928	\$ 406,996
State Contract Assistance	\$ 1,363,068.00	\$ 477,943	\$ 483,000

SERVICE - 2015 ROUTE DATES, HOURS AND HEADWAYS

ROUTE/LOOP	DATES	HOURS	HEADWAY
Mid-Island Loop	May 18-June 14 and Sept.8-Oct. 12	7 am – 11:30 pm	30 minutes
Mid-Island Loop	June 15-June 21	7 am - 12:00 am	30 minutes
Mid Island Loop	June 22- Sept. 7	7 am – 12:00 am	15 minutes
Miacomet Loop	May 18-June 14 and Sept.8 -Oct. 12	7 am – 11:30 pm	30 minutes
Miacomet Loop	June 15 – Sept. 7	7 am – 12:00 am	20 minutes
Madaket Route	May 22-June 21 and Sept. 8-13	7 am – 11:30 pm	60 minutes
Madaket Route	June 22– Sept. 7	7 am – 11:30 pm	30 minutes
Sconset via Old South Road Route	May 18 – Oct. 12	7 am – 11:30 pm	60 minutes
Sconset via Old South Road	June 15- Sept. 7	7 am – 12:00 a.m.	60 minutes
Sconset via Milestone Road Route	June 22 – Sept. 7	7:15 am – 7:15 pm	60 minutes
Sconset via Polpis Road Route	June 29 - Sept. 7	10 am – 6 pm	1 hr 20 minutes
Surfside Beach Route	June 22 – Sept. 7	10 am – 6 pm	40 minutes
Jetties Beach Route	June 22 – Sept. 7	10 am – 6 pm	30 minutes
Airport Route	June 22– Sept. 7	10 am – 6 pm	20 minutes
Ferry Connector	May 21- October 12	7 am – 10 pm	20 minutes

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TO: NRTA ADVISORY BOARD

FROM: PAULA LEARY, NRTA ADMINISTRATOR 

RE: APPROVAL OF 2015 SEASON FIXED ROUTE OPERATIONS

DATE: MARCH 4, 2015

Below, please find the 2015 season service recommendations:

1. SERVICE - 2015 ROUTE DATES, HOURS AND HEADWAYS

ROUTE/LOOP	DATES	HOURS	HEADWAY
Mid-Island Loop	May 18-June 14 and Sept.8-Oct. 12	7 am – 11:30 pm	30 minutes
Mid-Island Loop	June 15-June 21	7 am - 12:00 am	30 minutes
Mid Island Loop	June 22- Sept. 7	7 am – 12:00 am	15 minutes
Miacomet Loop	May 18-June 14 and Sept.8 -Oct. 12	7 am – 11:30 pm	30 minutes
Miacomet Loop	June 15 – Sept. 7	7 am – 12:00 am	20 minutes
Madaket Route	May 22-June 21 and Sept. 8-13	7 am – 11:30 pm	60 minutes
Madaket Route	June 22– Sept. 7	7 am – 11:30 pm	30 minutes
Sconset via Old South Road Route	May 18 – Oct. 12	7 am – 11:30 pm	60 minutes
Sconset via Old South Road	June 15- Sept. 7	7 am – 12:00 a.m.	60 minutes
Sconset via Milestone Road Route	June 22 – Sept. 7	7:15 am – 7:15 pm	60 minutes
Sconset via Polpis Road Route	June 29 - Sept. 7	10 am – 6 pm	1 hr 20 minutes
Surfside Beach Route	June 22 – Sept. 7	10 am – 6 pm	40 minutes
Jetties Beach Route	June 22 – Sept. 7	10 am – 6 pm	30 minutes
Airport Route	June 22– Sept. 7	10 am – 6 pm	20 minutes
Ferry Connector	May 21- October 12	7 am – 10 pm	20 minutes



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The Board of Selectmen requested the NRTA to provide extended hours of service on the Mid Island Loop, Miacomet Loop, and Sconset via Old South Road Route until 12:00 a.m. from June 15 – September 7. FY15 costs for this service will be from the NRTA's operational budget and FY16 costs will be assessed to the Town of Nantucket. The "additional" Mid Island and Miacomet Loop buses will be re-routed off York and Dover Streets.

The downtown bus stop locations will remain unchanged. The Mid Island Loop, Miacomet Loop, Sconset via Old South Road Route and Sconset via Milestone Road Route will leave from the Greenhound Site on Washington Street. The Sconset via Polpis Road Route, Airport Route, Surfside Beach Route will leave from Washington Street (corner of Salem Street). The Madaket Route and Jetties Beach Route will leave from Broad Street stop.

The level of service above is the reflected costs presented in the FY15 Amended Budget and FY16 Proposed Budget.

I recommend the Board vote to approve the above dates and hours of service.

I do not recommend any changes to the fare structure or the advertising rates listed below.

FARES

ROUTE/LOOP	FARE
Mid-Island Loop	\$1.00
Miacomet Loop	\$1.00
Jetties Beach Route	\$1.00 each way
Madaket Route (to/from Crooked Lane)	\$1.00 each way
Sconset Route (to/from Rotary)	\$1.00 each way
Madaket Route	\$2.00 each way
Sconset Routes	\$2.00 each way
Surfside Beach Route	\$2.00 each way
Airport Route	\$2.00 each way
Ferry Connector	Free*
Seniors 65 & older, persons with disabilities, veterans and active military personnel	Half Fare
Children 6 and Under	Free



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*members of the Ferry Connector work group strongly voiced support for the service to remain free again for 2015 as it is still a new service and we are trying to build ridership.

The NRTA currently offers three (3) types of advertising aboard the buses: AdPockets accommodate 4"x9" brochures and are offered on a weekly and seasonal basis. AdSigns are 24"x11" self adhesive vinyl ads and are only offered on a per season basis. AdPosters accommodate 8 1/2"x11" or 14" poster offered on a weekly basis.

TYPE OF ADVERTISING	RATE
AdPocket	\$500 season or \$35/week
AdPocket non-profit	\$225 season or \$15/week
2 AdSigns	\$500 season
4 AdSigns	\$800 season
6 AdSigns	\$1,000 season
8 AdSigns	\$1,350 season
AdPosters	\$100/week
AdPosters non-profit	\$75/week
Website Advertising	\$500/year

Please do not hesitate to contact me with any questions. I can be reached at 508-325-9571 or nrta@nantucket-ma.gov. Thank you.




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TO: NRTA ADVISORY BOARD

FROM: PAULA LEARY, NRTA ADMINISTRATOR 

RE: APPROVAL OF AGREEMENT WITH BRUCE D. NORLING CPA,
PC – AUDIT SERVICES

DATE: MARCH 4, 2015

Attached for your review and approval is the proposal and scope of services from Bruce D. Norling, CPA, P.C. to perform the independent audit for the NRTA for FY15 in the amount of \$10,000, FY16 in the amount of \$10,000 and FY17 in the amount of \$10,200. This cost only includes performing the audit, additional out of pocket expenses will be billed separately. A single audit will be performed based on federal awards in excess of \$500,000 at an additional \$3,000 fee. This single audit will be required as the NRTA's Federal operating funding exceeds \$500,000 in FY15.

Attached please find the agreement and scope of services.

I recommend the Board vote to approve Bruce D. Norling, CPA, P.C. to perform the NRTA's FY15, FY16, and FY17 audits and authorize the Chair to sign.

Please feel free to contact me if you have any questions. I can be reached at (508) 325-9571 or nrtan@nantucket-ma.gov

Thank you.



Bruce D. Norling, CPA, P.C.

January 27, 2015

Rick Atherton, Chairman of the Board
Nantucket Regional Transit Authority
3 East Chestnut Street
Nantucket, MA 02554

Dear Mr. Atherton:

We hereby propose to continue to provide financial statement audit services to Nantucket Regional Transit Authority for the year ended June 30, 2015, with options for the fiscal years ending 2016 and 2017.

Based on our prior experience with similar clients, we are confident of our firm's ability to effectively serve the Authority and fully meet your needs. Our background and experience uniquely qualify us to be your auditor and business consultant. We are committed to providing the highest level of professional services.

This proposal covers all services and expenses related to conducting the audit of the financial statements of your organization. We have attached a page describing in detail the "Scope of Services" to be provided. The fee will be set at \$10,000, \$10,000 and \$10,200 for 2015, 2016 and 2017, respectively. The fee includes six copies of your bound financial statements. In addition, we will bill separately for expenses including mileage, travel, overnight lodging and other out-of-pocket travel expenses. The secretarial costs or mailing costs by our office will be absorbed by our firm. Any amounts charged to the firm by financial institutions for processing confirmation requests will be billed to you separately.

If Federal Awards expended require a Single Audit in addition to the Basic Audited Financial Statements, the fee for these additional services as outlined in the attached Scope of Services will be \$3,000 per year.

Should the nature of the audit and required procedures differ substantially from our above understanding, an increase to the above-specified amounts may be necessary and I would notify you immediately for approval. We also request that a process be developed so revisions to the draft financial statements be provided to us in writing and be limited to one set of revisions.

Please sign the response below to indicate your approval. If you have questions or comments, we can discuss the contents of this proposal further at your convenience.

Sincerely,

Bruce D. Norling, CPA

Bruce D. Norling, CPA

RESPONSE:

Accepted by: Rick Atherton, Chairman of the Board

Date

NANTUCKET REGIONAL TRANSIT AUTHORITY SCOPE OF SERVICES

BASIC FINANCIAL STATEMENTS

The scope of services includes all services related to auditing the Authority's financial statements for the fiscal year ending June 30, 2015, with options for the fiscal years ending 2016 and 2017, including reporting requirements under the GASB 34 reporting model.

1. Issuing the audit report on the fair presentation of the financial statements and supplemental schedules, including the schedule of expenditures of federal awards (if required) of the Authority for the fiscal years above in accordance with the following:
 - a. Generally Accepted Accounting Principles
 - b. Generally Accepted Auditing Standards
 - c. The standards set forth for financial audits in the General Accounting Office's *Government Auditing Standards*
 - d. Certain limited procedures involving required supplementary information required by the Governmental Accounting Standards Board as mandated by generally accepted accounting principles.
2. Issuing a separate report on compliance and internal control over financial reporting based on an audit of the financial statements.
3. Issuing a separate report on compliance and internal control over compliance applicable to each major federal program, if applicable.
4. Preparing management letter comments, including recommendations for improving internal controls, and any reportable conditions and material weaknesses, if any, identified during the audit.
5. Any indication of irregularities and illegal acts will be immediately reported to the Audit Committee in a written report.
6. Presenting the financial statements to the Administrator at an exit conference prior to issuing final reports.
7. Researching technical accounting issues.

8. Reasonable consultation concerning issues that arise during the year. If such consultation were to develop into a mutually agreed upon distinct project, a separate agreement would be identified and proposed at that time. For example, additional professional time may be required to assist the Authority with the adoption of GASB 68 and Uniform Guidance.
9. Issue a letter to the Advisory Board regarding:
 - a. Our responsibilities under generally accepted auditing standards
 - b. Significant accounting policies
 - c. Management judgments and accounting estimates
 - d. Significant audit adjustments
 - e. Other information in documents containing audited financial statements.
 - f. Disagreements with management, if any
 - g. Management consultation with other accountants, if any
 - h. Major issues discussed with management prior to retention, if any
 - i. Difficulties encountered in performing the audit, if any
10. All working papers and reports will be retained for a minimum of five (5) years. All workpapers and schedules utilized during the audit will be available to you.

**NANTUCKET REGIONAL TRANSIT AUTHORITY
SCOPE OF ADDITIONAL SERVICES
IF SINGLE AUDIT REQUIRED**

Below are the additional services necessary if a Single Audit is required:

1. Issuing the report on the provisions of OMB Circulars A-87 and A-133, including reports on the compliance with requirements applicable to each major program and on internal control over compliance with the requirements of laws, regulations, contracts, and grants applicable to federal programs.
2. Issuing an audit report on expenditures of federal assistance.
3. Preparing the Data Collection Form.


Nantucket Regional Transit Authority

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TO: NRTA ADVISORY BOARD

FROM: PAULA LEARY, NRTA ADMINISTRATOR 

RE: EMPLOYEE MANUAL POLICIES AND PROCEDURES

DATE: FEBRUARY 25, 2015

The following the revision has been made to the NRTA's Employee Manual Policies and Procedures to comply with the finding resulting from the MassDOT Audit regarding a hiring policy for the Administrator position. I have attached the new section. Also attached is the Policies and Procedures Manual for your information.

Please do not hesitate to contact me if you have any questions. Thank you



7.1-2 Administrator Position

Upon the vacancy of the position of the NRTA Administrator notification shall be given to the NRTA Advisory Board. The NRTA Advisory Board shall designate an interim employee to assist with the job responsibilities if a candidate is not hired before the current employee departs, additional compensation should be considered. The NRTA Advisory Board shall determine if the position will be filled through an internal recruitment and selection committee process or if a recruiter will be utilized for the recruitment.

Depending on employment status, the NRTA Administrator or the designated interim employee, with assistance from the chairman of the NRTA Advisory Board, will prepare the necessary documents for the recruitment and employment selection of an Administrator.

If the Board determines an internal recruitment and selection committee process, the NRTA Advisory Board will appoint a selection committee that will undertake the following steps to fill the position of Administrator:

- Review current job description with updates if necessary
- Determine compensation that is acceptable to the NRTA Advisory Board
- Consult the Town's Human Resource Department for benefits provided
- Prepare position advertisement
- Determine placement of the position advertisement (website, appropriate trade publications, newspapers)
- Establish how interviewed candidates will be rated (qualifications, DBE/WBE review, experience education)
- Accept and review applications
- Perform reference and college checks
- Select most qualified candidates for interviews
- Notify candidates of interviews
- Interview candidates
- Select candidate to fill position
- Notify remaining candidates

If the Board determines a recruiter will be utilized for the recruitment and selection process, the following steps will be taken by NRTA:

- Determine if procurement is necessary per the NRTA's Best Practices Procurement Manual
- If procurement is necessary, prepare a request for proposal and necessary advertisements, determine advertisement placement, select successful proposer and NRTA Advisory Board issues contract to the successful proposer
- If procurement is not required NRTA Advisory Board will select a qualified and experienced recruiter and enter into an agreement.

Responsibilities of the Recruiter:

- Review current job description with updates if necessary
- Determine compensation that is acceptable to the NRTA Advisory Board
- Consult the Town's Human Resource Department for benefits provided
- Establish a selection committee
- Prepare position advertisement
- Determine placement of the position advertisement (website, appropriate trade publications, newspapers)
- Establish how interviewed candidates will be ranked (qualifications, DBE/WBE review, experience education)
- Accept and review applications
- Perform reference and college checks
- Select most qualified candidates for interviews
- Notify candidates of interviews
- Interview candidates
- Select candidate to fill position
- Notify remaining candidates

The goal of this employment process is to fill the position with the most qualified candidate available and adhere to the Affirmative Action and Equal Employment Opportunity policies of the NRTA.

NANTUCKET REGIONAL TRANSIT AUTHORITY

EMPLOYEE MANUAL Policies and Procedures

Approved By:
NRTA Advisory Board

Approved On: April 25, 2001
Revised: September 29, 2014
Revised: March 18, 2015
Revised:

To All Employees:

The Nantucket Regional Transit Authority (NRTA) would like to welcome you to its organization. We hope that your employment with the NRTA will afford a positive, professional, and enjoyable experience.

This manual is provided to familiarize you with the NRTA's policies and benefits. Please read this manual and keep it with you as a reference. The NRTA promotes loyalty and harmony amongst employees, as well as courtesy and respect. This is an important component in the success of the NRTA as well as our continued growth. At all times the public and colleagues should be treated with courtesy, dignity and respect, which will create a sense a trust and continuity. As part of the NRTA "team", you should always speak of the NRTA and your colleagues in a desirable fashion.

If you have any questions or issues regarding any material within this manual. Please feel free to contact me.

Again, Welcome!

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HISTORY

The Nantucket Regional Transit Authority (NRTA) was created under Massachusetts General Law, Chapter 161B governing regional transit authorities. The NRTA began providing service in 1995.

NRTA oversees operations of fixed route bus services. "Your Island Ride" service is provided for people with disabilities and elders. All NRTA vehicles are wheelchair accessible and comply with the Americans with Disabilities Act (ADA).

NOTICE

The contents of this manual include the policies and procedures of the Nantucket Regional Transit Authority (NRTA). Personnel policies, procedures, and benefits by their nature are constantly under review as they are affected by changes in applicable law, regulations, economic conditions and the way the NRTA operates. Therefore, the NRTA reserves the right to modify, revoke, suspend, terminate or change any and all policies, procedures and benefits set forth herein as it deems necessary, at any time, with or without notice. In addition, the NRTA reserves the right to decide to apply any particular policy set forth herein in a given situation, if, in its discretion, it should determine that to do so would better serve its interest.

These policies and procedures are intended to be in accordance with all applicable state and federal laws. In the event that the NRTA policies are inconsistent with the applicable state or federal law the applicable law shall apply.

SECTION 1 APPLICATION FOR EMPLOYMENT

In applying for a position all applicants shall provide the employment application supplied by the Authority and a resume.

SECTION 2 PROBATIONARY PERIOD

The first six (6) months of employment for all employees shall be considered a probationary period. At the end of this period, the employee will be evaluated by the NRTA Administrator to review performance during his/her probationary period. The employee will be advised in writing whether he/she will be continued as an employee or whether his/her employment is terminated or that probation period is extended. Copies of all such evaluations and actions will be kept on file.

All personnel policies shall apply to probationary employees except that probationary employees shall not be eligible for earned vacation or for benefits requiring a waiting period during the probationary period.

Following satisfactory completion of the probationary period, all employee benefits shall accrue from the date of initial employment and the period of probation shall be credited toward employment length of service.

SECTION 3 PERSONNEL RECORDS

The NRTA Administrator shall be responsible for establishing and maintaining a centralized personnel record keeping system. The personnel record-keeping system shall contain such records as may be required by law and as necessary for effective personnel management. All employees shall comply with and assist in furnishing records, reports and information as may be requested by the NRTA Administrator.

The NRTA Administrator shall maintain an individual personnel file for each employee. A personnel file contains records of information which have been or could be used relative to an employee's qualification for employment, promotion, transfer, additional compensation or disciplinary action. A personnel file does not include records of personal information about someone other than the employee, if disclosure of such information would constitute a clearly unwarranted invasion of privacy. Medical and/or psychological information about employees including pre-placement evaluations, duty injury records, information provided pursuant to the Family Medical Leave policy, or evaluations ordered by the NRTA because of excessive use of sick leave is maintained separately from the personnel record. Personnel records may include, but are not limited to, the following:

1. the employment application and/or resume;
2. a report of all personnel actions reflecting the original appointment, promotion, demotion, reassignment, transfer, separation or layoff;
3. a history of employment and correspondence directly related to the employee's past employment record, reclassification or change in the employee's rate of pay or position, title, commendations, records of disciplinary action, training records;
4. results of any performance appraisals and other records that may be pertinent to the employee's employment record; and
5. emergency contact information.

Personnel records are confidential and access to records shall be limited to the NRTA Administrator and applicable employee through the NRTA Administrator in order to conduct legitimate NRTA business.

In accordance with the provisions of Massachusetts General Laws, Chapter 149, Section 52C, current and former employees have the right to review their personnel files. Employees must make a written request to the NRTA Administrator to receive a copy of their personnel file.

SECTION 4 PERSONNEL POLICY APPLICABILITY

The following employee policies and procedures pertain to all employees of the NRTA including the positions listed below:

Administrator
Administrative Assistant
Trip Scheduler/Office Assistant
Seasonal

SECTION 6 DEFINITION OF EMPLOYEE

Full Time Employee – Persons who work not less than 35 hours on a weekly basis, and who sustain continuous regular employment status. Full time employees are eligible for all employee benefits: health and life insurance, retirement, sick and vacation time.

Part Time Employee – Persons who do not work at least 35 hours on a weekly basis consecutively, who sustain continuous regular employment status. Part time employees are not eligible for full time employee benefits listed above.

Seasonal – Persons holding a non-permanent appointment requiring services for a set period of time, i.e. spring, summer, winter, or fall. Seasonal employees do not receive benefits.

SECTION 7 EMPLOYMENT PRACTICES

7.1 Non-Discrimination Hiring Practice

NRTA will not discriminate against any employee or applicant because of race, color, sex, sexual orientation, religion, national origin, handicap, disability, age, citizenship, marital status or veteran status, in fulfillment of the requirements of the Federal Executive Order 11246 and 11375 as amended; the Civil Rights Act of 1964 as amended; the Civil Rights Restoration Act of 1988; the Civil Rights Act of 1991; Sections 503 and 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; Section 402 of the Vietnam Era Veterans Readjustment Assistance Act of 1974; the Age Discrimination in Employment Act of 1967; and pertinent Laws, Regulations and Executive Orders; and other applicable local, state, and federal statutes.

Affirmative Action will be taken to ensure applicants and employees are fairly treated, in a non-discriminatory fashion. Such action shall include, but not be limited to: employment, promotion, demotion or transfer, layoff or termination, rates of pay or others forms of compensation; selection for training; and

recruitment advertising. These policies apply to all NRTA employees. See Attachment A.

7.2 Application, Eligibility and Recruitment

The NRTA Administrator shall be responsible for the recruitment and selection of personnel. The qualifications, classification and salary range for positions shall be established by the Administrator. Recruitment of all positions shall be in accordance with the NRTA's Affirmative Action/Equal Employment Opportunity Plan.

All positions will be advertised in the local newspaper

All applicants applying for an advertised position with the NRTA must submit an Employment Application. All qualified personas shall be eligible for employment with the NRTA, subject to any statutory requirements or limitations, contractual limitations or conditions of prior severance from NRTA employment.

Affirmative Action will be taken to ensure applicants and employees are fairly treated, in a non-discriminatory fashion. Such action shall include, but not be limited to: employment, promotion, demotion or transfer, layoff or termination, rates of pay or others forms of compensation; selection for training; and recruitment advertising. These policies apply to all NRTA employees. See Attachment A.

7.3 Age Discrimination

In accordance with federal and state law, the NRTA prohibits discrimination based on age in the working environment. This specifically prohibits the use of age as a factor, where prohibited by law, in decisions affecting the employment status of an employee of the NRTA or of an applicant for employment.

7.4 Sexual Harassment

The issue of sexual harassment in the work place has been recognized by various governmental agencies and courts as a component of sex discrimination. Sexual harassment of employees occurring in the workplace or other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by this organization. See Attachment B.

7.5 Racial Harassment

Because the NRTA is dedicated to having its employees able to participate in an increasingly diverse world, the employment atmosphere must be one in which freedom prevails along with respect for and tolerance of cultural, ethnic, racial and religious differences. Racial harassment, in many instances violates Massachusetts criminal statutes, and when civil rights are denied, may violate other state and federal laws as well.

Racial harassment includes, but is not limited to, verbal, physical, or written abuse directed toward an individual or group on the basis of race or racial affiliations. While some examples of racial harassment such as physical and verbal assaults are easily identified, more frequent and generalized instances such as blatant and subtle graffiti and insensitive use of language often go unacknowledged. Both types, however, can be equally damaging.

The NRTA is a public transit authority and its policies must be consistent with existing state and federal constitutions and civil rights laws.

7.6 Work Place Violence

The NRTA does not tolerate violence in any form. Threats, intimidations, physical contact, or sexual harassment is prohibited at all times while on NRTA premises. Employees are also banned from carrying or transporting a weapon on NRTA premises.

Employees are required to report all acts of violence and weapons violations by NRTA employees, customers, vendors, or family members in the workplace immediately to the NRTA Administrator.

Any employee who violates the prohibited weapons rule will be terminated. Employees who demonstrate violent behavior may be disciplined up to and including termination of employment. Any employee who witnesses such acts of violent behavior and fails to report it, may also be subject to disciplinary actions up to and including termination of employment.

7.7 Drug Free Workplace

As required by U.S. DOT regulations on Drug-Free Workplace Requirements at 49 CFR 29.630, the NRTA certifies that it will provide a drug-free workplace. See Attachment C.

7.8 Smoking Policy

In 1987, the Commonwealth of Massachusetts adopted a policy that called for the elimination of smoking in public buildings which fall under the jurisdiction of the state. The measure was designed to reduce the health risks that are

associated with second hand smoke. Smoking in any NRTA building is prohibited.

7.9 Job Duties

Each employee should have a clear understanding of the duties and responsibilities of their position. A written job description will be provided for each position. See Appendix A.

SECTION 8 COMPENSATION

8.1 Workweek

The administrative workweek for the NRTA shall be Monday through Sunday. The regular workweek for full time employees shall consist of a minimum of thirty-five (35) hours, Monday through Friday; except where specifically changed by the NRTA Administrator. Thirty-five hours constitutes seven hours a day with a one (1) hour unpaid lunch break. Employees may take one fifteen (15) minute break in the morning and one fifteen (15) minute break in the afternoon. Break periods will be assigned, with only one employee taking a break at a time.

8.2 Hours of Duty

The starting and ending times of the daily work schedule shall be determined and fixed by the NRTA Administrator, but are typically 8:00 a.m. to 4:00 p.m. Such schedule may be changed from time to time to meet changing conditions of operation.

8.3 Positions

The compensation of each of the named NRTA positions covered by these policies and procedures shall be determined by the NRTA Advisory Board in the approved fiscal year budget. This budget may be updated during the fiscal year.

8.4 Wages

The weekly rate of compensation of each salaried employee shall be equal to the annual rate of compensation divided by fifty-two (52). The hourly rate of compensation of each employee shall be equal to the weekly rate of compensation divided by thirty five (35) or forty (40) hours; or other mutually agreed provisions for said positions subject to approval by the NRTA Administrator.

For each hourly employee, the weekly rate of compensation shall be equal to the hourly rate multiplied by the number of hours worked and/or holiday, vacation, illness, personal, or bereavement hours allowed.

8.5 Overtime

The NRTA shall pay overtime in accordance with the provisions of the Fair Labor Standards Act (FLSA). The NRTA Administrator is responsible for the control and authorization of overtime. Overtime shall be authorized at the discretion of the NRTA Administrator.

8.6 Time Sheets

To receive his/her paycheck, all employees are required to complete and sign a time sheet provided by the NRTA Administrator that correctly shows the times during the day the employee worked. Any leave time, paid or unpaid, shall be reported on the time sheet. Any compensatory time earned or taken must be shown on the time sheet.

SECTION 9 LEAVES AND RELATED BENEFITS

9.1 Vacation

Employees shall be granted vacation with pay in each year in accordance with the following schedule:

LENGTH OF SERVICE	VACATION PERIOD
After one (1) year but less than five (5) years, as of anniversary date of hire	Ten (10) work days which accrue at the rate of .833 days per month
After five (5) years but less than ten (10) years, as of the anniversary date of hire	Fifteen (15) work days which accrue at the rate of 1.25 days per month
After ten (10) years but less than twenty (20) years, as of anniversary date of hire	Twenty (20) work days which accrue at the rate of 1.67 days per month
After twenty (20) years as of the anniversary date of hire	Twenty-five (25) work days which accrue at the rate of 2.08 days per month

Vacation leave earned shall be computed from the date of employment. However, an employee shall not be entitled to vacation leave until the completion of six (6) months of continuous service at which time the employee is eligible to take one-half of the allotment for the year subject to the approval of the NRTA Administrator.

It is the basic policy of the NRTA that vacation leave not be carried from one year to another. In unusual circumstances, the NRTA Administrator may, at the request of the employee, allow unused vacation time to carry forward. These vacation days shall be used within six (6) months.

Upon the death of an employee who is eligible for vacation under these rules, payment shall be made to the estate in an amount equal to the vacation allowance as accrued in the vacation year prior to the employee's death but which had not been taken. In addition payment shall be made for that portion of the vacation allowance earned in the vacation year during which the employee died, up to the time of separation from the payroll.

Employees who are eligible for vacation under these rules and whose services are terminated by dismissal through no fault or delinquency on their own part or by retirement or by entrance to the armed forces shall be paid an amount equal to the vacation allowance earned and not taken in the vacation year prior to such dismissal, retirement, or entrance to the armed forces. In addition, payment shall be made for that portion of the vacation allowance earned in the vacation year during which such dismissal, retirement or entrance to the armed forces occurred up to the time of the employee's separation from the payroll.

9.2 Holidays

Employees shall be granted leave with pay on the days designated by law for the observance of the following holidays:

New Year's Day	Independence Day
Martin Luther King Day	Labor Day
President's Day	Columbus Day
Patriot's Day	Veterans' Day
Memorial Day	Thanksgiving Day
Christmas Day	

In addition to the above holidays, employees shall be granted one additional holiday, either the day before Thanksgiving or the day before or the day after Christmas at the discretion of the NRTA Administrator.

If a holiday occurs on a Saturday, it shall be observed on the Friday preceding the holiday. If a holiday occurs on a Sunday, the following day shall be observed as the holiday.

If a holiday occurs during the vacation period a full time employee, the employee shall be granted an additional day of vacation.

9.3 Sick Leave

Sick leave is a benefit limited to absences caused by illness, injury, exposure to contagious disease, illness in the immediate family, or illness or disability arising of, or caused by, pregnancy or childbirth. Sick leave may be used for off-island

travel for medical reasons including doctor's appointment, x-ray and laboratory work.

Eligible employees will accrue one and one-quarter sick days per month of service. Sick leave shall be cumulative to a maximum of 120 days. Employees on extended sick leave for three (3) consecutive months or more, whether paid or unpaid, shall cease to accumulate sick leave days until they return to work. Sick leave benefits not yet earned shall not be granted to employees.

Employees shall be entitled to sick leave without loss of pay if they have notified the NRTA Administrator of the absence and cause thereof within one hour of the start of their shift, or as soon thereafter as practicable.

If employees have been warned in writing that their use of sick leave has been excessive or has established a pattern of abuse, the NRTA, in its exclusive discretion, may require a written certificate from a town-selected physician establishing incapacity, illness, or injury as a condition of payment of sick leave benefits. Excessive or patterned abuse shall be cause for the NRTA to initiate disciplinary action. If an employee uses sick leave for purposes other than legitimate illness, the employee shall be subject to discipline up to and including discharge.

The NRTA may require an employee who seeks to return to work after being absent, whether paid or unpaid, for three (3) or more consecutive days, to be examined by a NRTA selected physician to determine the employee's fitness for work.

If the NRTA requires a medical certificate, the NRTA will pay the cost of the physician's services in examination of the employee. Further, it is mandatory that a physician's certificate of illness be provided by the employee on the thirtieth (30) day of continuous sickness, injury, illness or disability, if self-imposed or resulting from abuse of the use of alcohol or the use of drugs that are classified under the Federal Narcotics Act or Drug Abuse Control Act, shall not be considered a proper claim for leave under this section unless such leave is for the purpose of documented rehabilitation.

In the event that employees exhaust their accumulation of sick leave due to an extended illness or injury, the NRTA Administrator may incrementally grant up to sixty (60) additional sick days. All other forms of leave including vacation and personal must be used before employees are granted the additional sick leave. In determining whether such additional sick leave may be granted, the NRTA Administrator shall take past absences of the employee and the length of continual service into account. A minimum of one year's continual service is required for an employee to be considered for such additional sick leave.

9.4 FMLA Statement

In accordance with the provisions of the federal Family and Medical Leave Act of 1993 (FMLA) employees having completed at least twelve (12) months of service or who have actually worked at least 1,250 hours during the preceding twelve (12) months, shall be entitled to take up to twelve (12) weeks of unpaid leave for any of the following purposes:

- 1) the birth of the employee's child, and in order to care for the newborn child;
- 2) the placement of a child with the employee for adoption or foster care;
- 3) the need to care for the employee's spouse, child or parent who has a serious health condition;
- 4) the employee's own serious health condition that renders the employee unable to perform the functions of his/her position.

Employees requesting leave pursuant to this policy must notify the NRTA at least thirty (30) days prior to anticipated leave. If such leave was not foreseeable, employees must notify the NRTA as soon as possible.

In order to be eligible for leave under this policy, employees shall provide certification from a health care provider to substantiate any leave due to the health condition of the employee or the employee's immediate family member.

The NRTA will continue its contributions to group health plan premiums for employees on FMLA leave. Employees shall pay their applicable percentage of the premium while on such leave.

Employees on FMLA must use accrued vacation or personal leave while on such leave. Employees on FMLA leave for 1, 2, and 3 above may use any accrued sick time while on such leave. Employees on FMLA for 4 above must use any accrued sick time while on such leave. Employees shall continue to accrue vacation and sick leave while on FMLA leave.

Upon the termination of FMLA leave, employees shall be restored to their former or similar position. Prior to reinstatement, employees taking leave for 4 above must present a certification from a health care provider that the employee is able to return to work.

9.5 Personal Leave

Employees after having completed twelve (12) months of continuous service shall be granted two (2) days of personal leave as of July 1 of each year.

Personal leave shall be charged to sick leave accumulation. Personal leave shall not be cumulative, but any unused personal leave shall be credited to sick leave accumulation at the end of each year.

Application for such leave must be made to the NRTA Administrator as early as possible and, except for an emergency, not less than one (1) working day in advance. Personal leave may be taken in two-hour increments.

9.6 Bereavement Leave

Full-time employees shall be granted leave of absence with pay in the event of death in the immediate family. Such leave shall be granted for a period of five (5) working days. Immediate family shall consist of father, mother, brother, sister, spouse, child, grandparents, father-in-law, mother-in-law, brother-in-law, sister-in-law, foster/step and/or adopted relationships, relatives living in the household or designated partner shall be covered.

9.7 Longevity Pay

In recognition of service to the NRTA, employees shall be eligible to receive longevity payments in accordance with the following schedule:

Length of Service	Longevity Amount
After five (5) years but less than ten (10) years, as of the anniversary date of hire	Two percent (2%) of base pay
After ten (10) years but less than fifteen (15) years as of anniversary date of hire	Three percent (3%) of base pay
After fifteen (15) years but less than twenty (20) years as of anniversary date of hire	Four percent (4%) of base pay
After twenty (20) years as of anniversary date of hire	Five percent (5%) of base pay

9.8 Unpaid Leave of Absence

Leave for personal reasons, may be granted with approval of the NRTA Administrator and shall be without pay or benefits. Such leave shall be requested to the NRTA Administrator in writing and shall not exceed two (2) calendar weeks. Such leave in excess of two (2) weeks, but in no event to exceed an academic school year of up to twelve months, may be granted. With the exception of leaves required for military service, a minimum of one year's continual service is required for an employee to be eligible for unpaid leave of absence.

For unpaid leave in excess of ten (10) days, an employee is required to assume medical insurance premium payments pursuant to COBRA, if that employee wishes to continue the medical benefits.

9.9 Maternity Leave

Pursuant to the provisions of M.G.L. Chapter 149, Section 105D, female employees having completed at least three (3) consecutive months of full-time service may take up to eight (8) weeks of maternity leave for the following reason:

- 1) the birth of the employee's child;
- 2) placement of a child with the employee for adoption or foster care.

In the event a female employee is eligible for both FMLA and maternity leave, that employee's leave will be charged to both forms of leave simultaneously.

Employees requesting leave pursuant to this policy must notify the NRTA Administrator at least two (2) weeks prior to anticipated leave.

Employees on maternity leave may use any accrued vacation, accrued sick time, or personal leave while on such leave.

Upon the termination of maternity leave, employees shall be restored to their former or similar position.

9.10 Jury Duty

Any full time employee summoned to jury duty will be excused from work for the time required to perform this duty. The NRTA will reimburse the difference between the employee's normal salary and the compensation received for jury duty.

9.11 Military Leave

A full time employee who as a member of the U.S. Military Reserves is required to serve on active military duty, attend summer camp, or is mobilized during an emergency shall be reimbursed the difference between the reserve pay and normal salary for a period of not more than two (2) weeks.

An employee entering or activated into regular military service or reserves will be provided a leave of absence as required by Federal Laws. If an employee applies within ninety (90) days after honorable discharge from military service, he/she will be rehired with the full rights of his/her position.

9.12 Compensatory Time

1. Earning Compensatory Time

All full time, non-hourly employees earn compensatory time for one hour for every hour over the regular workweek. Compensatory time for any employee may be earned for attendance at evening or off island meetings or for time spent working in the office before or after the workday has been completed. Working at home will not qualify for earning compensatory time. Part time employees do not earn compensatory time.

2. Compensatory Time

The following policies for compensatory time shall apply to all full time non-hourly employees:

- a. Compensatory time may be taken only with prior written approval of the NRTA Administrator.
- b. Compensatory time will not be allowed on consecutive days except when the necessity for taking such time is submitted in writing to the NRTA Administrator.
- c. A record will be kept by the NRTA Administrator for all personnel of compensatory time earned and used. Compensatory time accumulations will be closed at the end of the each month. Compensatory time cannot be carried over from month to month.
- d. Any compensatory time earned or taken must be shown on the time sheet.

9.13 Reimbursement of Expenses

When the purpose of any work related trip, including normal business appointments, is to exceed \$50.00, approval of the Administrator shall be required. This request shall be made in writing, stating the purpose of the trip, those attending, reason for attending and the estimated cost. Expenses to be paid by the NRTA shall be limited to the actual cost of coach transportation on scheduled carriers, taxi and limousine fares, registration or attendance fees, hotel or motel room charges, business related telephone charges and meals.

1. Expenses to be defrayed by the NRTA for meals shall be \$50.00 per diem, maximum.
2. When transportation is provided in a privately owned automobile, the NRTA will reimburse the owner the federal approved per mile rate, and in addition such parking fees and tolls as are incurred. The NRTA shall not however pay for parking or speeding fines.
3. Insofar as possible, expenses shall be billed directly to the NRTA.
4. Expenses not billed directly to the NRTA will be reimbursed upon representation of a voucher accompanied by receipts. Name and

address of business, date, and amount paid must be on the receipt. For meals an itemized bill must be attached. No tip or alcohol will be reimbursed.

5. The NRTA will not generally pay for staff membership in professional organizations unless it requires such memberships.

9.14 Weather Conditions

The following policies will apply during adverse weather conditions:

- a. If the office is closed by the NRTA Administrator prior to the 8:00 a.m. opening time, employees will be paid for the normal workday of the employee. Employees will be notified by 7:30 a.m.
- b. If the office is open and then closed by the NRTA Administrator, employees who have reported for work will be paid for the normal workday of the employee for the time spent in the office prior to closing and for the remainder of the day after the office is closed.
- c. If the office is open for all or part of the day and any employee has not reported for work then that employee must use either vacation, compensatory, or personal time. If such time is not available, then loss of pay for that employee will occur.
- d. If any employee has arranged to take time off and such day falls on a day as described above, the employee will use the time as arranged and no swap of time will be allowed.

9.15 Promotion/Evaluation

1. Promotion will be based on merit. Whenever a position becomes vacant, all employees will be notified in writing, and if qualified will be considered along with other applicants for that position.
2. Evaluations of performance of staff members shall be conducted by the Administrator each year prior to the anniversary date of the employee's current position. The Administrator shall use evaluation forms, which comment on the employee's quality and quantity of work, attitude and other pertinent information. The Administrator shall see to it that up-to-date personnel files are kept on all employees. No document will be placed in such file without the employee receiving a copy of such document. Any employee has the right to challenge an evaluation by utilizing the grievance procedures in these policies.

9.16 Staff Development

The NRTA encourages staff development and will seek to provide opportunities for individual development of employees through supervision, in-service training,

staff meetings, attendance at special training programs, conferences and workshops within the limits of the budget and the work schedule of the NRTA.

- a. Time off with pay may be allowed for attendance at short-term conferences and institutes with the authorization of the Administrator. When attendance is in the interest of the NRTA and where finances permit staff may be reimbursed in full or in part for expenses incurred within the guidelines of this policy.
- b. Leaves for professional study or to take a course, may be arranged with the authorization of the Administrator. Such leaves shall be granted without pay or expenses, or by rearrangement of the work schedule of the employee. However the Administrator may grant payment or reimbursement for course or other professional development where such program has direct benefit relative to the duties performed by the individual employee. Payment is based upon the successful completion of the selected program. The Administrator may attach and vary other conditions as he/she may see fit.

SECTION 10 CODE OF CONDUCT

All NRTA employees covered by these policies and procedures shall conduct their duties in a conscientious manner adhering to all the standards of conduct prescribed by the Commonwealth and/or the Federal Government. This code shall govern the performance of all employees engaged in the award and administration of contracts supported by federal and/or state funds.

Employees shall not participate in the selection, or in the award, or administration, of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, any member of his/her immediate family, his or her partner or an organization which employs or is about to employ any of the above has a financial or other interest in the firm selected for an award.

No employee shall have any relationship or engage in any activity which might involve or lead to personal obligation which could impair the objectivity of such person's judgment or imply to others that favoritism or obligations exist between the employee and any other party.

Officers, employees, or agents shall neither solicit nor accept gifts, gratuities favors or anything of monetary value from contractors, potential contractors, or parties to sub agreements seeking to establish a business relationship with the NRTA.

This policy is not intended to prohibit the ordinary and accepted courtesies of business, such as promotional desk calendars, diaries, pencils and occasional

meals, but is intended to prohibit receipt of valuable gifts and extended expensive hospitality.

Gifts or other gratuities which might adversely affect the exercise of an employee's judgment in matters pertaining to the NRTA or tend to impair public confidence of the NRTA must never be accepted.

Entertainment in any form must not be accepted if either party might feel an obligation, or if a third party might infer that an obligation exists.

No employee of the NRTA shall have a financial interest in any other organization which might profit either from the decisions he/she makes in carrying out his/her NRTA responsibilities, or from his/her knowledge of NRTA actions and future plans. This shall include serving as a director, officer, or consultant either in a paid or unpaid position.

No employee shall make investments or act for personal gain based upon special knowledge he or she obtained, whether directly or inadvertently of his or her position as an employee of the NRTA.

SECTION 11 DISCIPLINARY PROCEDURES

All NRTA employees covered by these policies and procedures shall adhere to the following in order to provide a harmonious working environment for all employees. All employees are expected to put in a fair day's work, be punctual and honest. In order to create this atmosphere, a system of warning and corrective action has been developed. The procedures consist of verbal and written warnings, suspensions (without pay) and termination for repeated violations.

11.1 Attendance and Tardiness

The NRTA recognizes that normal absenteeism will occur. However, when absences become excessive or recurring, whether excused or non-excused, it creates unnecessary stress on fellow employees who are forced to cover assignments. Excessive absenteeism by employees can also generate an unfriendly working environment.

The progressive steps of discipline for attendance and/or tardiness is as follows:

First Step	Verbal Warning
Second Step	Written Warning

Third Step	Suspension without pay
Fourth Step	Termination

Unexcused Absence – An unexcused absence is defined as not reporting to work and/or not notifying the NRTA Administrator of the absence in a timely manner.

Excused Absence – An excused absence is defined as the employee notifying the NRTA Administrator that he/she will not be reporting to work that day. An excused absence does not imply that in cases of abuse the appropriate disciplinary actions will not be taken. Absences, even excused, are disruptive to the normal course of operations. When excused absences become excessive and/or recurring, the disciplinary process will be used to address the abuse.

Excused Tardiness – Excused tardiness is defined as having the NRTA Administrator's authorization to be late on any particular occasion(s).

Unexcused Tardiness – Unexcused Tardiness is defined as reporting to work later than the scheduled report time without notification to the NRTA Administrator. Unexcused tardiness is subject to the following discipline:

Tardy two times within one month	Verbal warning
Tardy two times within six months after verbal warning	Written Warning
Tardy two times within six months after written warning	Suspension (without pay)

11.2 Rules of Conduct

Any NRTA employee engaging in the following acts of misconduct are subject to discipline, including verbal warning, written warning, suspension up to and including termination.

- ✓ Poor workmanship or work effort, inefficiency
- ✓ Lack of attention to work duties, loafing, idling, or wasting time during work hours
- ✓ Performing work of a personal nature during work time
- ✓ Interfering with another employee's work
- ✓ Failure to cooperate with co-workers
- ✓ Failure to return to work promptly after lunch period and break period
- ✓ Failure to sign letters of warning, suspension, company policy or procedure documentation
- ✓ Insubordination, including refusal to perform an assigned task
- ✓ Threatening, intimidating or coercing of fellow employees or supervisors
- ✓ Fighting and disorderly conduct – either provoking or participating in same
- ✓ Willful misuse, destruction or damage of NRTA or Town property or the property of a fellow employee or supervisor

- ✓ Abusive and/or inappropriate conduct or remarks toward members of the public, NRTA or any of the management or employees
- ✓ Gross negligence or carelessness which has the tendency to or does result in personal injury to an employee or supervisor

11.3 Use of NRTA Property

NRTA telephones, supplies, equipment, computers and vehicles purchased by the NRTA are to be used for official NRTA business only. It is recognized that it is sometimes necessary to make or receive personal telephone calls during working hours. Such calls shall be limited and not interfere with job performance. Personal mail should be sent to the home of employees and the use of official mail for personal business is prohibited. Misuse of NRTA property is subject to discipline, including verbal warning, written warning, suspension up to and including termination.

SECTION 12 TERMINATION

12.1 Gross Misconduct

Immediate termination may be appropriate in some cases of gross misconduct. Listed below are examples of gross misconduct. This list is not intended to be all-inclusive.

Theft

Emotional or physical abuse in the work place
 Repeated use of abusive language
 Being under the influence of illegal drugs, misused prescription drugs or alcohol during work hours
 Sexual harassment
 Failure to follow safety rules and regulations, thereby endangering self and others
 Dishonesty or falsification of documents
 Possession of weapons at the work place
 Excessive, unexcused absenteeism or tardiness

12.2 Other Grounds For Termination

1. It is important that NRTA employees work together in creating a respectful and harmonious atmosphere in the workplace. Unfavorable or abusive remarks made against the NRTA and/or its administrative staff will not be tolerated. Such behavior may result in discipline up to and including termination.

2. Capabilities and/or job performance falling below the normal standard for the job responsibility, needs for excessive on the job training or a series of minor disciplinary infractions not deemed significant enough to warrant a written or verbal warnings are all circumstances where termination of an employee may occur, and it is in the best interest of the NRTA and its employees.
3. Employees who do not adhere to the CODE OF CONDUCT, which is part of these policies and procedures, may be disciplined up to and including termination.

12.3 Termination of Employment

Continued employment with the NRTA is subject to satisfactory performance of responsibilities on the part of the employee, the availability of funds, and the staffing requirements of the NRTA. The NRTA Administrator for reasons of reduction in force, reorganization, unsatisfactory performance of duties, and for such other reasons as noted below may terminate employment:

1. Reduction in Force – Reduction in Force refers to necessary reduction in staff by virtue of reduced financial resources. In the case of layoff, employees shall be laid off in a non-discriminatory basis so that affirmative action principles are maintained.
2. Reorganization – Reorganization refers to a change in the work program of the NRTA which results in the elimination of certain positions and the necessity of employing staff with different qualifications.
3. Unsatisfactory Performance
 - a. Frequent absence from work or neglect of responsibilities.
 - b. Unsatisfactory performance of duties.
4. Other
 - a. Falsification of information given in personnel record or application for employment.
 - b. Dishonesty.
 - c. Obtaining and misusing confidential information.
 - d. Repeated absenteeism without justifiable cause and without timely reporting.
 - e. Insubordination.

12.4 Notice of Termination

All employees shall give at least two weeks notice of resignation, in writing.

Failure of any employee to give timely notice of desire to terminate employment may result in an unsatisfactory recommendation and forfeiture of all or part of any earned compensatory time, vacation time or sick time. The Administrator may waive this section based on the circumstances of the employee.

The NRTA will give thirty (30) calendar days notice of termination of employment. When the Administrator considers it in the best interest of the NRTA, employees may be relieved of their duties immediately and pay covering the required period of notification of termination shall be given in lieu of notice. If discharge of an employee is contemplated for any of the reasons classified under "unsatisfactory performance" the employee shall be given a written warning and a period of thirty (30) calendar days to correct the conditions, which make retention questionable, and to improve performance. Employment may be terminated without additional warning or notice, with the issuance of any further warnings or failure to correct the conditions affecting performances.

12.5 Severance Compensation – All Full Time Employees

1. If any employee terminates employment with the NRTA or whose employment is terminated by the NRTA after the completion of the probationary period, the employee shall be entitled to payment of the following vacation.

<u>Year of Service</u>	<u>% Allowed</u>
Less than one year	0
1-2 years	25%
3-5 years	50%
6-10 years	75%
Over 10 years	100%

2. If any employee terminates employment with the NRTA after the completion of the probationary period, the employee shall be entitled to payment of the following sick leave subject to the maximum accumulation of 120 days.

<u>Years of Service</u>	<u>% Allowed</u>
Less than 1 year	0%
1-3 years	25%
4 or more years	50%

12.6 Beneficiary Claim

In the event of the death of an employee, the recognized beneficiary of the employee shall receive the compensation due to the employee in Section 1 as applicable.

12.7 Administrator's Severance Compensation

If in the case of termination of employment by the NRTA and for the mutual benefit of all parties, the following schedule of severance, shall apply to the Administrator.

<u>Years of Service</u>	<u>Compensation</u>
Less than one year	0
1-2 years	1 month
3-5 years	2 months
6-10 years	3 months
over 10 years	3 months

SECTION 13 GRIEVANCE PROCEDURE

This grievance procedure shall apply only when a grievance arises under 12.4, 3 and 4.

- A. In those cases where an employee reports to a supervisor, the following will apply.

When an individual feels aggrieved, the employee should discuss the problem first with the employee's immediate supervisor. If the employee is not satisfied with the answer or solution, the employee within ten (10) regularly scheduled workdays, should so indicate to the employee's supervisor and request a conference with the NRTA Administrator with the knowledge of the supervisor. The employee may discuss the problem privately with the NRTA Administrator or may request the supervisor be present. Within ten (10) regularly scheduled working days, the NRTA Administrator shall render a written decision and such decision shall be final. The NRTA will not entertain frivolous grievances and continued abuse may lead to termination at the discretion of the NRTA Administrator.

- B. In those cases where an employee reports directly to the NRTA Administrator, the following will apply:

When an individual feels aggrieved the employee within ten (10) regularly scheduled working days, will discuss the problem directly with the NRTA Administrator. The NRTA Administrator shall render a written decision within ten (10) regularly scheduled working days. The employee may appeal the NRTA Administrator's decision to the NRTA Advisory Board within ten (10) regularly scheduled working days. The

NRTA will not entertain frivolous grievances and continued abuse may lead to termination at the discretion of the NRTA Administrator.

SECTION 14 OTHER POLICIES

14.1 Internet, E-mail and Computer Use Policy

The safety and well being of each employee and citizen who comes in contact with the NRTA electronically, is of vital concern to the NRTA. Internet access and computers offer an easy, efficient and fast means of communication and/or research but must be undertaken responsibly. See Attachment D.

14.2 Pet Policy

It is the policy of the NRTA that no individual who is employed by the NRTA shall bring his/her pet to work.

14.3 Political Activity Policy

Participation in political activities may be carried on outside of normal working hours. No political activities or solicitations will be conducted on NRTA property by employees.

14.4 Safety Policy

Each employee shall observe all safety rules, operating procedures and safety practices; use personal protective equipment, report unsafe areas, conditions, or their safety problems and report all accidents promptly to the NRTA Administrator.

14.5 Right to Know Law

Massachusetts General Law, Chapter 111F provides rights to employees and community residents regarding the communication of information on toxic and hazardous substances. See Attachment E.

Nantucket Regional Transit Authority

3 East Chestnut Street, Nantucket, MA 02554

Phone: 508-325-9571 • Fax: 508-325-0788 • TTY: 508-325-7516

www.nrtawave.com • nrt@nantucket-ma.gov

TO: NRTA ADVISORY BOARD
FROM: PAULA LEARY, NRTA ADMINISTRATOR
RE: APPROVAL OF TITLE VI PLAN UPDATE
DATE: MARCH 12, 2015



Attached for your approval is the NRTA's updated Title VI Plan that includes Limited English Proficiency (LEP) and Public Participation Plan requirements.

I recommend the Board approve the Title VI Plan update and authorize the NRTA Administrator and Chairman to sign.

Upon Board approval, I will announce that the Plan has been approved and will be made available on the NRTA's website, at its administrative office, customer service center (Greenhound) and upon request. Currently posted on the NRTA's website in English and Spanish are the Rights of Beneficiaries and the Discrimination Complaint Procedure approved by the Board on January 25, 2012.

Please do not hesitate to contact me if you have any questions. Thank you.



NANTUCKET REGIONAL TRANSIT AUTHORITY

TITLE VI PLAN

December 2012

Updated:
July 2013
December 2013
March 2015

Nantucket Regional Transit Authority
3 East Chestnut Street
Nantucket, MA 02554
508-325-9571

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Introduction

Title VI of the Civil Rights Act of 1964 states 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 subject to discrimination under any program or activity receiving federal financial assistance”.

To comply with this basic civil rights mandate, each federal agency that provides financial assistance for any program is authorized and directed by the United States Department of Justice to apply provisions of Title VI to each program by issuing applicable rules, requirements and regulations. The Federal Transit Administration (FTA) issued new circular guidelines (FTA C 7402.1A) on May 13, 2007 for FTA recipients. This circular describes the Title VI compliance programs to be maintained by recipients of FTA administered funds for transit programs.

This report will explain the Nantucket Regional Transit Authority's (NRTA) Title VI Program. The Title VI Program, managed by the Department of Transportation (DOT) assures that the program requirements are fully met and that NRTA is compliant with Federal guidelines and is responsive to the needs of Title VI beneficiaries.

Annual Submission of Assurances

The NRTA will submit an annual Title VI Assurance as part of the annual Certification and Assurance submission to FTA (attachment 1). The NRTA will collect the Title VI assurances from any sub-recipients prior to passing through FTA funds.

Title VI Complaint Procedures

The NRTA is committed to ensuring that no person is excluded from participation in, or denied benefits of its services on the basis of race, color, and national origin as protected by Title VI of the Civil Rights Act of 1964, 49 CFR 21.9(b). Anyone who believes there is an act of discrimination in a program or activity may file a complaint with the Nantucket Regional Transit Authority, the Massachusetts Department of Transportation and the FTA Office of Civil Rights.

Complaints should be addressed to: Paula Leary, NRTA Administrator, 3 East Chestnut Street, Nantucket, MA 02554, 508-325-9571; TTY 508-325-7516; nrtanantucket@nrtanantucket-ma.gov. Massachusetts Department of Transportation, Office of Civil Rights, 10 Park Plaza, Suite 4160, Boston MA 02116 or MassDOT.civilrights@state.ma.us

Any person may submit a complaint in writing or verbally who believes that he or she or any specific class of persons has been subjected to discrimination that is prohibited by Title VI of the Civil Rights Act of 1964, its amendments and related statutes, by the NP&EDC or NRTA in their role of planning and programming federal funds. Complaints may be submitted for discrimination on the basis of race, color, and national origin. Any

such complaint shall be submitted no later than 180 days after the date the person believes the discrimination to have occurred.

Complaints shall be in writing, verbally and if necessary with assistance provided by NRTA and shall set forth as completely as possible the relevant facts and circumstances surrounding the alleged discrimination. The following information shall be included:

- Name, address, and phone number of the complainant
- A statement of the complainant, including:
 - The basis of the alleged discrimination (race, color, national origin)
 - A detailed description of the alleged discriminatory act(s)
 - What in the nature of the alleged act(s) led the complainant to feel that discrimination was involved
 - The date(s) on which the alleged discriminatory act(s) occurred
 - The name(s) of individual(s) alleged to have participated in the act(s)
- The names of all other agencies or organizations where the complaint is also being filed (if applicable)
- The signature of the complainant and date submitted.

Upon receipt of the complaint, the NRTA staff will review it. Staff shall provide written acknowledgment of receipt to the complainant within ten (10) business days.

The review may include the gathering of additional information from the complainant and/or the alleged discriminating party or parties.

Upon completion of the review, staff shall submit a report of findings to the members of the NRTA Advisory Board. If the complaint is found to have merit, the report of staff shall also include proposed resolutions and/or recommended actions, such as:

- Forwarding the complaint to a responsible implementing agency
- Identifying remedial actions that are available to offer redress
- Identifying possible improvements to the NRTA Title VI processes.

If more time is required for the review, NRTA staff shall notify the complainant and NRTA Advisory Board chair of the anticipated additional time needed.

The NRTA staff shall submit the report of findings to the members of the NRTA Advisory Board for discussion and action. A copy of the report shall also be provided to the complainant. The NRTA shall issue a written response to the complainant describing any action taken. The response shall be issued no later than sixty (60) calendar days after the date on which the complaint was received. If more time is required for action, the NRTA shall notify the complainant of the anticipated additional time needed.

The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made

within seven (7) calendar days of the original determination to the Administrator of the NRTA. The Administrator shall consider the complainant's request for reconsideration. The request for reconsideration shall be considered denied if no action is taken within the (10) calendar days after the date the Administrator received the request for reconsideration.

The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impeded by the persons pursuit of other remedies such as filing a complaint with the responsible federal or state department or agency. Use of this complaint procedure is not a prerequisite to the pursuit of other remedies.

These rules shall be construed to protect the substantive rights of interested persons to meet appropriate due process standards and to assure that the Nantucket Regional Transit Authority complies with the Title VI and implementing regulations.

If the complainant is dissatisfied with the resolution made by the Nantucket Regional Transit Authority, the same complaint may then be submitted to FTA or the Secretary of Transportation. A complaint must be filed within 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary of Transportation for investigation.

Record of Title VI Investigations, Complaints or Lawsuits

To our knowledge the Nantucket Regional Transit Authority has not had any Title VI investigations, complaints or lawsuits filed against them since the last submittal.

NRTA and subrecipients will prepare and maintain a list of any active investigations, complaints, or lawsuits conducted by entities other than FTA that allege discrimination on the basis of race, color or national origin. This list will include when the date of the investigation, complaint or lawsuit was filed; a summary of the allegation(s); the status of the investigation, complaint or lawsuit; actions taken by the recipient or subrecipients in response to the investigation, complaint or lawsuit. This list will be prepared and maintained by the NRTA Administrator.

The NRTA will comply with 48 CFR Section 21.9(b) should NRTA find themselves in that situation.

Access to Services by Persons with Limited English Proficiency

The area served by the NRTA has a population of 9,500 with 200 total LEP population, less than 2%, based on the Migration Policy Institute, National Center on Immigrant Integration Policy data, attachment 3. LEP number estimates by language are displayed only if 500 persons or more and LEP percentage estimates by language are displayed only if 5% or more. American Community Survey 2009-2013 data estimates that 2.6% of the population speaks English less than very well for the population 5 years of age and over. Below is the breakdown:

Subject	Nantucket County, Massachusetts			
	Estimate	Margin of Error	Percent	Percent Margin of Error
LANGUAGE SPOKEN AT HOME				
Population 5 years and over	9,506	+/-57	9,506	(X)
English only	8,247	+/-439	86.80 %	+/-4.7
Language other than English	1,259	+/-448	13.20 %	+/-4.7
Speak English less than "very well"	245	+/-130	2.60%	+/-1.4
Spanish	541	+/-433	5.70%	+/-4.5
Speak English less than "very well"	58	+/-81	0.60%	+/-0.8
Other Indo-European languages	637	+/-312	6.70%	+/-3.3
Speak English less than "very well"	126	+/-90	1.30%	+/-0.9
Asian and Pacific Islander languages	74	+/-46	0.80%	+/-0.5
Speak English less than "very well"	61	+/-46	0.60%	+/-0.5
Other languages	7	+/-10	0.10%	+/-0.1
Speak English less than "very well"	0	+/-95	0.00%	+/-0.4

There is a relatively small population of Limited English Speakers (LEP). In addition to the year-round residents of the service area, there are a number of international visitors during the summer months. Those visitors speak dozens of language and there is no single language that dominates.

At times, there is some interaction with someone from the LEP population and NRTA can interact with them utilizing available resources. We have the ability to translate documents and informational materials into languages other than English. The NRTA has entered into an agreement with a translation company. We have the capability to translate other documents, upon request, into approximately 50 different languages. The NRTA has staff available and accessible persons who are bi-lingual in Tagalog, Portuguese, Spanish, Bulgarian, Russian, Romanian, Serbian, Russian and Turkish. We also have various agencies and individuals, Nantucket Community School, Nantucket Literacy Program, Nantucket Cottage Hospital to further assist us in communicating with LEP customers when necessary. The NRTA has also identified a liaison within the Spanish Community, the largest group identified as speaking English less than very well to assist in dissemination of information and notice of meetings when necessary. This was a successful means of communication when the NRTA was seeking public input for Mass DOT's Regional Public Hearing Meetings in October 2012. Over thirty (30) comments were received from the Spanish Community. The

NRTA intends to continue these types of outreach in the future. The NRTA has identified two certified translators in Spanish. The NRTA has also identified an available volunteer French translator.

To facilitate communication with LEP populations the NRTA has taken several actions. The NRTA utilizes Google Translator on its website (www.nrtawave.com). This allows people to choose one of over 50 languages to view information. Anything posted on our site (bus schedules, applications, service information, policies) can be translated utilizing the Google Translator. It also allows staff that interacts with the public to view or print information in any of those languages. Google translate was made available at the NRTA's information center and Administrative Office. This provided information aides, the NRTA Administrator and Trip Scheduler/Office Administrator with the resource to interact effectively with LEP populations when necessary to do so. An informal survey of the information aides demonstrated this resource was used to effectively communicate with a few LEP visitors. There were no issues with inaccurate translations using this resource from the customer perspective. No other LEP populations required the use of this resource to relay information being requested. The NRTA Administrative Office had no LEP populations requiring the use of this resource or a translator. The NRTA has limited staff and resources to conduct surveys of its ridership to determine the country of origin or LEP populations. However, the NRTA will implement a plan to conduct annual surveys of its information aides, management staff and drivers each season to determine if changes are necessary.

The NRTA will document its outreach efforts and the frequency and nature of the language services provided. This data will then be used to analyze its effectiveness and determine if changes in these efforts are necessary.

In addition to the data provided in determining LEP populations in Nantucket, the NRTA reviewed: Attachment 3 of MassDOT's Title VI Program for Rail and Transit which illustrates in Figure 9 Population Distribution of Those Speaking Languages at Home Other Than the Top Six Statewide from the 2010 Census. The data shown for Nantucket represents 50 language speakers. Figure 4 Population Distribution of Those Speaking Spanish at Home represents 100 Spanish Speakers. Figure 3 Percentage of Limited English Proficiency Speakers shows there are no limited English Proficiency Speakers

As a subrecipient of Federal funds through MassDOT, the NRTA will, in part, rely on assistance being provided by MassDOT to subrecipients as identified in MassDOT's Title VI Program for Rail and Transit.

The NRTA will reevaluate the LEP population when new census or other data becomes available and will act in accordance with 49 CFR 21.5(b) and the DOT LEP guidelines should an increase in our LEP population occurs.

Notifying Beneficiaries of Their Rights under Title VI

The Nantucket Regional Transit Authority HEREBY CERTIFIES THAT, as a condition of receiving Federal financial assistance under the Federal Transit Act of 1964, as amended, it will ensure that no person on the basis of race, color, or national origin will be subjected to discrimination in the level and quality of transportation services and transit-related benefits.

The Nantucket Regional Transit Authority will compile, maintain, and submit in a timely manner Title VI information required by FTA Circular 4702.1 and in compliance with the Department of Transportation's Title VI regulation, 49 CFR Part 21.9(b).

The Nantucket Regional Transit Authority will make it known to the public that those person or persons alleging discrimination on the basis of race, color, or national origin, as it relates to the provision of transportation services and transit-related benefits may file a complaint with the Federal Transit Administration and/or the U.S. Department of Transportation. In 2013, the Rights of Beneficiaries Notice was posted on all NRTA revenue vehicles, at its Administrative Office, its information center and on its website. For the 2014 season, the Rights of Beneficiaries Notice, in Spanish, will be posted at these same locations. The following documents are available in Spanish on the NRTA's website: Title VI Overview, Title VI Rights of Beneficiaries, Title VI Non Discrimination Policy, Title VI Discrimination Complaint Procedure, and the Title VI Discrimination Complaint Procedure (which can be filed electronically or printed out). These documents are also available on the website in English and using the translation section of the website can be translated into many different languages.

The NRTA will annually review its Notice to Beneficiaries and modify the document as needed. The dissemination strategy developed above will be followed for modified documents. The NRTA will annually review its dissemination strategy and modify if necessary.

Effective Practices for Fulfilling the Notification Requirement

Dissemination

Upon the approval of the NRTA's Title VI Program an announcement at its Advisory Board meeting which is televised. The NRTA will post the Program on its website and at the NRTA Administrative Office and have a copy available at the customer service center. The Program will also be made available to the public upon request. The public will be notified through a news notice to the local paper and on its website in the public notice section.

General Notification

Upon approval of our Title VI program, we will notify the public about our Title VI program through the measures described in the Dissemination portion of this document.

Document Translation

The NRTA will translate its Title VI Program upon request or if we are made aware, through updated data, or as a result of surveys, of other LEP populations in our service area.

Subrecipients

The NRTA will plan on all subrecipients adopting the Title VI Program of the NRTA.

Guidance on Conducting an Analysis of Construction Projects

The NRTA is not in the process of any construction projects at this time and does not have plans for construction projects well into the future. If that changes, the NRTA will work to ensure fair and equitable practices as they relate to FTA and the Title VI Program.

Guidance on Promoting Inclusive Public Participation

The NRTA conducts several public meetings on the subjects of fare structure changes, service changes and general information made available to the Advisory Board, including but not limited to season updates, budgets and other operational information as it relates to our services.

The NRTA promotes the public's participation as follows:

The NRTA coordinates with individuals, institutions and organizations in minority and low-income communities by providing outreach to our consumers in our service area.

We receive feedback from our consumers by way of surveys from time to time and are always interested in what our consumers say about our services. There is a comment section on our website and feedback option on our real time bus phone app. Our drivers and customer service representatives are encouraged to document and provide feedback as to what can be done to improve our service based on the daily interaction they encounter with consumers.

The NRTA, from time to time, has meetings in which power point presentations are used to aide discussions. Consumers are permitted to audio record meetings if it is made known they are making use of a device. NRTA Advisory Board meetings are televised.

The NRTA Advisory Board meets at a location that is centrally located within the service area and is handicap accessible.

The NRTA will use the local papers and media outlets, attend various meetings (Chamber of Commerce, Visitor Services, Rotary Club, Commission on Disability and Nantucket Healthy Community Collaborative) and other methods (as they become available) to communicate with the public. The NRTA posts its Advisory Board meetings with the Town Clerk's Office and on its website. Agendas and Board packets are available on the NRTA's website prior to the meetings.

The NRTA will work with the LEP population to make sure that we implement DOT's policy guidance. We will continue to explore different opportunities to overcome barriers within public transportation and refer to the MassDOT Office for Diversity and Civil Rights and/or the FTA website for assistance.

Paula Leary
NRTA Administrator

Date

Passed and adopted by the Advisory Board of the Nantucket Regional Transit Authority this 18th day of March, 2015.

Chairman of the Advisory Board

Date



Deval L. Patrick, Governor
Richard A. Davey, MassDOT Secretary & CEO
Beverly A. Scott, Ph.D., General Manager
and Rail & Transit Administrator



Certifications, Assurances & Agreements

Please sign and upload this before submitting your grant application. For any questions contact: Transit and Capital Analyst, Price Armstrong: 857-368-9555. This document must be signed by the individual authorized to submit the application.

MassDOT requests each Applicant to read each certification and assurance carefully.

This form must be completed by one of the following options:

- An Applicant may select a single certification (that covers sections 1 – 46) that will cover all the programs for which it will submit an application (Option A); or
- An applicant may select and certify all sections that apply to only the programs for which it will submit an application (Option B).

Note - Option A: MassDOT and the applicant understand and agree that not every provision of these certifications and assurances will apply to every Applicant or every project for which FTA provides Federal financial assistance through a Grant Agreement or Cooperative Agreement. The type of project and the section of the statute authorizing Federal financial assistance for the project will determine which provisions apply. The terms of these certifications and assurances reflect applicable requirements of FTA's enabling legislation currently in effect.

Option A: ☐ (You are NOT required to certify each individual section, 1 – 46)

Option B: ☒ (You ARE required to certify each applicable section, 1 – 46)

BY SIGNING BELOW, I declare that I (the applicant) is duly authorized me to make these Certifications and Assurances and bind my compliance. Thus, the Applicant agrees to comply with all Federal statutes and regulations, and 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), irrespective of whether the individual that acted on the Applicant's behalf continues to represent the Applicant.

FTA intends that the Certifications and Assurances the Applicant selects on the other side of this document should apply, as provided, to each Project for which the Applicant seeks now, or may later seek FTA funding.

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

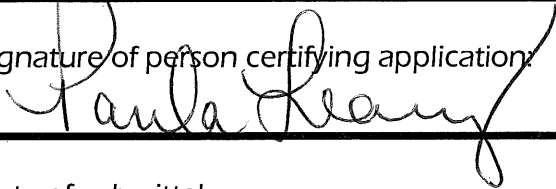
of 1986, 31 U.S.C. 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. 1001 apply to any certification, assurance, or submission made in connection 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.

Name and title of person certifying application:

Paula Leary, NRTA Administrator

Signature of person certifying application:



Date of submittal:

July 10, 2014

1) Assurance of Authority of the Applicant (All federal grant applicants)

☒ I affirm this certification, assurance, or agreement.

The authorized representative of the applicant, who signs these Certifications, Assurances, and Agreements affirm that they may undertake the following activities, in compliance with applicable State, local, or Indian tribal laws and regulations, and the Applicant's by-laws or internal rules:

1. Execute and file its application for Federal funds,
2. Execute and file its Certifications, Assurances, and Agreements binding its compliance,
3. Execute Grant Agreements or Cooperative Agreements, or both, with FTA,
4. Comply with applicable Federal laws and regulations, and
5. Follow applicable Federal guidance.

2) Standard Assurances (All federal grant applicants)

☒ I affirm this certification, assurance, or agreement.

The applicant assures that it understands and agrees to the following:

1. The Applicant will comply with all applicable Federal statutes and regulations to carry out any FTA funded Project,
2. The Applicant is under a continuing obligation to comply with the terms and conditions of the FTA Grant Agreement or Cooperative Agreement for its Project, including the FTA Master Agreement incorporated by reference and made part of the latest amendment to the Grant Agreement or Cooperative Agreement,
3. The Applicant recognizes that Federal laws and regulations may be amended from time to time and those amendments may affect Project implementation,
4. The Applicant understands that Presidential executive orders and Federal guidance, including Federal policies and program guidance, may be issued concerning matters affecting the Applicant or its Project,
5. The Applicant agrees that the most recent Federal laws, regulations, and guidance will apply to its Project, unless FTA determines otherwise in writing,
6. In light of recent FTA legislation applicable to FTA and except as FTA determines otherwise in writing, the Applicant agrees that requirements for FTA programs may vary depending on the fiscal year for which the funding for those programs was appropriated:
 - a. In some instances, FTA has determined that Federal statutory or regulatory program and eligibility requirements for FY 2012 or a specific previous fiscal year, except as superseded by applicable MAP-21 cross-cutting requirements, will apply to:
 - (1) New grants and cooperative agreements, and
 - (2) New amendments to grants and cooperative agreements that:
 - (a) Have been awarded Federal funds made available or appropriated for FY 2012 or the previous fiscal year, or
 - (b) May be awarded Federal funds appropriated for FY 2012 or the previous fiscal year, but
 - b. In other instances, FTA has determined that MAP-21 will apply to the Federal funds made available or appropriated for FY 2012 or a previous fiscal year, and
 - c. For all FTA funded Projects, the following MAP-21 cross-cutting requirements supersede conflicting provisions of previous Federal law and regulations:
 - (1) Metropolitan and Statewide Planning,
 - (2) Environmental Review Process,
 - (3) Agency Safety Plans,
 - (4) Transit Asset Management Provisions (and Asset Inventory and Condition Reporting),
 - (5) Costs Incurred by Providers of Public Transportation by Vanpool,
 - (6) Revenue Bonds as Local Match,
 - (7) Debt Service Reserve,
 - (8) Government's Share of Cost of Vehicles, Vehicle-Equipment, and Facilities for ADA and Clean Air Act Compliance,
 - (9) Private Sector Participation,
 - (10) Bus Testing,
 - (11) Buy America,

- (12) Corridor Preservation,
- (13) Rail Car Procurements,
- (14) Veterans Preference/Employment,
- (15) Alcohol and Controlled Substance Testing, and
- (16) Other provisions as FTA may determine.

3) Intergovernmental Review Assurance (All federal grant applicants)

☐ I affirm this certification, assurance, or agreement.

Except if the Applicant is an Indian tribal government seeking assistance authorized by 49 U.S.C. 5311(c)(1), the Applicant assures that to facilitate compliance with U.S. Department of Transportation (U.S. DOT) regulations, "Intergovernmental Review of Department of Transportation Programs and Activities," 49 CFR part 17, it has submitted or will submit each application for Federal funding to the appropriate State and local agencies for intergovernmental review, as required by those regulations.

4) Nondiscrimination Assurance (All federal grant applicants)

☐ I affirm this certification, assurance, or agreement.

The Applicant assures that:

1. The Applicant will comply with the following laws and regulations so that no person in the United States will be denied the benefits of, or otherwise be subjected to discrimination in any U.S. DOT or FTA funded program or activity (particularly in the level and quality of transportation services and transportation-related benefits on the basis of race, color, national origin, religion, sex, disability, or age:
 - a. Federal transit laws, specifically 49 U.S.C. 5332 (prohibiting discrimination on the basis of race, color, religion, national origin, sex, disability, or age, and in employment or business opportunity),
 - b. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d,
 - c. The Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*,
 - d. The Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*,
 - e. 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 CFR part 21,
 - f. U.S. DOT regulations, specifically 49 CFR parts 27, 37, 38, and 39, and
 - g. Any other applicable Federal statutes that may be signed into law or Federal regulations that may be promulgated,

2. The Applicant will comply with Federal guidance implementing Federal nondiscrimination laws and regulations, except to the extent FTA determines otherwise in writing,
3. As required by 49 CFR 21.7:
 - a. The Applicant will comply with 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 in the manner:
 - (1) It conducts each Project,
 - (2) It undertakes property acquisitions, and
 - (3) It operates its Project facilities, including:
 - (a) Its entire facilities, and
 - (b) Its facilities operated in connection with its Project,
 - b. This assurance applies to the Applicant's entire Project and to all parts of its facilities, including the facilities it operates to implement its Project,
 - c. The Applicant will promptly take the necessary actions to carry out this assurance, including:
 - (1) Notifying the public that discrimination complaints about transportation-related services or benefits may be filed with U.S. DOT or FTA, and
 - (2) Submitting information about its compliance with these provisions to U.S. DOT or FTA upon their request,
 - d. If the Applicant transfers FTA funded real property, structures, or improvements to another party, any deeds and instruments recording that transfer will contain a covenant running with the land assuring nondiscrimination:
 - (1) While the property is used for the purpose that the Federal funding is extended, and
 - (2) While the property is used for another purpose involving the provision of similar services or benefits,
 - e. The United States has a right to seek judicial enforcement of any matter arising under:
 - (1) Title VI of the Civil Rights Act, 42 U.S.C. 2000d,
 - (2) U.S. DOT regulations, 49 CFR part 21, and
 - (3) This assurance,
 - f. The Applicant will make any changes in its Title VI implementing procedures as U.S. DOT or FTA may request to comply with:
 - (1) Title VI of the Civil Rights Act, 42 U.S.C. 2000d,
 - (2) U.S. DOT regulations, 49 CFR part 21, and
 - (3) Federal transit laws, 49 U.S.C. 5332,
 - g. The Applicant will comply with Federal guidance issued to implement Federal nondiscrimination requirements, except as FTA determines otherwise in writing,
 - h. The Applicant will extend the requirements of 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 to each Third Party Participant, including:
 - (1) Any Subrecipient,
 - (2) Any Transferee,
 - (3) Any Third Party Contractor or Subcontractor at any tier,

- (4) Any Successor in Interest,
- (5) Any Lessee, or
- (6) Any other participant in its Project, except FTA and the Applicant (that later becomes the Recipient),
- i. The Applicant will include adequate provisions to extend the requirements of 49 U.S.C. 5332, 42 U.S.C. 2000d, and 49 CFR part 21 to each third party agreement, including:
 - (1) Each subagreement at any tier,
 - (2) Each property transfer agreement,
 - (3) Each third party contract or subcontract at any tier,
 - (4) Each lease, or
 - (5) Each participation agreement, and
- j. The assurances you have made will remain in effect as long as FTA determines appropriate, including, for example, as long as:
 - (1) Federal funding is extended to the Applicant's Project,
 - (2) The Applicant's Project property is used for a purpose for which the Federal funding is extended,
 - (3) The Applicant's Project property is used for a purpose involving the provision of similar services or benefits,
 - (4) The Applicant retains ownership or possession of its Project property, or
 - (5) FTA may otherwise determine in writing, and
- 4. As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR part 27, specifically 49 CFR 27.9, and consistent with 49 U.S.C. 5307(c)(1)(D)(iii), the Applicant assures that:
 - a. The Applicant will comply with the following prohibitions against discrimination on the basis of disability listed in Group 1.D.4.b below, of which compliance is a condition of approval or extension of any FTA funding awarded to:
 - (1) Construct any facility,
 - (2) Obtain any rolling stock or other equipment,
 - (3) Undertake studies,
 - (4) Conduct research, or
 - (5) Participate in or obtain any benefit from any FTA administered program, and
 - b. In any program or activity receiving or benefiting from Federal funding that U.S. DOT administers, no otherwise qualified people with a disability will, because of their disability, be:
 - (1) Excluded from participation,
 - (2) Denied benefits, or
 - (3) Otherwise subjected to discrimination.

5) Suspension and Debarment (All federal grant applicants)

☒ I affirm this certification, assurance, or agreement.

The Applicant certifies that:

1. The Applicant will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180,
2. To the best of your knowledge and belief, the Applicant's Principals and Subrecipients at the first tier:
 - a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:
 - (1) Debarred,
 - (2) Suspended,
 - (3) Proposed for debarment,
 - (4) Declared ineligible,
 - (5) Voluntarily excluded, or
 - (6) Disqualified,
 - b. The Applicant's management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:
 - (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
 - (2) Violation of any Federal or State antitrust statute, or
 - (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,
 - c. The Applicant is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding Section 1.b of this Certification,
 - d. The Applicant has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,
 - e. If, at a later time, the Applicant receives any information that contradicts the statements of subparagraphs 2.a – 2.d above, your Applicant will promptly provide that information to FTA,
 - f. The Applicant will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:

- (1) Equals or exceeds \$25,000,
- (2) Is for audit services, or
- (3) Requires the consent of a Federal official, and
- g. The Applicant will require that each covered lower tier contractor and subcontractor:
 - (1) Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
 - (2) Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
 - (a) Debarred from participation in your Applicant's federally funded Project,
 - (b) Suspended from participation in your Applicant's federally funded Project,
 - (c) Proposed for debarment from participation in your Applicant's federally funded Project,
 - (d) Declared ineligible to participate in your Applicant's federally funded Project,
 - (e) Voluntarily excluded from participation in your Applicant's federally funded Project, or
 - (f) Disqualified from participation in your Applicant's federally funded Project, and
- 3. The Applicant will provide a written explanation as indicated on its Signature Page or a page attached in FTA's TEAM-Web if it or any of its principals, including any of its first tier Subrecipients or any of its Third Party Participants at a lower tier, is unable to certify compliance with to the preceding statements in this Certification 01.E.

6) U.S. Office of Management and Budget (OMB) Assurances (All federal grant applicants)

☒ I affirm this certification, assurance, or agreement.

Consistent with U.S. OMB assurances set forth in SF-424B and SF-424D, the Applicant assures that, with respect to itself or its project: :

- 1. *Administrative Activities.* The Applicant assures that:
 - a. For every project described in any application the Applicant submits, the Applicant has adequate resources to properly plan, manage, and complete its Project, including:
 - (1) The legal authority to apply for Federal funding,
 - (2) The institutional capability,
 - (3) The managerial capability, and
 - (4) The financial capability (including funds sufficient to pay the non-Federal share of Project cost),

- b. The Applicant will give limited access and the right to examine Project-related materials, including, but not limited to:
 - (1) FTA,
 - (2) The Comptroller General of the United States, and
 - (3) If appropriate, the State, through any authorized representative,
 - c. The Applicant will establish a proper accounting system in accordance with generally accepted accounting standards or FTA guidance, and
 - d. The Applicant will establish safeguards to prohibit employees from using their positions for a purpose that results in:
 - (1) A personal or organizational conflict of interest, or personal gain, or
 - (2) The appearance of a personal or organizational conflict of interest or personal gain.
- 2. *Project Specifics.* On behalf of your Applicant, you assure that:
 - a. Following receipt of an FTA award, the Applicant will begin and complete Project work within the time periods that apply,
 - b. For FTA funded construction Projects:
 - (1) The Applicant will comply with FTA provisions concerning the drafting, review, and approval of construction plans and specifications,
 - (2) The Applicant will provide and maintain competent and adequate engineering supervision at the construction site to assure that the completed work conforms with the approved plans and specifications
 - (3) The Applicant will include a covenant to assure nondiscrimination during the useful life of its Project in its title to federally funded real property,
 - (4) To the extent FTA requires, the Applicant will record the Federal interest in the title to FTA funded real property or interests in real property, and
 - (5) To the extent practicable, absent permission and instructions from FTA, the Applicant will not alter the site of the FTA funded construction Project or facilities by:
 - (a) Disposing of the underlying real property or other interest in the site and facilities,
 - (b) Modifying the use of the underlying real property or other interest in the site and facilities, or
 - (c) Changing the terms of the underlying real property title or other interest in the site and facilities, and
 - c. The Applicant will furnish progress reports and other information as FTA or the State may require.
- 3. *Statutory and Regulatory requirements.* The Applicant assures that:
 - a. The Applicant will comply with all Federal statutes relating to nondiscrimination that apply, including, but not limited to:
 - (1) The prohibitions against discrimination on the basis of race, color, or national origin, as provided in Title VI of the Civil Rights Act, 42 U.S.C. 2000d,
 - (2) The prohibitions against discrimination on the basis of sex, as provided in:

- (a) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 – 1683, and 1685 – 1687, and
- (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25,
- (3) The prohibitions against discrimination on the basis of age in federally funded programs, as provided in the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 – 6107,
- (4) The prohibitions against discrimination on the basis of disability in federally funded programs, as provided in section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794,
- (5) The prohibitions against discrimination on the basis of disability, as provided in the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*
- (6) The prohibitions against discrimination in the sale, rental, or financing of housing, as provided in Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*,
- (7) The prohibitions against discrimination on the basis of drug abuse, as provided in the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. 1101 *et seq.*,
- (8) The prohibitions against discrimination on the basis of alcohol abuse, as provided in the Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, as amended, 42 U.S.C. 4541 *et seq.*,
- (9) The confidentiality requirements for the records of alcohol and drug abuse patients, as provided in the Public Health Service Act, as amended, 42 U.S.C. 290dd – 290dd-2, and
- (10) The nondiscrimination provisions of any other statute(s) that may apply to its Project,
- b. As provided by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Relocation Act), 42 U.S.C. 4601 *et seq.*, and 49 U.S.C. 5323(b), regardless of whether Federal funding has been provided for any of the real property acquired for Project purposes:
 - (1) The Applicant will provide for fair and equitable treatment of displaced persons or persons whose property is acquired as a result of federally funded programs, and
 - (2) The Applicant has the necessary legal authority under State and local laws and regulations to comply with:
 - (a) The Uniform Relocation Act. 42 U.S.C. 4601 *et seq.*, as specified by 42 U.S.C. 4630 and 4655, and
 - (b) U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR part 24, specifically 49 CFR 24.4, and
 - (2) The Applicant has complied with or will comply with the Uniform Relocation Act and implementing U.S. DOT regulations, because:

- (a) The Applicant will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24,
 - (b) As required by 42 U.S.C. 4622, 4623, and 4624, and 49 CFR part 24, the Applicant will provide fair and reasonable relocation payments and assistance for displacement, resulting from any FTA funded Project, of:
 - 1 Displaced families or individuals, and
 - 2 Displaced Partnerships, corporations, or associations,
 - (c) As provided by 42 U.S.C. 4625 and 49 CFR part 24, the Applicant will provide relocation assistance programs offering the services described in the U.S. DOT regulations to such displaced:
 - 1 Families and individuals, and
 - 2 Partnerships, corporations, or associations,
 - (d) As required by 42 U.S.C. 4625(c)(3), within a reasonable time before displacement, the Applicant will make available comparable replacement dwellings to families and individuals,
 - (e) The Applicant will:
 - 1 Carry out the relocation process to provide displaced persons with uniform and consistent services, and
 - 2 Make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin,
 - (f) The Applicant will be guided by the real property acquisition policies of 42 U.S.C. 4651 and 4652 to the greatest extent practicable under State law,
 - (g) The Applicant will pay or reimburse property owners for their necessary expenses as specified in 42 U.S.C. 4653 and 4654, understanding that FTA will provide Federal funding for its eligible costs of providing payments for those expenses, as required by 42 U.S.C. 4631,
 - (h) The Applicant will execute the necessary implementing amendments to third party contracts and subagreements,
 - (i) The Applicant will execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement these assurances,
 - (j) The Applicant will incorporate these assurances by reference into and make them a part of any third party contract or subagreement, or any amendments thereto, relating to any FTA funded Project involving relocation or land acquisition, and
 - (k) The Applicant will provide in any affected document that these relocation and land acquisition provisions must supersede any conflicting provisions,
- c. The Applicant will comply with the Lead-Based Paint Poisoning Prevention Act, specifically 42 U.S.C. 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures,

- d. The Applicant will, to the extent applicable, comply with the protections for human subjects involved in research, development, and related activities supported by Federal funding of:
 - (1) The National Research Act, as amended, 42 U.S.C. 289 *et seq.*, and
 - (2) U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11,
- e. The Applicant will, to the extent practicable, comply with the labor standards and protections for federally funded Projects of:
 - (1) The Davis-Bacon Act, as amended, 40 U.S.C. 3141 – 3144, 3146, and 3147,
 - (2) Sections 1 and 2 of the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. 874, and 40 U.S.C. 3145, respectively, and
 - (3) The Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3701 *et seq.*,
- f. The Applicant will comply with any applicable environmental standards that may be prescribed to implement Federal laws and executive orders, including, but not limited to:
 - (1) Following the institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 – 4335 and Executive Order No. 11514, as amended, 42 U.S.C. 4321 note,
 - (2) Following the notification of violating facilities provisions of Executive Order No. 11738, 42 U.S.C. 7606 note,
 - (3) Following the protection of wetlands provisions of Executive Order No. 11990, 42 U.S.C. 4321 note,
 - (4) Following the evaluation of flood hazards in floodplains provisions of Executive Order No. 11988, 42 U.S.C. 4321 note,
 - (5) Complying with the assurance of Project consistency with the approved State management program developed pursuant to the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 – 1465,
 - (6) Complying with the Conformity of Federal Actions to State (Clean Air) Implementation Plans requirements under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 – 7671q,
 - (7) Complying with the protections for underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f – 300j-6,
 - (8) Complying with the protections for endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 – 1544,
 - (9) Complying with the environmental protections for Federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, State, or local significance or any land from a historic site of national, State, or local significance to be used in a transportation Project as required by 49 U.S.C. 303(b) and 303(c),

- (10) Complying with the protection of the components of the national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 – 1287, and
- (11) Complying with and facilitating compliance with:
 - (a) Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f,
 - (b) The Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469 – 469c, and
 - (c) Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note,
- g. To the extent applicable, complying with the following Federal requirements for the care, handling, and treatment of warm blooded animals held or used for research, teaching, or other activities supported by Federal funding:
 - (1) The Animal Welfare Act, as amended, 7 U.S.C. 2131 *et seq.*, and
 - (2) U.S. Department of Agriculture regulations, "Animal Welfare," 9 CFR subchapter A, parts 1, 2, 3, and 4,
- h. To the extent practicable, obtaining a certificate of compliance with the seismic design and construction requirements of U.S. DOT regulations, "Seismic Safety," 49 CFR part 41, specifically 49 CFR 41.117(d), before accepting delivery of any FTA funded building,
- i. To the extent practicable, complying with, and assuring its Subrecipients located in special flood hazard areas comply with, section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), by:
 - (1) Participating in the Federal flood insurance program, and
 - (2) Purchasing flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more,
- j. Complying with:
 - (1) The Hatch Act, 5 U.S.C. 1501 – 1508, 7324 – 7326, which limits the political activities of State and local agencies and their officers and employees whose primary employment activities are financed in whole or part with Federal funds, including a Federal loan, grant agreement, or cooperative agreement, and
 - (2) 49 U.S.C. 5323(l)(2), as amended by MAP-21, and 23 U.S.C. 142(g), which provide an exception from Hatch Act restrictions for a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA funding made available or authorized for 49 U.S.C. chapter 53 and 23 U.S.C. 142(a)(2) to whom the Hatch Act does not otherwise apply,
- k. Performing the financial and compliance audits as required by the:
 - (1) Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.*,
 - (2) U.S. OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," Revised, and
 - (3) Most recent applicable U.S. OMB A-133 Compliance Supplement provisions for the U.S. DOT, and

- l. Comply with all the provisions of all other Federal laws or regulations that apply, and
- m. Follow Federal guidance governing your Applicant and its Project, except to the extent that FTA has expressly approved otherwise in writing.

7) Lobbying Certification (Applicants applying for more than \$100,000 in federal Assistance to include the value of capital assets)

☒ I affirm this certification, assurance, or agreement.

The Applicant certifies that:

1. As required by 31 U.S.C. 1352 and U.S. DOT regulations, "New Restrictions on Lobbying," specifically 49 CFR 20.110:
 - a. The lobbying restrictions of this Certification apply to the Applicant's requests:
 - (1) For \$100,000 or more in Federal funding for a grant or cooperative agreement, and
 - (2) For \$150,000 or more in Federal funding for a loan, line of credit, or loan guarantee, and
 - b. Your Certification applies to the lobbying activities of:
 - (1) The Applicant,
 - (2) The Applicant's Principals, and
 - (3) The Applicant's Subrecipients at the first tier,
2. To the best of your knowledge and belief:
 - a. No Federal appropriated funds have been or will be paid by or on its behalf to any person to influence or attempt to influence:
 - (1) An officer or employee of any Federal agency regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance, and
 - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance,
 - b. The Applicant will submit a complete OMB Standard Form-LLL, "Disclosure of Lobbying Activities (Rev. 7-97)," consistent with its instructions, if any funds other than Federal appropriated funds have been or will be paid to any person to influence or attempt to influence:
 - (1) An officer or employee of any Federal agency regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance, and
 - (2) A Member of Congress, an employee of a member of Congress, or an officer or employee of Congress regarding the award of a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance, and

- c. The Applicant will include the language of this Certification in the award documents for all subawards at all tiers, including, but not limited to:
 - (1) Subcontracts,
 - (2) Subgrants,
 - (3) Subagreements, and
 - (4) Third party contracts under a:
 - (a) Federal grant or cooperative agreement, or
 - (b) Federal loan, line of credit, loan guarantee, or loan insurance,
- 3. The Applicant understands that:
 - a. This Certification is a material representation of fact that the Federal government relies on, and
 - b. The Applicant must submit this Certification before the Federal government may award funding for a transaction covered by 31 U.S.C. 1352, including a:
 - (1) Federal grant or cooperative agreement, or
 - (2) Federal loan, line of credit, loan guarantee, or loan insurance, and
- 4. The Applicant also understands that any person who does not file a required Certification will be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

8) Private Sector Protections (Applicants applying for federal capital or operating funds)

☒ I affirm this certification, assurance, or agreement.

To facilitate FTA's ability to make the findings required by 49 U.S.C. 5323(a)(1), the Applicant assures that:

- 1. The Applicant has or will have:
 - a. Determined that the funding is essential to carrying out a Program of Projects as required by 49 U.S.C. 5303, 5304, and 5306,
 - b. Provided for the participation of private companies engaged in public transportation to the maximum extent feasible, and
 - c. Paid just compensation under State or local laws to the company for any franchise or property acquired, and
- 2. The Applicant has completed the actions described in subsection 1 of this Certification before it:
 - a. Acquires the property or an interest in the property of a private provider of public transportation, or
 - b. Operates public transportation equipment or facilities:
 - (1) In competition with transportation service provided by an existing public transportation operator, or
 - (2) In addition to transportation service provided by an existing public transportation operator.

9) Charter Service Agreement (Applicants applying for federal funds to acquire or operate transit facilities and equipment, unless applicant qualifies for an exemption under federal law)

☒ I affirm this certification, assurance, or agreement.

To comply with 49 U.S.C. 5323(d) and (g) and FTA regulations, "Charter Service," 49 CFR part 604, specifically 49 CFR 604.4, the Applicant, is entering into the following Charter Service Agreement:

1. FTA's "Charter Service" regulations apply as follows:
 - a. FTA's Charter Service regulations restrict transportation by charter service using facilities and equipment acquired by FTA recipients for transportation Projects with Federal funding derived from:
 - (1) Federal transit laws, 49 U.S.C. chapter 53, or
 - (2) 23 U.S.C. 133 or 142, or
 - (3) Any other Act that provides Federal public transportation assistance, unless otherwise excepted,
 - b. FTA's charter service restrictions extend to:
 - (1) The Applicant, when it becomes a recipient of Federal funding authorized for or made available for:
 - (a) Federal transit laws, 49 U.S.C. chapter 53, or
 - (b) 23 U.S.C. 133 or 142, or
 - (c) Any other Act that provides Federal public transportation assistance, unless otherwise excepted, and
 - (2) Any Third Party Participant that receives Federal funding derived from:
 - (a) Federal transit laws, 49 U.S.C. chapter 53, or
 - (b) 23 U.S.C. 133 or 142,
 - (c) Any other Act that provides Federal public transportation assistance, unless otherwise excepted,
 - c. A Third Party Participant includes any:
 - (1) Subrecipient at any tier,
 - (2) Lessee,
 - (3) Third Party Contractor or Subcontractor at any Tier, and
 - (4) Other Third Party Participant in the Applicant's Project,
 - d. The Applicant agrees that neither it nor any governmental authority or publicly owned operator that receives FTA funding made available or authorized for your Applicant's Project will engage in charter service operations, except as permitted under:
 - (1) Federal transit laws, specifically 49 U.S.C. 5323(d) and (g),
 - (2) FTA regulations, "Charter Service," 49 CFR part 604, to the extent consistent with 49 U.S.C. 5323(d) and (g),
 - (3) Any other Federal Charter Service regulations, or
 - (4) Federal guidance, except as FTA determines otherwise in writing,

- e. The Applicant agrees that the latest Charter Service Agreement it has selected in its latest annual Certifications and Assurances is incorporated by reference in and made part of the underlying Agreement accompanying an award of FTA funding, and
- f. The Applicant agrees that:
 - (1) FTA may require corrective measures or impose remedies on it or any governmental authority or publicly owned operator that receives FTA funding made available or authorized for its Project that has engaged in a pattern of violations of FTA's Charter Service regulations by:
 - (a) Conducting charter operations prohibited by Federal transit laws and FTA's Charter Service regulations, or
 - (b) Otherwise violating your Applicant's Charter Service Agreement it has elected in its latest annual Certifications and Assurances, and
 - (2) These corrective measures and remedies may include:
 - (a) Barring the Applicant or any Third Party Participant operating public transportation under the Project that has provided prohibited charter service from receiving FTA funds,
 - (b) Withholding an amount of Federal funds as provided by Appendix D to FTA's Charter Service regulations, or
 - (c) Any other appropriate remedy that may apply, and
- 2. 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:
 - a. FTA's Charter Service restrictions do not apply to the Applicant seeking funding made available or appropriated for 49 U.S.C. 5307 to be used for Job Access and Reverse Commute (JARC) activities that would have been eligible for assistance under repealed 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year, provided that the Applicant uses that FTA funding for program purposes only,
 - b. FTA's Charter Service restrictions do not apply to the Applicant seeking funding made available or appropriated for 49 U.S.C. 5310 to be used for New Freedom activities that would have been eligible for assistance under repealed 49 U.S.C. 5317 in effect in FY 2012 or a previous fiscal year, provided the Applicant uses that FTA funding for program purposes only, and
 - c. An Applicant for assistance under 49 U.S.C. chapter 53 will not be determined to have violated the FTA Charter Service regulations if that recipient provides a private intercity or charter transportation operator reasonable access to that recipient's federally funded public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway lanes as specified in 49 U.S.C. 5323(r).

10) School Bus Agreement (Applicants applying for federal funds to acquire or operate transit facilities and equipment, unless applicant qualifies for an exemption under federal law)

☒ I affirm this certification, assurance, or agreement.

As required by 49 U.S.C. 5323(f) and (g), as amended by MAP-21, and FTA regulations, "School Bus Operations," 49 CFR part 605, to the extent consistent with 49 U.S.C. 5323(f) and (g), as amended by MAP-21, the Applicant enters into the following School Bus Agreement:

1. FTA's "School Bus Operations" regulations restrict school bus operations (as defined in the FTA regulations) using facilities and equipment acquired with Federal funding derived from:
 - a. Federal transit laws, 49 U.S.C. chapter 53, or
 - b. 23 U.S.C. 133 or 142,
 - c. Any other Act that provides Federal public transportation assistance, unless otherwise excepted,
2. FTA's school bus operations restrictions extend to:
 - a. The Applicant, when it becomes a recipient of Federal funding made available or authorized for:
 - (1) Federal transit laws, 49 U.S.C. chapter 53, or
 - (2) 23 U.S.C. 133 or 142,
 - (3) Any other Act that provides Federal public transportation assistance, unless otherwise excepted, and
 - b. Any Third Party Participant that receives Federal funding derived from:
 - (1) Federal transit laws, 49 U.S.C. chapter 53, or
 - (2) 23 U.S.C. 133 or 142,
 - (3) Any other Act that provides Federal public transportation assistance, unless otherwise excepted,
3. A Third Party Participant includes any:
 - a. Subrecipient at any tier,
 - b. Lessee,
 - c. Third Party Contractor or Subcontractor at any tier, and
 - d. Other Third Party Participant in the Project,
4. The Applicant agrees, and will obtain the agreement of any Third Party Participant involved in your Applicant's Project, that it will not engage in school bus operations in competition with private operators of school buses, except as permitted under:
 - a. Federal transit laws, specifically 49 U.S.C. 5323(f) and (g), as amended by MAP-21,
 - b. FTA regulations, "School Bus Operations," 49 CFR Part 605, to the extent consistent with 49 U.S.C. 5323(f) and (g),
 - c. Any other Federal School Bus regulations, or
 - d. Federal guidance, except as FTA determines otherwise in writing,

5. The Applicant agrees that the latest School Bus Agreement you have selected on its behalf in FTA's latest annual Certifications and Assurances is incorporated by reference in and made part of the underlying Agreement accompanying an award of FTA funding, and
6. The Applicant agrees that after it is a Recipient, if it or any Third Party Participant has violated this School Bus Agreement, FTA may:
 - a. Bar the Applicant or Third Party Participant from receiving further Federal transit funds, or
 - b. Require the Applicant or Third Party Participant to take such remedial measures as FTA considers appropriate.

11) Procurement and Procurement System (Applicants applying for federal funds to procure goods or services)

☐ I affirm this certification, assurance, or agreement.

The Applicant certifies that all procurements and procurement systems will comply with all Federal laws and regulations in accordance with applicable Federal guidance, except to the extent FTA has approved otherwise in writing.

12) Rolling Stock Reviews (Applicants applying for federal funds for rolling stock to use in revenue service)

☐ I affirm this certification, assurance, or agreement.

The Applicant certifies that in procuring revenue service rolling stock for use in revenue service:

1. The Applicant will comply with:
 - a. Federal transit laws, specifically 49 U.S.C. 5323(m), and
 - b. FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR part 663, and
2. As provided in 49 CFR 663.7:
 - a. The Applicant will conduct or cause to be conducted the required pre-award and post-delivery reviews, and
 - b. The Applicant will maintain on file the Certifications required by 49 CFR part 663, subparts B, C, and D.

13) Bus Testing (Applicants applying for federal funds to purchase new bus models)

☐ I affirm this certification, assurance, or agreement.

The Applicant certifies that:
Rolling Stock Reviews

1. The Applicant will comply with:

- a. Federal transit laws, specifically 49 U.S.C. 5323(m), and
 - b. FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 CFR part 663, and
2. As provided in 49 CFR 663.7:
- a. It will conduct or cause to be conducted the required pre-award and post-delivery reviews, and
 - b. It will maintain on file the Certifications required by 49 CFR part 663, subparts B, C, and D.

Bus Testing

- 1. Because the MAP-21 cross-cutting requirement "Bus Testing" applies to all acquisitions of new buses and new bus models that require bus testing, the Applicant will comply with:
 - a. 49 U.S.C. 5318, as amended by MAP-21, and
 - b. FTA regulations, "Bus Testing," 49 CFR part 665, to the extent these regulations are consistent with 49 U.S.C. 5318, as amended by MAP-21,
- 2. As required by 49 CFR 665.7, when acquiring the first bus of any new bus model or a bus model with a major change in components or configuration:
 - a. The Applicant will not spend any Federal funds appropriated under 49 U.S.C. chapter 53 to acquire that bus until:
 - (1) The bus has been tested at FTA's bus testing facility, and
 - (2) It has received a copy of the test report prepared on that new bus model, and
 - b. The Applicant will not authorize final acceptance of the bus until:
 - (1) The bus has been tested at FTA's bus testing facility,
 - (2) It has received a copy of the test report prepared on that new bus model,
- 3. The Applicant will ensure that the bus that is tested has met the performance standards consistent with those regulations, including:
 - a. Performance standards for:
 - (1) Maintainability,
 - (2) Reliability,
 - (3) Performance (including braking performance),
 - (4) Structural integrity,
 - (5) Fuel economy,
 - (6) Emissions, and
 - (7) Noise, and
 - b. Minimum safety performance standards established under 49 U.S.C. 5329, as amended by MAP-21, and
- 4. After FTA has issued regulations authorized by 49 U.S.C. 5318(e)(2), as amended by MAP-21, your Applicant will ensure that the bus that is tested has received a passing aggregate test score under the "Pass/Fail" standard established by regulation.

14) Demand Responsive Service (A public entity applying for federal funds to acquire a vehicle for demand responsive service that is not accessible)

☒ I affirm this certification, assurance, or agreement.

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR part 37, specifically 49 CFR 37.77(d), the Applicant certifies that:

1. The Applicant offers public transportation services equivalent in level and quality of service to:
 - a. Individuals with disabilities, including individuals who use wheelchairs, and
 - b. Individuals without disabilities, and
2. Viewed in its entirety, your Applicant's service for individuals with disabilities is:
 - a. Provided in the most integrated setting feasible, and
 - b. Equivalent to the service it offers individuals without disabilities with respect to:
 - (1) Response time,
 - (2) Fares,
 - (3) Geographic service area,
 - (4) Hours and days of service,
 - (5) Restrictions on priorities based on trip purpose,
 - (6) Availability of information and reservation capability, and
 - (7) Constraints on capacity or service availability.

15) Intelligent Transportation Systems (Applicants applying for federal funds to procure ITS systems or projects in support of ITS systems)

☒ I affirm this certification, assurance, or agreement.

The Applicant assures that:

1. As used in this assurance, the term Intelligent Transportation Systems (ITS) Project is defined to include any Project that in whole or in part finances the acquisition of technologies or systems of technologies that provide or significantly contribute to the provision of one or more ITS user services as defined in the "National ITS Architecture," and
2. As provided in 23 U.S.C. 517(d), any ITS Project your Applicant undertakes that is funded with appropriations made available from the Highway Trust Fund, including amounts made available to deploy intelligent transportation systems, will conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under 23 U.S.C. 517(a) or (c), unless the Applicant obtains a waiver as provided in 23 U.S.C. 517(d)(2).

16) Interest and Financing Costs (Applicants that intend to reimburse interest or other financing costs for Projects funded by the Urbanized Area Formula Program)

☐ I affirm this certification, assurance, or agreement.

The Applicant certifies that:

1. The Applicant will not seek reimbursement for interest or other financing costs unless:
 - a. It is eligible to receive Federal funding for those costs, and
 - b. Its records demonstrate that it has shown reasonable diligence in seeking the most favorable financing terms, to the extent FTA may require, and
2. The Applicant will comply with the same favorable financing cost provisions for:
 - a. Urbanized Area Formula Grants Projects,
 - b. Projects under Full Funding Grant Agreements,
 - c. Projects with Early Systems Work Agreements,
 - d. Fixed Guideway Capital Investment Projects funded by previous FTA enabling legislation,
 - e. State of Good Repair Projects,
 - f. Bus and Bus Facilities Projects, and
 - g. Low or No Emission Vehicle Development Projects.

17) Acquisition of Capital Assets by Lease (All federal fund applicants acquiring capital assets through a lease)

☐ I affirm this certification, assurance, or agreement.

The Applicant certifies and assures that, as required by FTA regulations, "Capital Leases," 49 CFR part 639, specifically 49 CFR 639.15(b)(1) and 49 CFR 639.21, if the Applicant acquires any capital asset through a lease financed with Federal funding authorized under 49 U.S.C. chapter 53:

1. The Applicant will not use Federal funding appropriated or made available for public transportation projects eligible under 49 U.S.C. chapter 53 or any other applicable law to finance the cost of leasing any capital asset until:
 - a. It performs calculations demonstrating that leasing the capital asset would be more cost-effective than purchasing or constructing a similar asset, and
 - b. It completes these calculations before the later of:
 - (1) Entering into the lease, or
 - (2) Receiving a capital grant for the asset, and
2. The Applicant will not enter into a capital lease for which FTA can provide only incremental Federal funding unless your Applicant has adequate financial resources to meet its future lease obligations if Federal funding is not available.

18) Transit Asset Management Plan (All applicants that are a direct recipient of federal funds)

☐ I affirm this certification, assurance, or agreement.

The Applicant will comply, and each Subrecipient will:

1. Follow Federal guidance issued that implements transit asset management system provisions of 49 U.S.C. 5326, except as FTA determines otherwise in writing, and
2. Comply with the final Federal regulations that implement the transit asset management system required by 49 U.S.C. 5326, after those regulations have been issued as required by 49 U.S.C. 5326.

19) Public Transportation Agency Safety Plan (All federal fund applicants that operate a public transportation system)

☐ I affirm this certification, assurance, or agreement.

The Applicant certifies that it will:

1. Follow Federal guidance issued that implements the safety plan provisions of 49 U.S.C. § 5329(d), except as FTA determines otherwise in writing, and
2. Comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. § 5329(d).

20) Fixed Guideway Capital Investment Grants Program (All applicants applying to New Starts, Small Starts, or Core Capacity Programs)

☐ I affirm this certification, assurance, or agreement.

Except as FTA determines otherwise in writing, the Applicant certifies that:

1. The Applicant has or will have the following capabilities to carry out its proposed Project(s), including the safety and security aspects of the Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. The Applicant has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. The Applicant will maintain its Project equipment and facilities adequately, and
4. The Applicant will comply with:
 - a. The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - b. The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304.

21) Alcohol and Controlled Substances Testing (All federal fund applicants that are required to comply with alcohol and controlled substance testing requirements)

☐ I affirm this certification, assurance, or agreement.

As required by 49 U.S.C. 5331, and FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," specifically 49 CFR part 655, subpart I, the Applicant certifies that:

1. The Applicant and third-party contractors have established and implemented:
 - a. An alcohol misuse testing program, and
 - b. A controlled substance testing program,
2. The Applicant and third-party contractors have complied with or will comply with all applicable requirements of 49 CFR part 655 to the extent those regulations are consistent with 49 U.S.C. 5331, and
3. Consistent with U.S. DOT Office of Drug and Alcohol Policy and Compliance Notice, issued October 22, 2009, the Applicant and/or Third Party Contractors residing in a State that permits marijuana use for medical or recreational purposes (including Massachusetts) will comply with the Federal controlled substance testing requirements of 49 CFR part 655.

22) Bus and Bus Facilities Formula Grants Program (All applicants applying for federal 5339 formula funds)

☐ I affirm this certification, assurance, or agreement.

The following Certification for Bus and Bus Facilities Formula Grants Program funding are required by 49 U.S.C. 5339(b), which states that "The requirements of section 5307 apply to recipients of grants made under this section." Therefore, except as FTA determines otherwise in writing, the Applicant, certifies that:

1. The Applicant has or will have the:
 - a. Legal capacity to carry out its proposed Projects,
 - b. Financial capacity to carry out its proposed Projects,
 - c. Technical capacity to carry out its proposed Projects,
2. The Applicant has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. The Applicant will maintain its Project equipment and facilities adequately,

4. The Applicant will ensure that when, during non-peak hours for transportation using or involving a facility or equipment of a Project financed under 49 U.S.C.5339, as amended by MAP-21, the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, congenital malfunction, or 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,
 - c. Any individual presenting a Medicare card issued to himself or herself pursuant to title II of the Social Security Act (42 U.S.C. 401 *et seq.*), or
 - d. Any individual presenting a Medicare card issued to himself or herself pursuant to title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
5. When carrying out a procurement under 49 U.S.C.5339, as amended by MAP-21, the Applicant will comply with the:
 - a. General provisions for FTA programs of 49 U.S.C. 5323, and
 - b. Third party procurement requirements of 49 U.S.C. 5325,
6. The Applicant has complied with or will comply with 49 U.S.C. 5307(b), as amended by MAP-21, because it:
 - a. Has made or will make available to the public information on amounts of its funding available to it under 49 U.S.C. 5339,
 - b. Has developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,
 - c. Has published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Program of Projects and its performance as an Applicant or Recipient,
 - d. Has provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
 - e. Has ensured or will ensure that the proposed Program of Projects provide for coordination of transportation services funded by U.S. DOT under 49 U.S.C. 5336 with federally funded transportation services supported by United States Government sources,
 - f. Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
 - g. Has made or will make the final Program of Projects available to the public,
7. As required by 49 U.S.C. 5307(d), the Applicant:
 - a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds from approved non-Federal sources except if otherwise authorized by law, and
 - c. Will provide the local share funds when needed,
8. The Applicant will comply with:

- a. The Metropolitan Planning requirements of 49 U.S.C. 5303, as amended by MAP-21, and
- b. The State Planning requirements of 49 U.S.C. 5304, as amended by MAP-21,
- 9. The Applicant has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation, and
- 10. The Applicant will comply with requirements for Public Transportation Agency Safety Plan requirements of 49 U.S.C. 5329.

23) Bus and Bus-Related Equipment and Facilities Grant Program (Discretionary)
(All applicants applying for federal 5339 Funds)

☒ I affirm this certification, assurance, or agreement.

The following Certifications for the Bus and Bus Related Equipment and Facilities Grant Program (Discretionary) funding are required by former 49 U.S.C. 5309(c)(2), which applies the requirements of former 49 U.S.C. 5307(d)(1)(A), (B), (C), and (H) in effect in FY 2012 or a previous fiscal year to this Program except as superseded by MAP-21 cross-cutting requirements that apply. Therefore, except as FTA determines otherwise in writing, the Applicant certifies that:

- 1. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of those Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
- 2. It has or will have satisfactory continuing control over the use of Project equipment and facilities,
- 3. It will maintain its Project equipment and facilities adequately, and
- 4. It has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303 and 5304.

24) Passenger Ferry Grant Program (All applicants applying for Passenger Ferry Grant Program Funds)

☒ I affirm this certification, assurance, or agreement.

The following Certifications for the Passenger Ferry Grant Program funding are required by 49 U.S.C. 5307(h) and (c)(1). Therefore, except as FTA determines otherwise in writing, the Applicant certifies that:

- 1. The Applicant has or will have the following to carry out its proposed Project(s), including the safety and security aspects of the proposed Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and

- c. Technical capacity,
- 2. The Applicant has or will have satisfactory continuing control over the use of Project equipment and facilities,
- 3. The Applicant will maintain its Project equipment and facilities adequately,
- 4. The Applicant will ensure that, during non-peak hours for transportation using or involving a facility or equipment of a Project financed under 49 U.S.C. 5307(h), the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - a. Any senior,
 - b. Any individual who, because of illness, injury, age, congenital malfunction, or 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,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 et seq.), or
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.),
- 5. When carrying out a procurement under 49 U.S.C. 5307(h), the Applicant will comply with the:
 - a. General Provisions of 49 U.S.C. 5323, and
 - b. Third Party Contract Provisions of 49 U.S.C. 5325,
- 6. As required by 49 U.S.C. 5307(d), the Applicant:
 - a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
- 7. As required by 49 U.S.C. 5307(c)(1)(H), the Applicant will comply with:
 - a. The Metropolitan Transportation Planning requirements of 49 U.S.C. 5303, and
 - b. The Statewide and Nonmetropolitan Transportation Planning requirements of 49 U.S.C. 5304,
- 8. As required by 49 U.S.C. 5307(c)(1)(I), the Applicant has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation, and
- 9. The Applicant will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. § 5329(d).

25) Job Access and Reverse Commute (JARC) Formula Grant Program (All applicants applying for federal 5316 funds)

☐ I affirm this certification, assurance, or agreement.

1. The following Certifications for the Job Access and Reverse Commute (JARC) Formula Grant Program are required by former 49 U.S.C. 5316 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply. Therefore, except as FTA determines otherwise in writing the Applicant certifies that:
 - a. The Applicant will make awards of JARC funding on a competitive basis following:
 - (1) An areawide solicitation in cooperation with the appropriate metropolitan planning organization for applications for funding in compliance with former 49 U.S.C. 5316 if your Applicant receives funding under former 49 U.S.C. 5316(c)(1)(A), and
 - (2) A statewide solicitation for applications for JARC funding in compliance with former 49 U.S.C. 5316 if your Applicant receives funding under former 49 U.S.C. 5316(c)(1)(B) or (C),
 - b. Any allocations to Subrecipients of JARC funding authorized by former 49 U.S.C. 5316 will be distributed on a fair and equitable basis,
 - c. As required by former 49 U.S.C. 5316:
 - (1) The Projects it has selected or will select for former 49 U.S.C. 5316 funding must be derived from a public transit-human services transportation plan that has been:
 - (a) Locally developed, and
 - (b) Coordinated, and
 - (2) That locally developed and coordinated plan was produced through a process that included:
 - (a) Representatives of public, private, and nonprofit transportation providers,
 - (b) Human service providers, and
 - (c) Participation by the public,
 - d. Before it transfers funds to a Project funded by former 49 U.S.C. 5336, that Project has been or will have been coordinated with private nonprofit providers of services as required under former 49 U.S.C. 5316(g)(2),
 - e. Before using funds apportioned for Projects serving an area other than that for which funding was apportioned under former 49 U.S.C. 5316:
 - (1) The State's chief executive officer, or his or her designee, will have certified that all the JARC program objectives of former 49 U.S.C. 5316 are being met in the area from which the funding would be derived, and
 - (2) If the State has a statewide program for meeting the JARC program objectives of former 49 U.S.C. 5316, the funds can be used for Projects anywhere in the State, and
 - f. The requirements of former 49 U.S.C. 5307 will apply to the JARC Program, authorized by former 49 U.S.C. 5316, and
2. The following Certifications for the JARC Program are required by former 49 U.S.C. 5307(d)(1) in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply. Therefore, except as FTA determines otherwise in writing, on its behalf, you certify that:

- a. The Applicant has or will have, and will require each Subrecipient to have, the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - (1) The legal capacity
 - (2) The financial capacity, and
 - (3) The technical capacity,
- b. The Applicant has or will have, and will require each Subrecipient to have satisfactory continuing control over the use of Project equipment and facilities,
- c. The Applicant will maintain, and will require each Subrecipient to maintain, its Project equipment and facilities adequately,
- d. To the extent applicable, the Applicant will ensure, and will require each Subrecipient to ensure, that for transportation using or involving a facility or equipment of a Project financed under former 49 U.S.C. 5316 the following individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:
 - (1) Any elderly individual,
 - (2) Any handicapped individual, as described in 49 CFR part 27,
 - (3) Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 et seq.), and
 - (4) Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.),
- e. When carrying out a procurement under former 49 U.S.C. 5316, the Applicant will comply with the following provisions as amended by MAP-21:
 - (1) Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
 - (2) The prohibition against exclusionary or discriminatory specifications in its procurements, as required by 49 U.S.C. 5323(h),
 - (3) "Buy America" under 49 U.S.C. 5323(j),
 - (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m), and
 - (5) "Veterans Preference/Employment" under 49 U.S.C. 5325(k),
- f. The Applicant will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
- g. The Applicant:
 - (1) Has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the local share by former 49 U.S.C. 5316,
 - (2) Will provide and, as necessary, will require each Subrecipient to provide, the local share funds from sources approved by FTA, and
 - (3) Will provide and, as necessary, will require each Subrecipient to provide, the local share funds when needed,
- h. The Applicant has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303, and 5304,
- i. The Applicant has or will have, and will require each Subrecipient to have, a locally developed process to solicit and consider public comment before:

- (1) Raising a fare, or
- (2) Implementing a major reduction of public transportation, and
- j. To the extent applicable, the Applicant will comply with, and as necessary, will require each Subrecipient to comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. § 5329(d).

26) Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program (5310 Applicants)

☒ I affirm this certification, assurance, or agreement.

1. The following Certification for the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program are required by 49 U.S.C. 5310. Therefore, except as FTA determines otherwise in writing, the Applicant certifies that:
 - a. The Applicant certifies they are:
 - (1) A private nonprofit organization, or
 - (2) A State or local governmental authority that:
 - (a) Is approved by a State to coordinate services for seniors and individuals with disabilities; or
 - (b) Certifies that there are no private nonprofit organizations readily available in the area to provide services authorized under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program,
 - b. The Applicant will comply with the following Project selection and planning requirements:
 - (1) The Projects the Applicant has selected or will select for funding made available or appropriated for 49 U.S.C. 5310, are included in a public transit-human services transportation plan that has been:
 - (a) Locally developed, and
 - (b) Coordinated,
 - (2) That public transit-human services transportation plan was developed and approved through a process that included participation by:
 - (a) Seniors,
 - (b) Individuals with disabilities,
 - (c) Representatives of public, private, and nonprofit transportation providers,
 - (d) Representatives of public, private, and nonprofit human services providers, and
 - (e) Other members of the public; and
 - (3) The transportation projects to assist in providing transportation services for seniors and individuals with disabilities are included in a program of projects,

- (4) A program of projects under Group 16.A.1.b(3) above is or will be submitted annually to FTA, and
 - (3) To the maximum extent feasible, the services funded by 49 U.S.C. 5310 will be coordinated with transportation services funded 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,
- c. As required by 49 U.S.C. 5310(e)(2)(B), the Applicant certifies that if it allocates funds received under 49 U.S.C. 5310, to Subcontractors, it will have allocated those funds on a fair and equitable basis,
- d. The Applicant will transfer a facility or equipment financed with funding made available or appropriated for a grant under 49 U.S.C. 5310, as amended by MAP-21, to any other recipient eligible to receive assistance under 49 U.S.C. chapter 53 only if:
 - (1) The recipient in possession of the facility or equipment consents to the transfer, and
 - (2) The facility or equipment will continue to be used as required under 49 U.S.C. 5310, and
- e. As required by 49 U.S.C. 5310(b)(2), the state will use at least fifty-five (55) percent of the funds on capital projects to meet the special needs of seniors and disabled, and
- f. The requirements of 49 U.S.C. 5307, as determined by FTA, will apply to the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities, authorized by 49 U.S.C. 5310, and
- 2. FTA has determined certain requirements of 49 U.S.C. 5307 to be appropriate for which some require Certifications. Therefore, as specified under 49 U.S.C. 5307(c)(1) the Applicant certifies that:
 - a. The Applicant has or will have, and will require each Subrecipient to have, the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity,
 - (3) Technical capacity,
 - b. The Applicant has or will have, and will require each Subrecipient to have, satisfactory continuing control over the use of Project equipment and facilities,
 - c. The Applicant will maintain, and will require each Subrecipient to maintain its Project equipment and facilities adequately,
 - d. When carrying out a procurement under the Formula Grants for the Enhanced Mobility of Seniors and Individuals with Disabilities Program, the Applicant will, and will require each Subrecipient to:
 - (1) Comply with the general provisions for FTA programs of 49 U.S.C. 5323, and
 - (2) Comply with the third party procurement requirements of 49 U.S.C. 5325,

- e. The Applicant has complied or will comply with, and will require each Subrecipient to comply with:
 - (1) The Metropolitan Planning requirements of 49 U.S.C. 5303, and
 - (2) The State Planning requirements of 49 U.S.C. 5304, and
- f. To the extent applicable, the Applicant will comply with, and require its Subrecipients to comply with the requirements for a Public Transportation Agency Safety Plan provided by 49 U.S.C. 5329(d).

27) Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program (5310 Applicants)

☒ I affirm this certification, assurance, or agreement.

1. The following Certification for the Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program are required by former 49 U.S.C. 5310 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply instead. Therefore, except as FTA determines otherwise in writing, the Applicant certifies that:
 - a. The Applicant certifies they are:
 - (1) A private nonprofit organization, if the public transportation service that would undertake public transportation capital projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities is:
 - (a) Unavailable,
 - (b) Insufficient, or
 - (c) Inappropriate,
 - (2) A State or local governmental authority that:
 - (a) Is approved by a State to coordinate services for seniors and individuals with disabilities, or
 - (b) Certifies that there are not any nonprofit organizations readily available in the area to provide public transportation capital projects planned, designed, and carried out to meet the special needs of seniors and individuals with disabilities, and
 - b. The Projects the Applicant has selected or will select for funding made available or appropriated for former 49 U.S.C. 5310 are included in a public transit-human services transportation plan that has been:
 - (1) Locally developed, and
 - (2) Coordinated,
 - c. That public transit-human services transportation plan was developed and approved through a process that included participation by:
 - (1) Elderly Individuals,
 - (2) Individuals with disabilities,
 - (3) Representatives of public, private, and nonprofit transportation providers,

- (4) Representatives of human services providers, and
 - (5) Other members of the public,
 - d. If the Applicant allocates funds received under former 49 U.S.C. 5310 to Subrecipients, the Applicant will have allocated those funds on a fair and equitable basis,
 - e. The Program of Projects your State Applicant has submitted or will submit contains or will contain an assurance that the Program provides for the maximum feasible coordination of transportation services funded by former 49 U.S.C. 5310 with transportation services funded by other Government sources, and
 - f. If the Applicant transfers former 49 U.S.C. 5310 funds to another Project funded under 49 U.S.C. 5336 in accordance with former 49 U.S.C. 5310(b)(2), the Project for which the funds are requested has been coordinated with private nonprofit providers of service under former 49 U.S.C. 5310, and,
 - g. The Applicant will comply with the requirements of former 49 U.S.C. 5307 that FTA determined will apply to the former Formula Grants for the Special Needs of Elderly Individuals and Individuals with Disabilities Program,
2. The following Certification for the Special Needs of Elderly Individuals and Individuals with Disabilities Program are required by former 49 U.S.C. 5307(d)(1). Therefore, except as FTA determines otherwise in writing, the Applicant certifies that:
- a. The Applicant and each of its Subrecipients have or will have the following to carry out its proposed Project(s), including the safety and security aspects of the proposed Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity,
 - (3) Technical capacity,
 - b. The Applicant has or will have satisfactory continuing control over the use of Project equipment and facilities,
 - c. The Applicant will maintain its Project equipment and facilities adequately,
 - d. When carrying out a procurement under former 49 U.S.C. 5310, the Applicant will, and will require each Subrecipient to, do the following:
 - (1) Use competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
 - (2) Not use exclusionary or discriminatory specifications in its procurements, as required by 49 U.S.C. 5323(h),
 - (3) "Buy America," comply with 49 U.S.C. 5323(j), as amended by MAP-21,
 - (4) Comply with applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
 - (5) Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
 - (6) "Veterans Preference/Employment," comply with 49 U.S.C. 5325(k), as amended by MAP-21,
 - e. The Applicant:

- (1) Has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the local share by former 49 U.S.C. 5310(c)(2),
- (2) Will provide and, as necessary, will require each Subrecipient to provide, the local share funds from sources approved by FTA, and
- (3) Will provide and, as necessary, will require each Subrecipient to provide the local share funds when needed,
- f. The Applicant has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5301, 5303, and 5304, and
- g. To the extent applicable, as required by the MAP-21 cross-cutting requirement, "Agency Safety Plans," your State Applicant will comply with and, as necessary, will require each Subrecipient to comply with, its Public Transportation Agency Safety Plan, as required by 49 U.S.C. 5329.

28) New Freedom Program (5317 applicants)

☒ I affirm this certification, assurance, or agreement.

1. The following Certification for the New Freedom Program is required by former 49 U.S.C. 5317 in effect in FY 2012 or a previous fiscal year. Therefore, except as FTA determines otherwise in writing, the Applicant certifies that:
 - a. The Applicant will make awards of New Freedom funding on a competitive basis after conducting:
 - (1) An areawide solicitation in cooperation with the appropriate metropolitan planning organization for applications for funding in compliance with former 49 U.S.C. 5317(d)(1), or
 - (2) A statewide solicitation for applications for New Freedom funding in compliance with former 49 U.S.C. 5317(d)(2),
 - b. Any allocations to Subrecipients of New Freedom funding authorized by former 49 U.S.C. 5317 will be distributed on a fair and equitable basis,
 - c. The Applicant will comply with the following Project selection and planning requirements:
 - (1) The projects your Applicant has selected or will select for funding made available or appropriated for that program were derived from a public transit-human services transportation plan that has been:
 - (a) Locally developed, and
 - (b) Coordinated,
 - (2) That locally developed and coordinated plan was produced through a process that included:
 - (a) Representatives of public, private, and nonprofit transportation providers,
 - (b) Representatives of public, private, and nonprofit human services providers, and
 - (c) Participation by the public,

- d. Before the Applicant transfers funds to a project funded by former 49 U.S.C. 5311(c), former 49 U.S.C. 5336, or both:
 - (1) The funding to be transferred may be made available only to projects eligible for funding made available or appropriated for former 49 U.S.C. 5317, and
 - (2) The Applicant will have consulted with responsible local officials and publicly owned operators of public transportation in each area for which the amount to be transferred was originally awarded,
- e. The requirements of former 49 U.S.C. 5307, as determined by FTA, will apply to the New Freedom Program, authorized by former 49 U.S.C. 5317, and
- 2. The following Certification for the New Freedom Program is required by former 49 U.S.C. 5307(d)(1) and 5310. Therefore, except as FTA determines otherwise in writing, the Applicant certifies that:
 - a. The Applicant has or will have, and will require each Subrecipient to have, the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity,
 - (3) Technical capacity,
 - b. The Applicant has or will have, and will require each Subrecipient to have, satisfactory continuing control over the use of Project equipment and facilities,
 - c. The Applicant will maintain, and will require each Subrecipient to maintain, its Project equipment and facilities adequately,
 - d. When carrying out a procurement under former 49 U.S.C. 5317, the Applicant will, and will require each Subrecipient to do the following:
 - (1) Use competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
 - (2) Not use exclusionary or discriminatory specifications in its procurements, as required by 49 U.S.C. 5323(h),
 - (3) "Buy America," the Applicant will comply with 49 U.S.C. 5323(j),
 - (4) Comply with applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
 - (5) Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
 - (6) "Veterans Preference/Employment" under 49 U.S.C. 5325(k),
 - f. The Applicant will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
 - e. The Applicant:
 - (1) Has or will have and, as necessary, will require each Subrecipient to have the amount of funds required for the local share required by former 49 U.S.C. 5317(g),
 - (2) Will provide and, as necessary, will require each Subrecipient to provide, the local share funds from sources approved by FTA, and
 - (3) Will provide and, as necessary, will require each Subrecipient to provide, the local share funds when needed,

- f. The Applicant has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5301, 5303, and 5304, and
- g. To the extent applicable, as required by the MAP-21 cross-cutting requirement, "Agency Safety Plans," the Applicant will comply with and, as necessary, will require each Subrecipient to comply with, its Public Transportation Agency Safety Plan, as required by 49 U.S.C. 5329(d).

29) Formula Grants for Rural Areas Program (5311 & 5311(f) applicants)

☒ I affirm this certification, assurance, or agreement.

The following Certification applies to each Applicant for funding made available or appropriated for the Rural Areas Formula Project authorized by 49 U.S.C. 5311(b). The Applicant certifies and assures that:

1. The Applicant has or will have the:
 - a. Legal capacity to carry out its proposed Projects,
 - b. Financial capacity to carry out its proposed Projects,
 - c. Technical capacity to carry out its proposed Projects,
2. The Applicant has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. The Applicant's Project equipment and facilities will be adequately maintained,
4. The Applicant's program has provided for a fair distribution of Federal funding made available or appropriated for 49 U.S.C. 5311(b), within the State, including Indian reservations,
5. The Applicant's program provides or will provide the maximum feasible coordination of public transportation service funded by 49 U.S.C. 5311(b), with transportation service funded by other Federal sources,
6. The Applicant's Projects in its Formula Grants for Rural Areas Program are included in:
 - a. The Statewide Transportation Improvement Program, and
 - b. To the extent applicable, a Metropolitan Transportation Improvement Program,
7. The Applicant:
 - a. Has or will have the amount of funds required for the local share, as required by 49 U.S.C. 5311(g),
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
8. The Applicant may transfer a facility or equipment acquired using a grant under 49 U.S.C. 5311(b) to any other recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
 - a. The recipient in possession of the facility or equipment consents to the transfer, and
 - b. The facility or equipment will continue to be used as required under 49 U.S.C. 5311, and
9. Each fiscal year:

- a. The State will spend at least fifteen (15) percent of its 49 U.S.C. 5311 funding available that fiscal year to develop and support intercity bus transportation within the State, with eligible activities, including:
 - (1) Planning and marketing for intercity bus transportation,
 - (2) Capital grants for intercity bus facilities,
 - (3) Joint-use facilities,
 - (4) Operating grants through purchase-of-service agreements, user-side subsidies, and demonstration Projects, and
 - (5) Coordinating rural connections between small public transportation operations and intercity bus carriers, or
- b. The State will provide to the Federal Transit Administrator a Certification of the Governor of the State that:
 - (1) It has consulted with the affected intercity bus service providers about the intercity bus needs of the State, and
 - (2) The State's intercity bus service needs are being met adequately.

30) Formula Grants for Other Than Urbanized Areas Program (Applicants seeking FTA funding under the Formula Grants for Other Than Urbanized Areas Program, former 49 USC 5311)

☒ I affirm this certification, assurance, or agreement.

The following Certifications apply to those applying for funding appropriated or made available for the Formula Grants for Other Than Urbanized Areas Project authorized by former 49 U.S.C. 5311(b)(1) in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply. The Applicant assures that:

1. The Applicant has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. The Applicant has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. The Applicant Project equipment and facilities will be adequately maintained,
4. The Applicant State program required under former 49 U.S.C. 5311(b)(2) has provided for a fair distribution of Federal funding appropriated or made available for former 49 U.S.C. 5311(b), within the State, including Indian reservations,
5. The Applicant State program required under former 49 U.S.C. 5311(b)(2) provides or will provide the maximum feasible coordination of public transportation service funded by former 49 U.S.C. 5311(b), with transportation service funded by other Federal sources,
6. The Applicant's Projects in its Formula Grants for Other than Urbanized Areas Program are included in:

- a. The Statewide Transportation Improvement Program, and
 - b. To the extent applicable, a Metropolitan Transportation Improvement Program,
7. The Applicant:
- a. Has or will have the amount of funds required for the local share, as required by former 49 U.S.C. 5311(g),
 - b. Will provide the local share funds sources approved by FTA, and
 - c. Will provide the local share funds when needed,
8. The Applicant may transfer a facility or equipment acquired using a grant under former 49 U.S.C. 5311(b) in effect in FY 2012 or a previous fiscal year to any other Recipient eligible to receive assistance under 49 U.S.C. chapter 53, if:
- a. The Recipient in possession of the facility or equipment consents to the transfer, and
 - b. The facility or equipment will continue to be used as required under former 49 U.S.C. 5311, and

31) Over-the-Road Bus Accessibility Program (Applicants seeking funding from the Over-the-Road Bus Accessibility Program, as amended in 49 USC 5310)

☒ I affirm this certification, assurance, or agreement.

The Applicant assures that it will comply with all applicable Federal statutes and regulations, and follow applicable Federal guidance in carrying out any Over-the-Road Bus Accessibility Project supported by the FTA grant. It acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its Project with FTA. It understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and affect the implementation of the Project.

The Applicant assures that the Federal requirements for the Over-the-Road Bus Accessibility Program during FY 2012 will apply to the Project, except as FTA determines otherwise in writing. Certifications and Assurances for funding to be awarded under this program in FY 2014 are included in these FTA Certifications and Assurances for FY 2014. Each Applicant must submit Group 01 ("Required Certifications and Assurances for Each Applicant"). Each Applicant seeking more than \$100,000 in Federal funding must provide both Group 01, and Group 02, ("Lobbying").

32) Tribal Transit Programs(5311(c)(1) Recipients)

☒ I affirm this certification, assurance, or agreement.

FTA has established terms and conditions for Tribal Transit Program grants financed with funding appropriated or made available for 49 U.S.C. 5311(c)(1). On behalf of your Applicant, you certify and assure that:

1. The Applicant has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. The Applicant has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. The Applicant's Project equipment and facilities will be adequately maintained,
4. The Applicant's Project will achieve maximum feasible coordination with transportation service funded by other Federal sources,
5. The Applicant will:
 - a. Have a procurement system that complies with U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," 49 CFR part 18, specifically 49 CFR 18.36, or
 - b. Inform FTA promptly that its procurement system does not comply with those U.S. DOT regulations,
6. The Applicant will comply with Buy America under 49 U.S.C. 5323(j), and
7. The Applicant will comply with the Certifications, Assurances, and Agreements in:
 - a. Group 03.B and 03.C (Charter Service Agreement and School Bus Agreement),
 - b. Group 05.B (Bus Testing),
 - c. Group 06 (Demand Responsive Service),
 - d. Group 07 (Intelligent Transportation Systems), and
 - e. Group 10 (Alcohol and Controlled Substances Testing).

33) Low or No Emission Vehicle Deployment (5312(d)(5) recipients)

☒ I affirm this certification, assurance, or agreement.

Section 5312(d)(5)(C)(i) of title 49 requires the following Certifications for Low or No Emission Vehicle Deployment Program funding appropriated or made available for MAP-21. Therefore, except as FTA determines otherwise in writing, the Applicant certifies and assure that:

1. The Applicant has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - a. Legal capacity,
 - b. Financial capacity,
 - c. Technical capacity,
2. The Applicant has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. The Applicant will maintain its Project equipment and facilities adequately,
4. The Applicant will ensure that, during non-peak hours, for transportation using or involving a facility or equipment funded for its Project, the following

individuals will be charged a fare not exceeding fifty (50) percent of the peak hour fare:

- a. Any senior,
 - b. Any individual who, because of illness, injury, age, a congenital malfunction, or any other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or who has semi-ambulatory capability), and cannot use a public transportation service or a public transportation facility effectively without special facilities, special planning, or special design,
 - c. Any individual presenting a Medicare card issued to himself or herself pursuant to title II of the Social Security Act (42 U.S.C. 401 *et seq.*), or
 - d. Any individual presenting a Medicare card issued to himself or herself pursuant to title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
5. When carrying out a procurement under this Program, the Applicant will comply with the:
- a. General provisions of 49 U.S.C. 5323, and
 - b. Third party contract provisions of 49 U.S.C. 5325,
6. The Applicant:
- a. Has informed or will inform the public of the amounts of its funding available under this Program,
 - b. Has developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,
 - c. Has published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Projects and its performance as an Applicant,
 - d. Has provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
 - e. Has assured or will assure that the proposed Program of Projects provide for coordination of transportation services with federally funded transportation services supported by United States Government sources other than U.S. sources,
 - f. Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
 - g. Has made or will make the final list of Projects available to the public,
7. The Applicant:
- a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
8. The Applicant will comply with:
- a. The Metropolitan Planning requirements of 49 U.S.C. 5303, as amended by MAP-21, and
 - b. The State Planning requirements of 49 U.S.C. 5304,

9. The Applicant has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation, and
10. The Applicant will comply with its Public Transportation Agency Safety Plan as required by 49 U.S.C. 5329, as amended by MAP-21.

34) Clean Fuels Program (5308 Applicants)

☒ I affirm this certification, assurance, or agreement.

Former 49 U.S.C. 5307(d)(1) except as superseded by MAP-21 cross-cutting requirements that apply, requires the following Certifications for Clean Fuels Grant Program funding appropriated or made available for former 49 U.S.C. 5308 in effect in FY 2012 or a previous fiscal year. Therefore, except as FTA determines otherwise in writing, the Applicant certifies and assures that:

1. The Applicant has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. The Applicant has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. The Applicant will maintain the Project equipment and facilities adequately,
4. The Applicant will ensure that the following individuals will be charged not more than fifty (50) percent of the peak hour fare for transportation during non-peak hours using or involving Project facilities or equipment supported under former 49 U.S.C. 5308:
 - a. Elderly individuals,
 - b. Individuals with disabilities,
 - c. Any individual presenting a Medicare card issued to that individual under title II of the Social Security Act (42 U.S.C. 401 et seq.), and
 - d. Any individual presenting a Medicare card issued to that individual under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.),
5. When carrying out a procurement under former 49 U.S.C. 5308, the Applicant will, and will require each Subrecipient, to comply with the following provisions as amended by MAP-21:
 - a. Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
 - b. The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),
 - c. "Buy America" under 49 U.S.C. 5323(j),
 - d. Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),

- e. Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
- f. "Veterans Preference/Employment" under 49 U.S.C. 5325(k),
- 6. The Applicant will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
- 7. The Applicant:
 - a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds from sources approved by FTA, and
 - c. Will provide the local share funds when needed,
- 8. The Applicant has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303 and 5304,
- 9. The Applicant has a locally developed process to solicit and consider public comment before:
 - a. Raising a fare, or
 - b. Implementing a major reduction of public transportation, and
- 10. The Applicant will comply with the final Federal regulations, when issued, that implement the safety plan requirements of 49 U.S.C. § 5329(d).

35) Paul S. Sarbanes Transit in Parks Program (5320 Recipients)

☒ I affirm this certification, assurance, or agreement.

- 1. The following Certifications and Assurances for the Paul S. Sarbanes Transit in Parks Program (Parks Program) are required by former 49 U.S.C. 5320 in effect in FY 2012 or a previous fiscal year, except as superseded by MAP-21 cross-cutting requirements that apply. Therefore, except as FTA determines otherwise in writing, the Applicant certifies that:
 - a. The Applicant will consult with the appropriate Federal land management agency during the planning process, and
 - b. The requirements of former 49 U.S.C. 5307, as determined by FTA, will apply to the Parks Program, authorized by former 49 U.S.C. 5320, and
- 2. FTA has determined certain requirements of former 49 U.S.C. 5307 to be appropriate for the Parks Program, of which some require Certifications. Therefore as specified under former 49 U.S.C. 5307(d)(1) except as superseded by MAP-21 cross-cutting requirements that apply, the Applicant certifies that:
 - a. The Applicant has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity, and
 - (3) Technical capacity,
 - b. The Applicant has or will have satisfactory continuing control over the use of Project equipment and facilities,
 - c. The Applicant will maintain the Project equipment and facilities adequately,
 - d. When carrying out a procurement under former 49 U.S.C. 5320, it will, and will require each Subrecipient, to comply with the following provisions as amended by MAP-21:

- (1) Competitive procurement (as defined or approved by FTA), as required by 49 U.S.C. 5325(a),
- (2) The prohibition against exclusionary or discriminatory specifications in its procurements under 49 U.S.C. 5323(h),
- (3) "Buy America" under 49 U.S.C. 5323(j),
- (4) Applicable pre-award and post-delivery requirements of 49 U.S.C. 5323(m),
- (5) Applicable railcar option restrictions of 49 U.S.C. 5325(e), and
- (6) "Veterans Preference/Employment" under 49 U.S.C. 5325(k),
- e. The Applicant will comply with other applicable requirements under 49 U.S.C. 5323 and 5325,
- f. The Applicant has complied or will comply with the requirements of former 49 U.S.C. 5307(c). Specifically, it:
 - (1) Has made or will make available to the public information on the amounts available for the Parks Program, former 49 U.S.C. 5320, and the Projects it proposes to undertake,
 - (2) Has developed or will develop, in consultation with interested parties, including private transportation providers, Projects to be financed,
 - (3) Has published or will publish a list of proposed Projects in a way that affected citizens, private transportation providers, and local elected officials have the opportunity to examine the proposed Projects and submit comments on the proposed Projects and its performance,
 - (4) Has provided or will provide an opportunity for a public hearing to obtain the views of citizens on the proposed Projects,
 - (5) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final list of Projects, and
 - (6) Has made or will make the final list of Projects available to the public,
- g. The Applicant:
 - (1) Has or will have the amount of funds required for the local share,
 - (2) Will provide the local share funds from sources approved by FTA, and
 - (3) Will provide the local share funds when needed,
- h. The Applicant has complied or will comply with, and will require each Subrecipient to comply with, 49 U.S.C. 5303 and 5304, and
- i. The Applicant has a locally developed process to solicit and consider public comment before:
 - (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation.

36) State Safety Oversight Grant Program (5329(e)(6) applicants)

☒ I affirm this certification, assurance, or agreement.

The Applicant certifies that:

1. The Applicant has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - a. Legal capacity,
 - b. Financial capacity, and
 - c. Technical capacity,
2. The Applicant has or will have satisfactory continuing control over the use of Project equipment and facilities,
3. The Applicant will maintain its Project equipment and facilities adequately,
4. When carrying out a procurement for its Project, it will comply with the:
 - a. The Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments, 49 C.F.R. part 18,
 - b. General Provisions of 49 U.S.C. 5323, and
 - c. Third Party Contract Requirements of 49 U.S.C. 5325,
5. As required by 49 U.S.C. 5329(e)(6)(C), the Applicant:
 - a. Has or will have the amount of funds required for the local share,
 - b. Will provide the local share funds only from sources approved by FTA, and will not be met by:
 - (1) Any Federal funds,
 - (2) Any funds received from a public transportation agency, or
 - (3) Any revenues earned by a public transportation agency, and
 - c. Will provide the local share funds when needed,
6. The Applicant meets the applicable requirements of 49 C.F.R. part 659, Rail Fixed Guideway Systems: State Safety Oversight, and
7. The Applicant has received or will receive an FTA certification upon a determination that its State Safety Oversight Program meets the requirements of 49 U.S.C. 5329(e) and is adequate to promote the purposes of 49 U.S.C. 5329.

37) Public Transportation Emergency Relief Program (5324 applicants)

☐ I affirm this certification, assurance, or agreement.

As required by 49 U.S.C. 5324(d)(1), as amended by MAP-21, the Applicant assures that it will comply with the requirements of the Certifications and Assurances as FTA determines will apply to an Applicant for funding made available or appropriated for the Public Transportation Emergency Relief Program.

38) Expedited Project Delivery Pilot Program (Expedited Project Delivery Pilot Program applicants)

☐ I affirm this certification, assurance, or agreement.

The Applicant certifies that, in addition to other Certifications and Assurances required in connection with its application for funding, the Applicant's existing public transportation system is in a state of good repair, as required by section 20008(b)(5)(D) of MAP-21.

39) Transportation Infrastructure Finance and Innovation Act (TIFIA) Program (TIFIA applicants)

☒ I affirm this certification, assurance, or agreement.

The Applicant certifies and assures that as required by 49 U.S.C. 5323(o), as amended by MAP-21, that Federal transit laws, specifically 49 U.S.C. 5307, 49 U.S.C. 5309, and 49 U.S.C. 5337, apply to any Project under 49 U.S.C. chapter 53 that receives TIFIA support or financing under 23 U.S.C. 601 – 609, as amended by MAP-21.

1. To comply with 49 U.S.C. 5307, specifically 49 U.S.C. 5307(d)(1), the Applicant certifies that:
 - a. It has or will have the following to carry out its proposed Project(s), including the safety and security aspects of its proposed Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity, and
 - (3) Technical capacity,
 - b. The Applicant has or will have satisfactory continuing control over the use of Project equipment and facilities,
 - c. The Applicant will maintain its Project equipment and facilities adequately,
 - d. The Applicant will ensure that when, during non-peak hours for transportation using or involving a facility or equipment of a TIFIA-financed Project, a fare that is not more than fifty (50) percent of the peak hour fare will be charged to the following individuals:
 - (1) A senior,
 - (2) An individual who, because of illness, injury, age, congenital malfunction, or 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,
 - (3) An individual presenting a Medicare card issued to himself or herself pursuant to title II of the Social Security Act (42 U.S.C. 401 *et seq.*), or
 - (4) An individual presenting a Medicare card issued to himself or herself pursuant to title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
 - e. When carrying out a TIFIA-funded procurement, the Applicant will comply with:
 - (1) 49 U.S.C. 5323, and
 - (2) 49 U.S.C. 5325,
 - f. The Applicant has complied with or will comply with 49 U.S.C. 5307(b), because it:

- (1) Has made or will make available to the public information on amounts of its TIFIA funding request(s),
 - (2) Has developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,
 - (3) Has published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Program of Projects and its performance as an Applicant or Recipient,
 - (4) Has provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
 - (5) Has ensured or will ensure that the proposed Program of Projects provide for coordination of transportation services funded by U.S. DOT under TIFIA with federally funded transportation services supported by United States Government sources other than U.S. DOT,
 - (6) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
 - (7) Has made or will make the final Program of Projects available to the public,
- g. The Applicant:
- (1) Has or will have at least (twenty) 20 percent of the TIFIA net project costs required for the local share,
 - (2) Will provide the local share funds approved by FTA, and
 - (3) Will provide the local share funds when needed,
- h. The Applicant will comply with:
- (1) The Metropolitan Planning requirements of 49 U.S.C. 5303, and
 - (2) The State Planning requirements of 49 U.S.C. 5304, as amended by MAP-21,
- i. The Applicant has a locally developed process to solicit and consider public comment before:
- (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation, and
- j. The Applicant will comply with the 49 U.S.C. 5329(d) requirements for a Public Transportation Agency Safety Plan, and
2. To comply with the interest and financing costs restrictions of 49 U.S.C. chapter 53, the Applicant agrees that it will not seek reimbursement for interest and other financing costs incurred in connection with its Project that must be in compliance with those requirements unless:
- a. The Applicant is eligible to receive Federal funding for those expenses, and
 - b. The Applicant's records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.

3. The Applicant will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.)
4. The National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 5321 et seq., and will receive an environmental categorical exclusion, a finding of no significant impact, or a record of decision under NEPA for its Project prior to obligation of funds, and
5. The Applicant agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. 5326(d), when required.

40) State Infrastructure Banks (SIB) Program (SIB applicants)

☒ I affirm this certification, assurance, or agreement.

The Applicant certifies and assures that:

1. The Applicant will comply with the following applicable Federal laws establishing the various SIB programs since 1995:
 - a. 23 U.S.C. 610, as amended by MAP-21,
 - b. 23 U.S.C. 610 or its predecessor before MAP-21 was signed into law,
 - c. Section 1511 of TEA-21, 23 U.S.C. 181 note, or
 - d. Section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181,
2. The Applicant will comply with or follow the Cooperative Agreement establishing the State's SIB program between:
 - a. The Applicant and FHWA, FRA, and FTA, or
 - b. The Applicant and FHWA and FTA,
3. The Applicant will comply with or follow the Grant Agreement that provides FTA funding for the SIB and is between your Applicant and FTA including the FTA Master Agreement, which is incorporated by reference into the Grant Agreement, except that any provision of the FTA Master Agreement incorporated by reference into that Grant Agreement will not apply if it conflicts with any provision of:
 - a. 23 U.S.C. 610, as amended by MAP-21,
 - b. 23 U.S.C. 610 or its predecessor before MAP-21 was signed into law,
 - c. Section 1511 of TEA-21, 23 U.S.C. 181 note, or section 350 of the National Highway System Designation Act of 1995, as amended, 23 U.S.C. 181 note,
 - d. Federal guidance pertaining to the SIB Program,
 - e. The Cooperative Agreement establishing the State's SIB Program, or
 - f. The FTA Grant Agreement,
4. As required by 49 U.S.C. 5323(o), Federal transit laws, specifically 49 U.S.C. 5307, 49 U.S.C. 5309, and 49 U.S.C. 5337, as amended by MAP-21, apply to any Project under 49 U.S.C. chapter 53 that receives SIB support or financing under 23 U.S.C. 610 (or any support from 23 U.S.C. 601 – 609),
5. As required by 49 U.S.C. 5323(o) and 49 U.S.C. 5307(d)(1):

- a. The Applicant has or will have the following to carry out its proposed Project(s), including the safety and security aspects of those proposed Project(s):
 - (1) Legal capacity,
 - (2) Financial capacity, and
 - (3) Technical capacity,
- b. The Applicant has or will have satisfactory continuing control over the use of Project equipment and facilities,
- c. The Applicant will maintain its Project equipment and facilities adequately,
- d. The Applicant will ensure that when, during non-peak hours for transportation using or involving a facility or equipment of a SIB-financed Project, a fare that is not more than fifty (50) percent of the peak hour fare will be charged to the following individuals:
 - (1) A senior,
 - (2) An individual who, because of illness, injury, age, congenital malfunction, or 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,
 - (3) An individual presenting a Medicare card issued to himself or herself pursuant to title II of the Social Security Act (42 U.S.C. 401 *et seq.*), or
 - (4) An individual presenting a Medicare card issued to himself or herself pursuant to title XVIII of the Social Security Act (42 U.S.C. 1395 *et seq.*),
- e. When carrying out a procurement under a SIB-financed Project, the Applicant will comply with the:
 - (1) General provisions for FTA programs of 49 U.S.C. 5323, and
 - (2) Third party procurement requirements of 49 U.S.C. 5325,
- f. The Applicant has complied with or will comply with 49 U.S.C. 5307(b), because it:
 - (1) Has made or will make available to the public information on amounts of its funding requested under the SIB program,
 - (2) Has developed or will develop, in consultation with interested parties, including private transportation providers, a proposed Program of Projects for activities to be funded,
 - (3) Has published or will publish a Program of Projects in a way that affected individuals, private transportation providers, and local elected officials will have an opportunity to examine and submit comments on the proposed Program of Projects and its performance as an Applicant or Recipient,
 - (4) Has provided or will provide an opportunity for a public hearing to obtain the views of individuals on the proposed Program of Projects,
 - (5) Has ensured or will ensure that the proposed Program of Projects provide for coordination of transportation services funded by U.S. DOT under 49 U.S.C. 5336 and the SIB Program with federally funded

- transportation services supported by other United States Government sources,
- (6) Has considered or will consider the comments and views received, especially those of private transportation providers, in preparing its final Program of Projects, and
 - (7) Has made or will make the final Program of Projects available to the public,
- g. The Applicant:
- (1) Has or will have the amount of funds required for the local share by the SIB Program, but not less than twenty-five (25) percent of each capitalization grant,
 - (2) Will provide the local share funds from approved non-Federal sources, and
 - (3) Will provide the local share funds when needed,
- h. The Applicant will comply with the:
- (1) The Metropolitan Planning requirements of 49 U.S.C. 5303, and
 - (2) The Statewide and Nonmetropolitan Planning requirements of 49 U.S.C. 5304,
- i. The Applicant has a locally developed process to solicit and consider public comment before:
- (1) Raising a fare, or
 - (2) Implementing a major reduction of public transportation, and
- j. As required by 49 U.S.C. 5307(c)(1)(L), it will comply with the 49 U.S.C. 5329(d) requirements for a Public Transportation Agency Safety Plan, and
6. As required by 49 U.S.C. chapter 53, the Applicant certifies that it will not seek reimbursement for interest and other financing costs incurred in connection with its Project unless:
- a. It is eligible to receive Federal funding for those expenses, and
 - b. Its records demonstrate that it has used reasonable diligence in seeking the most favorable financing terms underlying those costs, to the extent FTA may require.
7. The Applicant agrees that it will adopt a transit asset management plan that complies with regulations implementing 49 U.S.C. 5326(d)).

41) Complaint Procedure Certification (All applicants)

☐ I affirm this certification, assurance, or agreement.

- 1. A complaint procedure has been/will be established for the benefit of any person using or affected by the service for which the application is made. The procedure will include a right to appeal adverse resolutions to the Deputy Transit Administrator, Massachusetts Department of Transportation.

2. A copy of the complaint procedure has been/will be made available to any person requesting the same. Summary notice of the procedure will be posted at the principal facility of the service to be funded through this application.

42) Affirmative Action/Equal Employment Opportunity (All applicants)

☐ I affirm this certification, assurance, or agreement.

The applicant certifies that it has an active Affirmative Action/Equal Employment Opportunity Policy.

43) Resolution of Support and Verification (5310/MAP applicants only)

☐ I affirm this certification, assurance, or agreement.

The applicant organization is aware of the provisions of Title 49 U.S.C. 5310 (Section 5310) reauthorized by Moving Ahead for Progress in the 21st Century (MAP-21) of 2013, and the Mobility Assistance Program authorized by M.G.L. Chapter 637 of the Acts of 1983, as amended by M.G.L. Chapter 33 of the Acts of 1991, under which funding is provided. The applicant organization is authorized to file an application with the Commonwealth of Massachusetts, Massachusetts Department of Transportation (MassDOT), and organizations for which the applicant organization is applying on their behalf, and has the approved cash match for the equipment, the necessary insurance coverage as will be required under an agreement between MassDOT and the applying authority, and agrees to comply with all Federal and State program requirements to carry out the project as described in the applicant organization's application.

44) Complaint Procedure (5310/MAP applicants only)

☐ I affirm this certification, assurance, or agreement.

In the event that a complaint is received by MassDOT, the following process will be followed:

1. A letter will be sent to the applicant organization acknowledging receipt of the complaint and requesting additional information about the nature of the complaint.
2. Upon receipt of the specific information about the complaint, the applicant organization will be apprised of this complaint procedure and any rights or appeals available under this procedure. This meeting shall take place no later

than thirty (30) days following the receipt of specific complaint information requested in (a) above.

3. Should the complaint be unable to be resolved at the local level, a letter will be sent to the Statewide Mobility Manager at the Massachusetts Department of Transportation (MassDOT). This letter will describe the complaint, and shall have attached any correspondence from or to the applicant organization relative to the complaint.
4. It is understood that within thirty (30) days of the receipt of a letter and all appropriate documentation, MassDOT will hold a meeting with the applicant organization to resolve the complaint.

45) Private Sector Involvement Policy (5310/MAP applicants only)

☒ I affirm this certification, assurance, or agreement.

The applicant organization hereby adopts the following policy to promote the involvement of private for-profit transit and para-transit operators in the provision of Section 5310/MAP supported transportation services.

1. Review of Existing Services. At least once each year, during the development of the applicant organization's transportation budget and service plan, services will be reviewed to determine if they can be more efficiently provided by the private sector. This review will consider the present cost of providing transportation service, available rates from private for-profit operators, the experience and capabilities of private for-profit operators and other factors relevant to the agency's transportation service.
2. Consultation with Private Sector Providers. For-profit transit and para-transit operators will be encouraged to participate in any advisory committees or planning groups which the agency oversees. The views and capabilities of private sector providers in the area will also be sought in the development of any new transportation services.
3. Barriers to Private Participation. If, in attempting to promote the involvement of the private sector, state or local impediments to competition by private providers is discovered, the agency agrees to bring these barriers to the attention of appropriate public officials and to encourage adjustments to regulations or existing service requirements in order to permit private carriers to participate in the program.
4. Complaint Procedure. The applicant organization agrees to designate one staff person and at least one member of its Board of Directors who will be involved in

reviewing and resolving conflicts and complaints from private transportation providers.

Documentation. Public records will be maintained that document complaints received, meetings held to resolve complaints, and other procedures and efforts made to obtain private sector participation, and the rationale used in making decisions.

46) Disadvantaged Business Enterprise (DBE) (All federal grant applicants, excluding those solely applying for rolling stock that is to be purchased by MassDOT)

☒ I affirm this certification, assurance, or agreement.

1. All sub-recipients must follow the requirements of 49 CFR 26 and must submit a DBE Implementation Plan to MassDOT.
2. MassDOT will ensure sub-recipients comply with all DBE requirements.
3. ***Non-discrimination clauses in contracting*** – Each contract a sub-recipient signs with a contractor must include a non-discrimination assurance as required by 49 CFR 26.13. (must be included in contract between sub-recipient and contractor)
4. ***Prompt payment procedures to subcontractors*** – All subcontractors must be paid within 30 days of payments to the prime for work completed by subcontractors as stipulated by 49 CFR 26.29. (must be included in contract between sub-recipient and contractor)

Transit Projects in Minority & Low Income Areas

2014 Title VI Non-Discrimination Program
MassDOT and Municipal Transit Projects
Scheduled to be Advertised Through: Completed
January 2011 - December 2013

481 Mapped Projects: These projects have a defined geographic location.

Percent of total projects

1803 Total census block groups
1002 Minority block groups
110 Low income block groups
603 Minority and low income block groups

Percent of total block groups

416 Mapped Projects located in low income areas:

86.5%

438 Mapped Projects located in minority areas:

91.1%

445 Mapped Projects located in low income and/or minority areas:

92.5%

62 Low income block groups that are not covered by projects:
139 Minority areas that are not covered by projects.
162 Low income and/or minority areas that are not covered by projects

2.7%

6.5%

8.9%

Legend

2011-2013 Transit Projects

Minority & Low Income Populations by Census Block Group

Low Income

Minority

Low Income & Minority

Other Features

Municipal Boundary

Interstate

Major Roads

2010 Urban Boundaries

Neighboring State

Water

MassDOT Definitions for Title VI Areas:

Low Income - block groups with less than 60% of the statewide median household income (< \$38,916)
Minority - block groups with greater than 23.87% minority population

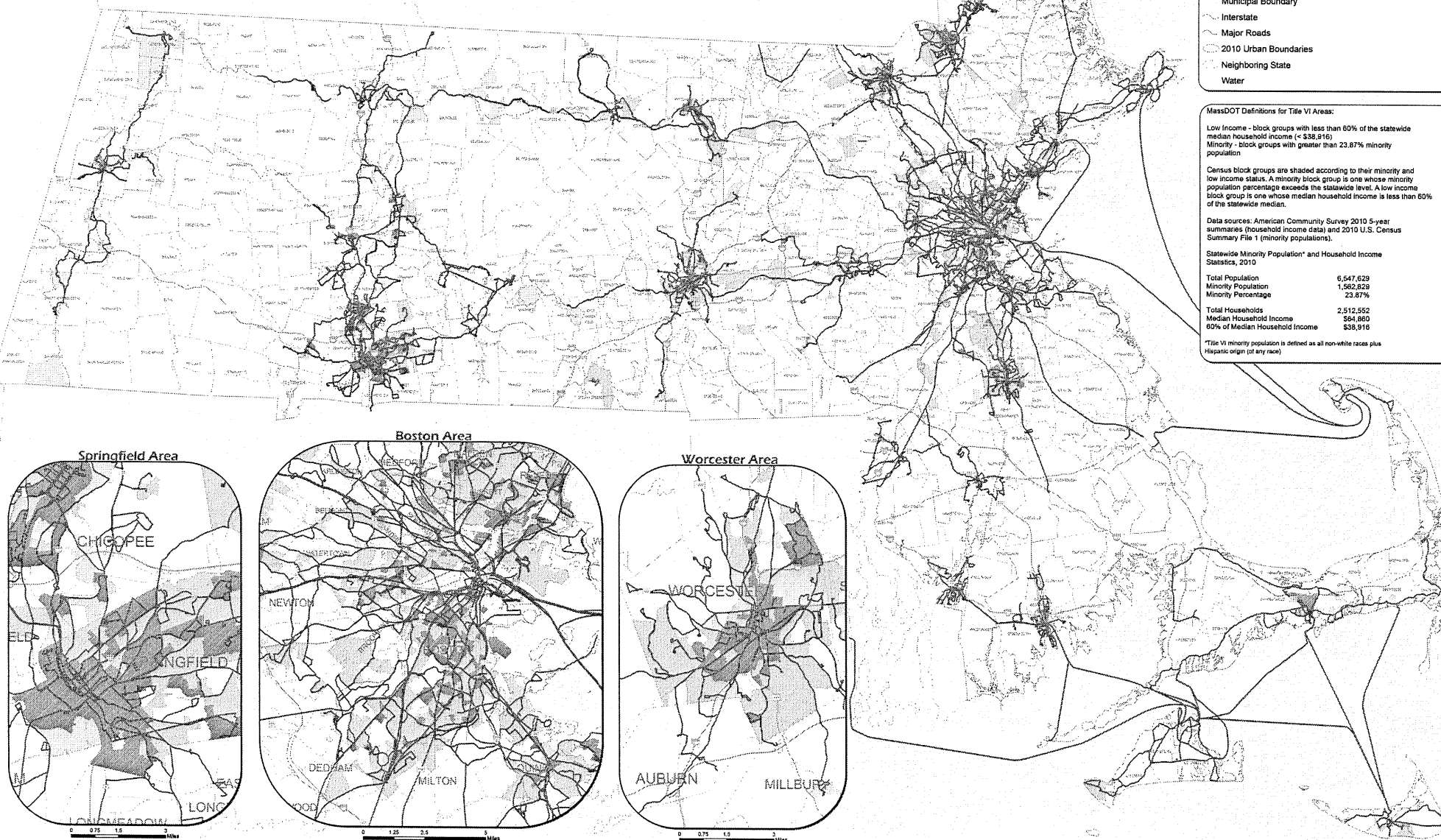
Census block groups are shaded according to their minority and low income status. A minority block group is one whose minority population percentage exceeds the statewide level. A low income block group is one whose median household income is less than 60% of the statewide median.

Data sources: American Community Survey 2010 5-year summaries (household income data) and 2010 U.S. Census Summary File 1 (minority populations).

Statewide Minority Population* and Household Income Statistics, 2010

Total Population	6,547,629
Minority Population	1,562,828
Minority Percentage	23.87%
Total Households	2,512,552
Median Household Income	\$64,860
60% of Median Household Income	\$38,916

*Title VI minority population is defined as all non-white races plus Hispanic origin (of any race)



Source: 1:5,000 Massachusetts Road Inventory Correlative File Year-end 2012; Data: 1:5,000 Massachusetts Road Inventory Correlative File Year-end 2012; Transportation assets: Planning maintained files
Boundary layers: MAUSD 1:5,000 maintained files; Parks, streams and other environmental layers: MAUSD 1:5,000 maintained files
Note:
This map was produced by the Office of Transportation Planning. The Federal Highway Administration provided funding for the production of this map through the State Planning and Research Program.
The location of the boundaries and features shown on this map are approximate and are intended for planning purposes only. This map is not intended to be used for survey, engineering, or legal purposes.
For more information call: (617) 368-9800

File: TitleVIAreas.shp and BufferZones - MinorityAndLowIncomeAreas.mxd
Date: March 14, 2014
User: roose

Migration Policy Institute: National Center on Immigration Integration Policy
Massachusetts: Languages Spoken by Limited English Proficient (LEP)
Individuals Statewide and by County:
Number and Share of Total State/County Population*

*LEP number estimates by language are displayed only if 500 persons or more; LEP percentage estimates by language are displayed only if 5 percent or more.

State	County	Total Population	Total LEP Population	Language 1 (name)
United States		289,077,900	25,227,900	Spanish
Massachusetts		6,187,400	548,700	Spanish
Massachusetts	Barnstable County	207,500	5,000	Portuguese
Massachusetts	Berkshire County	125,200	2,800	Spanish
Massachusetts	Bristol County	515,900	43,200	Portuguese
Massachusetts	Dukes County	15,300	300	
Massachusetts	Essex County	696,100	70,000	Spanish
Massachusetts	Franklin County	68,100	1,300	
Massachusetts	Hampden County	435,100	42,900	Spanish
Massachusetts	Hampshire County	151,500	4,700	Spanish
Massachusetts	Middlesex County	1,406,500	126,700	Spanish
Massachusetts	Nantucket County	9,500	200	
Massachusetts	Norfolk County	628,800	40,800	Chinese
Massachusetts	Plymouth County	464,100	19,700	Portuguese
Massachusetts	Suffolk County	673,600	124,100	Spanish
Massachusetts	Worcester County	747,800	57,100	Spanish

Notes: *LEP number estimates by language are displayed only if 500 persons or more;

LEP percentage estimates by language are displayed only if 5 percent or more.

Consistent with US Census Bureau reporting, estimates for the United States overall do not include data from Puerto Rico.

Population estimates are for individuals age 5 and older.

The term LEP refers to any person age 5 and older who reported speaking English "less than very well," as classified by the US Census Bureau.


Nantucket Regional Transit Authority

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TO: NRTA ADVISORY BOARD

FROM: PAULA LEARY, NRTA ADMINISTRATOR 

RE: APPROVAL OF UPDATED DISADVANTAGED BUSINESS ENTERPRISE PLAN

DATE: MARCH 12, 2015

Attached for your approval is the NRTA's updated Disadvantages Business Enterprise (DBE) Plan (49 CFR Part 26) to include required language for small business (CFR 26.39).

I recommend the Board vote to approve the updated DBE Plan and authorize the chair to sign.

Please do not hesitate to contact me if you have any questions. Thank you.



Commonwealth of Massachusetts

**Nantucket
Regional Transit Authority**

**Federal Disadvantaged Business Enterprise
Program Plan**

Amended

June 2006

March 2008

March 2015

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COMMONWEALTH OF MASSACHUSETTS

NANTUCKET REGIONAL TRANSIT AUTHORITY DISADVANTAGED BUSINESS ENTERPRISE(DBE)PROGRAM In compliance with U.S. DOT 49 CFR 26 Final Rule

SECTION I PROGRAM AUTHORITY

A. NRTA's DBE POLICY STATEMENT

The Nantucket Regional Transit Authority (hereinafter referred to as the "NRTA") is committed to carrying out all pertinent DBE requirements as contained in 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department Of Transportation Programs." This DBE program will include small business requirements per CFR 26.39. The elements presented in the Authority's Program Plan are intended to assure that all contracts and procurement will be administered without discrimination on the basis of race, color, national origin or sex. The NRTA ensures that Disadvantaged Business Enterprises (DBEs) shall have an equal opportunity to compete for and participate in the performance of all contracts and subcontracts awarded by the Authority.

The NRTA Administrator is responsible for carrying out the policies and procedures as approved by the Advisory Board in the execution of the DBE Program Plan. The designated DBE Liaison Officer, NRTA Administrator will be responsible for the development, implementation, monitoring, compliance and record keeping functions associated with this program. The Advisory Board and Administrator fully intend to see that the provisions of the DBE Program Plan are thoroughly understood by all suppliers, vendors, contractors and subcontractors and addressed in both the spirit and letter of the final rule.

This policy statement will be publicly announced and widely circulated to parties with an interest in DBE pursuits. This includes those community and business organizations engaged in pursuits and activities designed to advance and promote the broader participation of DBEs in the economic mainstream.

**Approved by the NRTA Advisory Board of the Nantucket Regional Transit Authority on
June 21, 2006.**

Amended by the NRTA Advisory Board of the Nantucket Regional Transit Authority on March 5, 2008.

**Amended by the NRTA Advisory Board of the Nantucket Regional Transit Authority on
March 18, 2015**

Chairman of the Board

Administrator

B. Applicability

The Nantucket Regional Transit Authority (NRTA) Disadvantaged Business Enterprise (DBE) Program is based on provisions found in 49 CFR Part 26 and thus observes certain statutory and regulatory requirements as a condition of law and federal funding requirements. The DBE Program will apply to all projects receiving the following types of funds:

Federal transit funds authorized by Titles I, III, V and VI of the Intermodal Transportation and Efficiency Act (ISTEA) of 1991, Public Law 102-240 or by Federal transit laws in Title 49 CFR, or Titles I, III, and V of the Safe Accountable, Flexible, and Efficient Transportation Equity Act – A Legacy for users of 2005 (SAFETEA-LU), Public Law 105-178.

C. DBE Program Requirements

In accordance with 49.CFR 26.21, the NRTA has a DBE program meeting the requirements of the DBE regulations in response to NRTA receiving funds from any of the following sources and when getting DOT-assisted contracts under the following conditions:

Federal Transit Administration (FTA) recipients that receive \$250,000 or more in FTA planning, capital, and/or operating assistance in a Federal fiscal year.

D. Objectives

As a recipient of Federal transit funds authorized by Title I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, CFR, or Titles I, III, and V of SAFETEA-LU, Pub. L. 105-178, the RTA DBE Program seeks to achieve the following objectives:

1. To ensure nondiscrimination in the award and administration of DOT assisted contracts;
2. To create a level playing field on which DBEs and small businesses can compete fairly for DOT assisted contracts
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts; and,
6. To assist the development of firms that can compete successfully in the market place outside the DBE program.

E. Forbidden Discriminatory Actions

It is the policy of the NRTA that no person (s) will ever be excluded from participation in, denied the benefits of, or otherwise be discriminated against 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 the administration of the DBE Program, the NRTA will 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 this program with respect to individuals of a particular race, color, sex, or national origin.

SECTION II RESPONSIBILITY FOR DBE PROGRAM

A. Duties of DBE Liaison Officer and Other Staff

The DBE Program function is managed by the NRTA Administrator of responsibility, due to the small staff of the NRTA the NRTA Administrator will act as the DBE Liaison Officer. An organizational chart is provided in Exhibit 1.

DBE Liaison Officer:

This position is responsible for developing, implementing and monitoring the DBE program, in coordination with NRTA procurement and contracting activities. Duties and responsibilities include:

1. Gathers and reports statistical data and other information as required by FTA.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurement so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
6. Analyzes NRTA progress toward goal attainment and identifies ways to improve progress
7. Participates in pre-bid meetings.
8. Advises the Administrator and Advisory Board on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Participates with the legal counsel and project director to determine contractor compliance with good faith efforts.
11. Provides DBEs with information and guidance in preparing bids, obtaining bonding and insurance.
12. Plans and participates in DBE training seminars.
13. Assures the certification of DBEs according to the criteria set by DOT.
14. Provides outreach to DBEs and community organizations to advise them of opportunities.
15. Maintains an updated directory on certified DBEs.

B. Reconsideration Official

In accordance with 49 CFR Part 26.53(d)(2) and 26-87(e), all proceedings by the NRTA regarding the reconsideration of compliance with the provisions of the DBE regulation concerning a contract award or the DBE status of a firm shall be made by the Martha's Vineyard Transit Authority's Assistant Administrator* that did not take part in the original determination.

*due to the NRTA's small staff this is an attempt at segregating the responsibilities. This was approved by the NRTA Advisory Board on March 5, 2008

Reconsideration procedures may be found in the Appendix material.

SECTION III ADMINISTRATIVE REQUIREMENTS

A. Financial Institutions

The NRTA shall investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the state and will make efforts to use these institutions. To date the names of such financial institutions are not known, as there are no financial institutions meeting this criterion in our immediate community, the island of Nantucket. However, we intend to explore this possibility across the state.

B. DBE Directory

The NRTA will maintain a directory identifying all firms eligible to participate as DBEs. These firms will have been certified per the certification standards listed in Sections 26.61, 26.63, 26.65, 26.67, 26.69, 26.71 and 26.73, Certification will remain in effect for three years with an annual update of any changes that may have occurred.

The NRTA will utilize SDO as the DBE certifying agency. As the state designated agency for DBE certification and certain compliance functions, SOMWBA is fully responsive in meeting DBE certification standards and criteria as outlined in the above mentioned sections of 49 CFR Part 26.

The compilation of certified businesses will lists the firm's name, address, phone number, and the type of work the firm has been certified to perform as a DBE. The directory is revised at least annually and, for recertification purposes, will determine if the firm is within the criteria of a small business as specified in 13 CFR 121, by SIC Code/NAICS Codes. The directory will be distributed to staff members and prime contractors. It is also made available to the public on request.

C. Overconcentration

In cooperation with SDO, the DBE Liaison Officer will monitor industries or fields of work to determine if they are so over concentrated with DBEs as to unduly burden the opportunity of non-DBE firms to participate in this type of work. If it is determined there is overconcentration of DBE firms in a certain type of work, the corrective measures outlined in 49 CFR Part 26.33 will be utilized. Examples of measures to address DBE overconcentration in a particular field may include:

1. Once that industry is identified, the DBE Liaison Officer will work with a Business Development consultant to develop ways to assist the DBE to move in a non-traditional area of work.

2. The DBE Liaison may also discontinue assigning a goal on a contract that offers a particular NAICS Code for subcontracting in an overconcentrated field.
3. The DBE Liaison may also work with prime contractors to find and use DBEs in other industry areas.
4. Any industry limitations met by NRTA will be explained in the procurement document.
5. To determine which areas are over concentrated, the DBE Liaison Officer will keep a statistical count of the number of actual bidders on DOT assisted contracts and the areas of work they perform, or would like to perform.
6. The information gathered will assist the, DBE Liaison Officer in making the over-concentration determination. Census Bureau information will also be included to identify over concentrated areas.
7. Once the area is determined by NRTA to be over concentrated, the DBE Liaison Officer will present this information to FTA's Regional Civil Rights Officer along with recommended measures to address it. These measures will be implemented upon FTA's approval.

D. Business Development and Mentor Programs

1. Business Development Program

One method of providing race-neutral means of DBE and small business participation will be through the Massachusetts Office of Business Development (MOBD) Program. MOBD is the state Agency responsible for providing a capacity development program for minority and women businesses seeking to do business with the Commonwealth. The capacity program includes, but is not limited to the following core areas of business development:

- Strategic planning
- Financial management planning
- Human resource management
- Planning, information technology access and management
- Marketing

E. Massachusetts Supplier Diversity Office (SDO)

Another approach to providing race-neutral means for broader DBE and small business participation will be through SDO's Business Development Program. Each year the Agency schedules a number of training courses, workshops and procurement fairs throughout the Commonwealth that are open to all small

businesses. At these sessions small businesses will have an opportunity to meet with NRTA officials and prime contractors and to gain a better understanding of the process and procedures associated with DBE procurement practices. Conversely, NRTA will have the opportunity to become acquainted with qualified business owners who may supply services or products. The specifics of doing business with the NRTA will be discussed at each training event.

Workshops and training sessions will include the following subjects:

- How to set up joint ventures or teaming
- How to write a winning proposal or bid
- How to write a business plan
- How to obtain bonding and/or insurance
- How to access capital for your business
- How to address various barriers that most small businesses encounter

When a company is identified as a potential candidate for a business development program or further technical assistance the company will be encouraged to apply to participate in the previously described MOBD and SOMWBA programs.

SECTION IV

DETERMINING, MEETING AND COUNTING OVERALL ANNUAL DBE GOAL FOR FEDERALLY-ASSISTED CONTRACTS

A. Methodology Used: Step One, Base Figure; and, Step Two Adjustments

The DBE Liaison will set an annual overall DBE goal to be submitted to FTA by August 1st of each year. A preliminary budget and the five year Transit Development Plan (TDP) will be used to identify projects that are federally assisted. NRTA will also be requested to identify projects for the following year.

Statistics will be utilized from the Census Bureau, the Department of Commerce, Bidder's lists, and Certified DBEs in each of three categories: construction; professional services; and materials and supplies. Consultation will be held with minority, women and general contractor groups as well as other community organizations in an effort to establish a level playing field.

The goal methodology will include a two-step process. Step one will include a determination of a base figure for the relative availability of DBEs to participate on RTA federally-assisted contracts. Step two will include an examination of all the evidence available in NRTA geographical area to determine what adjustments, if any, are needed to the base figure in order to arrive at the overall annual DBE goal. (Please see Attachment A for a description of the goal methodology NRTA utilizes in developing an annual DBE goal.) Using data collected regarding over concentration, DBE availability of firms ready, willing and able, and other necessary adjustments such as how long each project will span, a goal will be set at the level of DBE participation expected absent the effects of discrimination. Within the goal, data will demonstrate the parts of the goal that will be race-conscious and those that will be race-neutral. Any overconcentration of DBEs in a particular trade will be excluded from race-conscious contract goals. The NRTA will attempt to meet the maximum feasible portion of the overall goal by using race-neutral means.

The annual overall goal will be submitted to the NRTA Advisory Board for adoption, after which it will be submitted to FTA for review. Notices will be published in general circulation media, minority focused media and trade association publications announcing the proposed overall goal. The rationale for the goal will be made available for inspection during normal business hours for 45 days following the date of the notice, and comments will be accepted on the goal for 45 days from the date of the notice.

B. Transit Vehicle Manufacturers (TVMs) Participation and Qualifications

NRTA will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA assisted transit vehicle procurement, to certify that it has

complied with the requirements of this section. Or, the NRTA may, at its discretion and with FTA approval, establish project specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this section.

C. Using Race-Neutral and Race-Conscious Measures to Establish DBE Annual and Contract Goals

NRTA will establish an overall goal for DBE and small business participation in MassDOT-assisted contracts. The overall goal will 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 NRTA's DOT-assisted Contracts.

1. Race-Neutral Methods

NRTA will meet the maximum feasible portion of the overall goal by race-neutral methods, having no history of DBE and small business participation, the NRTA cannot justify the expectation of reaching that goal solely by race-neutral methods, and thus have set 80% of its goal by race-neutral methods. It is an estimate by the NRTA, as we do not have data to justify a calculation of said percent. The NRTA will work with the Massachusetts Supplier Diversity Office ("SDO") to develop its race-neutral means to facilitate DBE or small business participation.

2. Race-Conscious Methods

Each time the NRTA establishes an annual DBE or small business goal, the goal will include a projection of the portion of the goal that NRTA expects to meet through race-neutral means and the basis for the projection. Contract goals are established to meet any portion of the overall goal. NRTA does not project being able to meet using race-neutral means. DBE or small business race-conscious contract goals are only on those MassDOT assisted contracts that have subcontracting possibilities. Contract goals are established so that is not projected being able to meet through the use of race-neutral means. The NRTA will work with SDO to develop its race-conscious means to facilitate DBE or small business participation. The NRTA believes it would be overly optimistic to anticipate reaching its overall goal entirely through race-neutral means.

D. Good Faith Efforts

To award a contract to a bidder or proposer that has failed to meet the DBE or small business contract goals, NRTA will decide whether the bidder or proposer made a Good Faith Effort to actively and aggressively seek DBEs and/or small businesses to meet those goals. The Good Faith Efforts Committee, which consists of the DBE Liaison Officer, Legal Counsel, and the Project Director, will review the documentation and determine if certain requirements have been met.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information either under sealed bid procedures as a matter of responsiveness, or with initial proposals under contract negotiation procedures; or at any time before a commitment to the performance of the contract:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participation;
4. Written documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and,
6. If the contract goal is not met, evidence of good faith efforts.

The kinds of efforts that will be considered demonstrative of "Good Faith Efforts" include, but are not limited to, the following:

- Whether the contractor solicited through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract.
- Whether the contractor solicited interest within sufficient time to allow the DBEs to respond and if appropriate steps were taken to follow up with interested DBEs.
- Whether the contractor selected portions of the work to be performed by DBEs and where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
- Whether the contractor negotiated in good faith with interested DBEs. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting and evidence as to why additional agreements could not be reached.
- Whether the contractor made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- Whether the contractor made efforts w assist interested DBEs in obtaining

bonding, lines of credit, or insurance as required by the recipient or contractor.

- Whether the contractor effectively used the services of available minority/women community organizations, contractors groups and other organizations to provide assistance in the recruitment and placement of DBEs.
- Whether other bidders on the procurement met the DBE goal. If the GFE Committee determines that the apparent successful bidder/proposer has failed to meet the GFE requirements, the bidder/proposer has an opportunity for administrative consideration. The reconsideration official will be a member of the NRTA staff who did not take part in the initial GFE decision.

The bidder/proposer will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate GFE to do so. They will also be permitted, upon request, to meet in person with the reconsideration official to discuss the issue.

NRTA will send the bidder/proposer a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or made adequate GFE to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts, Terminations

The prime contractor may not terminate for convenience of DBE subcontractor (or an approved substitute DBE firm).

Further, the prime contractor may not terminate a DBE subcontractor and then perform the work of the terminated subcontract with its own forces or those of an affiliate, without the NRTA's prior written consent.

A contractor must also make a GFE to replace a defaulting DBE with another certified DBE. The prime contractor must notify the DBE Liaison immediately of the DBE's inability to perform and provide reasonable documentation. The contractor must receive prior approval on the substitute DBE from the NRTA. The contractor must provide copies of new or amended subcontracts and a completed certification form for each new DBE, or any applicable good faith efforts.

If the contractor fails or refuses to comply in the time specified, the NRTA's Administrative Office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the Contracting Officer may issue a termination for default proceeding.

E. Counting DBE Participation

Only the work actually performed by a DBE will be counted towards the DBE goal. The cost of supplies and materials obtained by the DBE or equipment leased (except from the prime contractor or its affiliate) may also be counted.

Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals. Expenditures may only be counted if the DBE is performing a commercially useful function. A DBE should perform at least 30 percent of the total cost of its contract with its own work force. Decisions on commercially useful functions are subject to review by FTA, but can not be administratively appealed to DOT.

If materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost will be counted. If the materials or supplies are purchased from a DBE regular dealer, 60 percent of the cost will be counted. DBE achievement will not be counted toward the overall goal until the DBE has been paid.

F. Quotas, set-asides and penalties

The NRTA will not use quotas for DBE's on MassDOT assisted contracts. Further, it will not set-aside contracts for DBE's on MassDOT assisted contracts, except that, in limited and extreme circumstances, it will use set-asides when no other method could be reasonably expected to redress gregarious instances of discrimination.

The NRTA will administer its DBE program in good faith in its effort to meet its DBE goal and will faithfully submit and have approved a DBE program or overall goal in order to comply with 49 CFR part 26.47.

SECTION V

REQUIRED CONTRACT PROVISIONS

A. Nondiscrimination Assurance

Each financial assistance agreement that the NRTA signs with the FTA or other DOT operating administration shall include the following statement:

"The recipient 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. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement.

Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the RTA of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U. S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1996 (3 U.S.C. 3801 et seq.)."

Each contract the NRTA signs with a contractor, and each subcontract a prime contractor signs with a subcontractor, shall include the following statement:

"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 the 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."

B. Advertisement

All invitations to bid shall include the following language:

"Disadvantaged Business Enterprise (DBE) and small business will be afforded full opportunity to submit proposals and will not be subject to discrimination on the basis of race, color, sex, national origin, or disability in consideration of an award."

C. DBE Notification - Procurement Above the Level of Small Procurement

The procedures for notifying the certified DBE community of the NRTA procurement opportunities above the level of small procurement (\$50,000) are as follows:

1. Direct DBE Solicitation

1. Certified businesses listed in the SDO Directory with experience in the supply/service being procured and which may be reasonably expected to be interested shall be informed about the solicitation through electronic bulletin boards and other established channels of communication.
- a. Notice will be circulated in appropriate daily and weekly publications, including those publications catering to the minority community. Copies of solicitation notices will also be forwarded to the following organizations:
 - (1) DBE Technical Assistance Organizations
 - (2) Appropriate DBE Business Associations
 - (3) Appropriate DBE Trade Associations
 - (4) The State Office of Affirmative Action

2. Subcontracting Opportunities

1. Each contract above the level of small procurement shall be assessed as to the potential for DBE procurement participation for such purchases. Supply, maintenance, and service contracts shall contain a DBE subcontract participation goal consistent with these procurement procedures.
2. Whenever the NRTA establishes a subcontract goal for a contract, each prime contractor must solicit quotations from certified DBEs. Contractors may obtain the names of certified DBEs from the SOMWBA Directory, which is available online via the Internet **at www.com-pass.com**.
3. The following statement will appear in bid documents when subcontracting to DBEs is indicated:

“A certified DBE subcontract participation goal of _____ percent of the contract has been established for this procurement. The bidder or offeror agrees that unless a formal waiver is requested and is granted that not less than this amount of the contract will be performed by disadvantaged business enterprises.”

D. DBE Notification - Small Procurement

For small procurement (below \$49,999), the cognizant procurement official shall make a concerted effort to attain the NRTA goal by direct solicitation from certified DBEs for each procurement category.

E. Recurring Contracts

Each fiscal year, the NRTA will develop, in writing, a complete listing of the approximate solicitation dates of known regularly recurring procurement opportunities of (\$100,000) or more. The list shall include the category of the contract, where the work is to be performed, or delivery made, and the name and telephone number of the cognizant agency official.

F. Contract Awards - Supply and Services

1. Direct Procurement

1. Firms interested in furnishing supplies or providing a service in accordance with federally assisted contract provisions must be a bona fide DBE and be certified as such by SDO.
2. Failure of a DBE to furnish requested information within 10 working days of bid opening may result in the firm being disqualified and the bid determined as not responsive.

3. Subcontracting to DBEs

1. Based upon the NRTA procurement official's evaluation and approval of the proposed DBE goal for the subject contract, a contract may be awarded to the successful bidder according to standard procurement practices and procedures.
2. The apparent low responsive and responsible bidder will provide the cognizant NRTA official with the following items:
 - (1) A completed Schedule for Participation of Minority Business Enterprise Form
 - (2) NRTA Minority Contractor Project Disclosure and Participation

4. Failure of A Bidder to Furnish Information or Otherwise Participate

A bidder's failure to participate in any of these proceedings or failure to furnish information after a NRTA written request for same may result in a bid rejection on the basis of non-responsiveness and not awarding the contract to the apparent low bidder.

5. **Amendment for Unforeseen Circumstances**

If, at any time before contract award, an unsuccessful bidder has reason to believe that a DBE listed, as a participant in the successful bid award is ineligible, unqualified or otherwise unavailable to participate, it must be reported to the NRTA cognizant procurement official. Within five (5) working days, the apparent low bidder must, if necessary to achieve the stated goal for DBE participation, make every reasonable effort to amend the participant list.

G. DBE Goal Waiver Request

If, for any reason, a bidder or offeror is unable to achieve the established DBE goal, the bidder or offeror may submit a written request for an exception to the goal as outlined below:

1. If a bidder or offeror is unable to achieve the DBE participation goal, they must provide a detailed statement of the good faith efforts made to select portions of the work/service/supply proposed to be performed by DBEs and a detailed statement of the good faith efforts made to contract and negotiate with SDO certified DBEs.

The statement to include: 1) name, address and telephone number of certified DBEs contacted with dates; 2) description of the information provided the DBEs regarding the plans, specifications and anticipated time schedule for portions of the work to be performed; 3) a detailed statement of the reasons why a quotation was considered unacceptable; and 4) a list of ready, willing and able certified DBE subcontractors found to be unavailable.

Each waiver request shall be accompanied by a Minority Contractor Unavailability Certificate signed by the DBE or a statement by the bidder or offeror that the DBE declined to provide written certification.

2. An affidavit completed and signed by the prime contractor stating that in the solicitation of subcontracts, quotations or offers, DBE subcontractors were provided the same information and amount of time to respond as were non-DBE subcontractors and the solicitation process was conducted in such a manner as to otherwise not place DBE subcontractors at a competitive disadvantage to non-DBE subcontractors.
3. Any other documentation considered appropriate by the cognizant NRTA

procurement official to ascertain bidder compliance in responding to the subject contract DBE participation goal. The contractor, by submitting a bid or offer, consents to provide such documentation as may be requested by the NRTA pursuant to the compliance section, and to provide right of entry at any reasonable time to an NRTA representative for the purpose of verifying compliance with DBE subcontractor requirements.

H. NRTA's Prompt Payment Policy and Provisions

Every Contract with a prime contractor will have a clause requiring said contractor to pay its DBE subcontractors for satisfactory performance of their contracts within seven days from receipt of each payment that the NRTA makes to its prime contractor. Further, the clause will require the prompt return of retainage payments from the prime contractor to the subcontractor within seven days after the subcontractor's work is satisfactorily completed.

I. Legal and Contract Remedies: Monitoring and Enforcement Mechanism to Verify Work

All contracts will include a clause stating that to insure compliance with Sec. 26.37 requirements by all program participants, all legal and contract remedies available under Federal, state and local law will be pursued.

The NRTA will include in all contracts a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by DBEs. The NRTA will require a running tally of DBE attainments. Namely, the prime contractor will have to submit to the NRTA a running tally of payments actually made to DBE firms. It will also include a requirement that the NRTA may audit DBE participation.

J. Contractor Reporting Requirements: Work credited toward goals only when payments are actually made to DBEs.

Only the work actually performed by a DBE will be counted towards the DBE goal. The cost of supplies and materials obtained by the DBE or equipment leased (except from the prime contractor or its affiliate) may also be counted,

Work that a DBE contracts to a non-DBE firm does not count toward DBE goals. Expenditures may only be counted if the DBE is performing a commercially useful function. A DBE should perform at least 30 percent of the total cost of its contract with its own work force. Decisions on commercially useful functions are subject to review by FTA, but can not be administratively appealed to MassDOT.

If materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost will be counted. If the materials or supplies are purchased from a DBE regular dealer, 60 percent of the

cost will be counted.

DBE achievement will not be counted toward the over goal until the DBE has been paid.

SECTION VI

CERTIFICATION STANDARDS

A. Burden of Proof

A firm seeking certification has the burden of demonstrating, by a preponderance of evidence, that it meets the requirements concerning group membership or individual disadvantage, business size, ownership, and control.

B. Group Membership Determinations

NRTA will rebuttably presume that numbers of the designated groups, who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the SBA, are socially and economically disadvantaged individuals.

C. Social and Economic Disadvantage Determinations; Statement of Personal Net Worth

Each individual owner of a firm applying to participate as a DBE whose ownership and control are relied upon for DBE certification must submit a signed, notarized statement of personal net worth, with appropriate supporting documentation. Excluded in determining personal net worth are the individual's ownership interest in the applicant firm and the individual's equity in his or her primary residence.

Individuals who are not presumed to be socially and economically disadvantaged may apply for DBE certification and SOMWBA will make a case-by-case determination using the criteria as cited in Appendix E to Part 26.

D. Business Size Determinations

A firm must be an existing small business as defined by Small Business Administration standards. However, a firm is not an eligible DBE in any Federal fiscal year if the firm (including its affiliates) has had average annual gross receipts over the firm's previous three fiscal years, in excess of \$16.6 million.

E. Ownership and Control Determinations

To be an eligible DBE, a firm must be at least 51 percent owned by socially and economically disadvantaged individuals, the firm's ownership by socially and economically disadvantaged individuals must be real, substantial, and continuing, going beyond pro forma ownership of the firm as reflected in ownership documents. The contributions of capital or expertise must also be real and substantial.

The owner's expertise must be:

1. In a specialized field
2. Of outstanding quality
3. In areas critical to the firm's potential operations
4. Indispensable to the firm's potential success
5. Specific to the type of work the firm performs
6. Documented in the records of the firm that clearly show the contribution of expertise and its value to the firm.

F. Other Considerations

NRTA will consider whether a firm performs a commercially useful function or is a regular dealer in deciding how to count that DBE firm's participation towards the prime contractors' DBE goal attainment. The only instance in which the NRTA will consider the effect of a DBE's commercially useful function in a certification decision is when, in accordance with 49 CFR 26.73, the DBE firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirement of the DBE Program.

SECTION VII CERTIFICATION PROCEDURES

A. Unified Certification Program

A unified Certification Program Plan ("UCP Plan") has been established consistent with all applicable provisions of 49 CFR. 26, et, seq. for "one stop shopping" for DBE certification applicants.

B. Recertification Procedures

Once a firm has been certified as a DBE, it remains certified for a period of at least three years, or unless its eligibility is removed by SDO through procedures outlined in 49 CFR 26.87.

All DBEs must inform NRTA or the UCP of any change in circumstances affecting the ability to meet size, disadvantaged status, ownership, or control requirements of the NRTA's DBE Program or any material change in the information provided in your application form.

C. Denials and Reapplication Procedures

A firm that is denied certification will be provided a written explanation of the reasons for the denial from SDO, specifically referencing the evidence in the record which supports each reason. Documents and other information on which the denial is based will be made available to the applicant upon request.

A firm may reapply for certification within one year from the date of denial.

D. Removal Procedures

Any person may file a written complaint alleging that a currently certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. The NRTA is not required to accept a general allegation or an anonymous complaint. If there is reasonable cause to believe the allegation, NRTA will provide such complaint to SDO. If it is determined that reasonable cause does not exist, the complainant will be notified in writing and the reasons for it.

FTA may determine that information in the certification records, or other information available, provides reasonable cause for eligibility removal and may direct the initiation of a proceeding to remove the firm's certification.

Firms will be given an opportunity for an informal hearing at which time the firm may respond to the allegations made and why it should remain certified.

A complete record of the hearing will be maintained. The decision in a proceeding to remove a firm's eligibility will be made by an officer and personnel that did not take part in actions leading to, or seeking to implement, the proposal to remove the firm's eligibility.

F. DOT Review of Certification Decisions

APPEALS TO THE DEPARTMENT OF TRANSPORTATION

Anyone wishing to file an appeal must send a letter to the Department within 90 days of the date of the recipient's final decision, including information and arguments concerning why the recipient's decision should be reversed.

Send appeals to: U.S. Department of Transportation
 Office of Civil Rights
 400 7th Street, S.W., Room 2401
 Washington, DC 20590

SECTION VIII

MONITORING AND RECORD KEEPING

A. Bidders List

The NRTA will also require all prime contractors bidding on MassDOT assisted contracts to furnish at the time of bid opening (options may be exercised as to the time this information is required so long as it is prior to award of the contract) the following information about the prime contractor and all subcontractors who provided a bid to the prime contract:

- Firm Name
- Firm Address
- Firm's status as a DBE or non-DBE
- Age of the firm
- Annual gross receipts of the firm
- Scope of work
- Dollar amount

If the information is not returned with the bid, the bidder/proposer will be deemed non-responsive. The specific information contained on the form will be used for statistical purposes only and will not be considered in the decision making process of awarding the contract

B. Records and Reports

1. The bidder will keep such records as are required by the NRTA to determine compliance with its certified business utilization obligations. These records, to be kept by the bidder, are designed to identify:
 1. The type and actual values of work performed, goods furnished or services rendered, and copies of payments to certified and non-certified businesses;
 2. Documentation of all correspondence, contacts, telephone calls, etc., to obtain the services of certified DBEs on the procurement.
2. The bidder shall, on an agreed upon periodic basis, submit reports on subcontract performance and other business transactions entered into with certified DBEs with respect to the records as referenced in Subparagraph 1.a. above, in such format and content as prescribed by the NRTA.

Such reports shall be submitted in a timely manner as requested by the NRTA. If, for any reason, a report cannot be submitted on time, the contractor must notify the cognizant NRTA official to that effect and request additional time to furnish the report. Failure of the contractor to submit reports in a timely manner may result in a finding of breach of contract due to non-compliance.

3. This reporting requirement also extends to any certified DBE subcontractor.
4. All such records must be retained for a period of three years following the completion of the contract work and will be available for inspection by the NRTA representative and/or SOMWBA officials.
5. A NRTA representative or SOMWBA officials will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

C. Reporting to U.S. DOT

The NRTA will continue to report DBE participation and annual overall goal setting methods to the Federal Transit Administration as directed. Statistical data will be maintained as prescribed. NRTA will provide reports to FTA on the appropriate timely basis (monthly, quarterly, semi-annually, or annually), which reflects the DBE participation on federally-assisted procurement activities. These reports will provide DBE participation information on race-neutral contracts; race-conscious contracts; and, the combined DBE participation on all NRTA federally-assisted procurement activities.

SECTION IX

PUBLIC PARTICIPATION AND OUTREACH EFFORTS

Activities designed to foster and promote public participation and outreach efforts are directed toward assisting the NRTA to:

1. solicit public input to set overall DBE participation goals; and
2. meet their overall DBE goals.

In establishing an overall DBE goal, the NRTA will provide for public participation. This will include:

1. NRTA 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 liability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and NRTA efforts to establish a level playing field for the participation of DBEs.
2. Publishing an annual notice announcing the proposed overall DBE goal and informing the public that the rationale and data used to establish the proposed DBE goal are available for inspection during normal business hours at the NRTA office. This notice is published annually for a period of 30 days. The NRTA and the US DOT will accept comments on the goals for 45 days from the date of the notice. The NRTA notice is distributed to the general circulation media; local minority-focused media; and, various trade association publications.

In conjunction with NRTA's activities to meet overall DBE goals, SDO, NRTA and its contractors will implement various public participation and outreach activities designed to promote and assist NRTA in the recruitment and utilization of DBEs as both prime contractors and subcontractors.

Public participation activities are initiated either by NRTA, SDO or participating prime contractors using suggested activities as referenced in 49 CFR Part 26.51.

APPENDIX A

APPENDIX A

PROGRAM DEFINITIONS

The following explanation of terms have been provided to ensure consistent definition of keywords and terms associated with the NRTA's DBE Program.

ACT -- The Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17) and Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 104-12).

ADMINISTRATION -- Any one of the Administrations within the Massachusetts Department of Transportation (Massachusetts Bay Area Transit Authority, Massachusetts State Highway Administration, Massachusetts Port Administration, Massachusetts Aviation Administration, Massachusetts Motor Vehicle Administration, and the Office of the Secretary).

ADMINISTRATION REPRESENTATIVE -- A DBE Officer or employee of the RTA or other state Agency who deals with the laws and regulations pertaining to disadvantaged and minority business enterprises and contract compliance.

ADMINISTRATIVE LAW JUDGE --An official of the Office of Administrative Law who presides over contested decertification hearings.

ADMINISTRATOR -- The chief executive of the agency, which is charged with implementation of the DBE Program for the state.

AFFILIATION - - Has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR Part 121.

1. Except as otherwise provided in 13 CFR Part 121, concerns are affiliates of each other when, either directly or indirectly:
 - 3) One concern controls or has the power to control the other; or,
 - 4) A third party or parties controls or has the power to control both; or
 - 5) An identity of interest between or among parties exists such that affiliation may be found.
2. In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

AFFIRMATIVE ACTIONS -- Specific steps taken to eliminate discrimination and its effects, to ensure nondiscriminatory results and practices in the future, and to involve disadvantage and minority business enterprises fully in state and federally funded contracts and programs.

AFFIRMATIVE MARKET PLAN -- The use of racial and gender based classifications for the purposes of remedying past discrimination and promoting other, non-remedial objectives such as the delivery of effective human services in the areas of public health, safety and welfare.

AFFIRMATIVE MARKET PROGRAM -- Activities of the Commonwealth of Massachusetts designed to promote equality in the public marketplace and to encourage the full participation minority and women owned businesses in all areas of state contracting, including contracts for construction, design, goods and services.

AFRICAN AMERICAN/BLACK AMERICAN -- A person having origins in any of the black racial groups of Africa and is regarded as such by the African American community of which the person claims to be a part.

ANALYST/AGENT -- A staff member of the State Office of Minority and Women Business Assistance (SOMWBA) who conducts investigations in response to requests for DBE certification and/or recertification.

ANNUAL RECEIPTS -- For the purpose of determining annual receipts of a business concern, the RTA is incorporating into this document by reference 13 CFR, Part 121 Section 121.402 Annual Receipts.

APPLICANT -- A business which has applied to a state Agency for certification as a bona fide DBE.

APPLICATION -- The Disclosure Affidavit which is completed by an applicant for certification or for recertification.

BROKER -- An agent of a buyer or a seller who buys or sells stock, bonds, commodities, or services, usually on a commission basis. For purposes of DBE certification, only brokers who are recognized in their respective industry prior to the establishment of the DBE Program will be certified. Included are Insurance Brokers.

BUSINESS -- A for-profit legal entity which is organized in any form other than as a joint venture (e.g., sole proprietorship, partnership, corporation, etc.) to engage in lawful commercial transactions.

CERTIFICATION -- The process by which a business is determined to be a bona fide DBE.. Certification is required for counting the DBE contract participation to meet a contract DBE participation goal. A firm that is not certified may be included and may participate on any contract. The participation of that firm cannot be used to meet the contract goal.

CERTIFIED BUSINESS -- A business which has met the qualification as determined by regulation and has been certified as a bona fide DBE. Certification does not equate to a pre-qualification status.

CHAIR/MWBEOC -- The person designated to preside over meetings of the Massachusetts Minority and Women Business Enterprise Advisory Oversight Committee.

COMMERCIALLY USEFUL FUNCTION -- Work performed by a DBE in a particular transaction can be counted towards goals only if the Administration determines that it involves a commercially useful function. A certified business is considered to perform a commercially useful function when it is responsible for the execution of a distinct element of the work of a contract and carries out its responsibilities by actually performing, managing and supervising the work involved. That is, in light of industry practices and other relevant considerations, the DBE must have a necessary and useful role in the transaction of a kind for which there is a market outside the context of the DBE Program. The firm's role cannot be a superfluous step added in an attempt to obtain credit goals.

COMMISSION -- Represents monies charged for commercially useful and bona fide services.

COMPETENCY -- Competency is not an issue in determining if a firm meets the criteria for certification as a DBE. In reviewing the firm's operations, SOMWBA evaluates: (1) evidence of financial responsibility; (2) evidence of ability to perform the work or service; and, (3) evidence of actual contract performance. These factors assist SOMWBA to determine if the firm is functioning independently and under managerial and operational control of the applicant.

To aid in the review of operational and management control if the applicant is a new business and has engaged in no contracts, a reasonable business plan will be prepared and submitted with the application for DBE certification in lieu of evidence of actual contract performance. A DBE must demonstrate technical knowledge in the area for which his/her business is certified and demonstrate evidence of supervision and management of his/her work force.

Since the status of firms may fluctuate according to external factors (economy, interest rates, etc.), RTA cannot guarantee that DBE's determined at the time of original certification to be bona fide and are able to work throughout the life of the certification period.

Competency as it relates to contract performance shall be an element to be considered in contract administration. In order to continually monitor the competency of certified minority and socially and economically disadvantaged business enterprises, RTA's DBE Liaison Officer will ensure that the appropriate reports are promptly completed and forwarded to the proper Agency. These reports will become an integral element in the recertification process.

Attachment A:	Form SPE-PC	Subcontractor's Performance Evaluation Project Completion
Attachment B:	Form SPE-AR	Subcontractor's Performance Evaluation Annual Report
Attachment C:	Form RUSP	Report of Unsatisfactory Subcontractor Performance/Progress
Attachment D:	Form MBER	Minority Business Evaluation for Recertification.

(**Note** The above forms are cited for illustration purposes only. If furnished, the content and format are subject to revision/modification and are not to be considered as official .)

COMPLIANCE - - Means that a recipient has correctly implemented the requirements of the subject part(s).

CONTRACT - - Means a legally binding relationship obligating a seller or provider of goods and services (including, but not limited to, construction and professional services) and the buyer to pay for them.

CONTRACT COMPLIANCE OFFICER -- The official who is responsible for monitoring contracts for compliance with Federal DBE regulations regarding nondiscrimination in RTA's DBE Program.

CONTRACTOR/SUBCONTRACTOR-- One who participates through a prime contract, second tier subcontract, or lease agreement, in any matter covered by this Program. For the purposes of the DBE Program, a consultant will be defined as a contractor/subcontractor.

CONTROL -- The power of the business owner(s) to direct the management and operation of a business enterprise. (See Operational Control and Managerial Control.)

CORPORATION -- An artificial person or legal entity created by or under the authority of the laws of any state of the United States, the District of Columbia or a territory or commonwealth of the United States and formed for the purpose of transacting business in the widest sense of that term, including not only trade and commerce, but manufacturing, mining, banking, insurance, transportation and other forms of commercial or industrial activity where the purpose of the organization is profit. For eligibility for certification, disadvantaged and/or minority individuals must own at least 51 percent of the voting stock and at least 51 percent of the aggregate of all classes of stock that have been issued by the corporation. (Note: stock held in trust is not considered as stock held by the disadvantaged business persons when computing the business person(s) ownership.)

DAY -- Any day except Saturdays, Sundays, and legal State holidays.

DECERTIFICATION -- Specific administrative steps taken to remove the certification from a business which had been previously certified by the certifying agency.

DEPARTMENT -- The Massachusetts Department of Transportation.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) --

(Reference 49 CFR, Part 26, Subpart A) a small business concern:

- (1) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals. Where stock ownership is involved, the disadvantaged owner(s) must own at least 51% of each class of voting stock and at least 51% of the aggregate of all classes of stock that have been issued (also applies to publicly owned businesses); and

- (2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who have ownership.

B. A 'Disadvantaged Business Enterprise' shall be defined as a minority business certified by the State Office of Minority and Women Business Assistance (SOMWBA) or another state Agency. A "Woman Business Enterprise" (WBE) shall be a business certified as such by SDO or another state agency.

DISABLED -- A condition describing a person who has a physical or mental impairment that substantially limits one or more major life activity. This may include caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing or learning. The disability is of a nature that it permanently limits a person (or his/her firm) from obtaining contracts. A person with disabilities must be able to demonstrate that: (1) he/she has a history or the disability; (2) he/she is generally regarded as having such disability; and (3) the disability has substantially limited his/her ability to engage in competitive business.

DBE DIRECTORY -- A compilation of businesses certified by the state certification agency as a disadvantaged or minority business or a socially and economically disadvantaged business. The directory shall be published annually with quarterly supplements.

DBE PROGRAM -- A program developed by the RTA to implement the requirements of 49 CFR, Part 26, for all FTA Financial Assistance Programs.

DBE PARTICIPATION PACKET -- The documents submitted by the bidder or proposer pursuant to the appropriate special bid provisions.

EXECUTIVE DIRECTOR -- The individual designated by the Secretary of the Executive Office of Administration and Finance as being responsible for the direction and management of the State Diversity Office. The position includes responsibility for the establishment of DBE policy and certification procedures affecting all executive offices, agencies, departments, boards and commissions of the Commonwealth.

EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE (EOAF) - - The office designated by the Governor of the Commonwealth of Massachusetts as having responsibility for carrying out the Affirmative Market Program of the Commonwealth.

EXECUTIVE OFFICE OF TRANSPORTATION AND CONSTRUCTION -- The office of the Commonwealth with responsibility for public transportation policy development and program implementation.

FEDERAL-AID CONTRACT -- Any contract awarded to any contractor by the RTA, whose funds are derived in whole or in part from the U.S. DOT. This also includes consultant agreements, modification of contracts, and leases.

FEE -- A fee is money charged for providing a commercially useful and bona fide' service.

A recipient or contractor may count towards its DBE goals the following expenditures to DBE firms that are not manufacturers or regular dealers:

- A. The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.
- B. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies provided that the fee is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.
- C. The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.

GOAL, CONTRACT -- Overall program goals must be submitted to U.S. DOT for approval annually, however, "contract goals need not be submitted to the U.S. DOT for approval, but the Program shall contain a description of the methodology to be used in establishing them." 49 CFR Part 26.45 (Subpart C).

The overall RTA DBE program goal is set annually. A contract goal may be higher or lower than overall goals. When establishing contract goals, the following will be used as goal determining factors:

- A. Items of work which feasibly and reasonably can be sublet;
- B. Availability of certified businesses within a reasonable geographical area in which the contract is to be performed; and
- C. Contracts which hold the greatest business potential for the minority business enterprise community.

GOOD FAITH EFFORT (GFE) -- Documented efforts on the part of a bidder which were intensive, aggressive and of a sincere nature for a specific project far beyond a simple paperwork exercise.

GROSS RECEIPTS -- Same as Annual Receipts.

JOINT VENTURE -- A joint venture is a limited legal entity engaged in the joint pursuit of a particular transaction for mutual profit. Joint ventures require special analysis to determine what percentage of the dollar value of the prime contract should be credited toward a contract DBE

goal.

Because a joint venture consists of enterprises temporarily brought together, a joint venture itself can never be certified. This is true even though most or all of its component elements are certified DBE businesses. A joint venture, therefore, is an association of two or more businesses (sole proprietorships, partnerships, corporations, or any combination thereof) formed to carry on a single business activity which is limited in scope and duration. A joint venture is an association which is intended to exist only for a single business endeavor.

Ordinarily the amount of money invested in a joint venture reflects the percentage of participation by the parties of a joint venture. Only the money paid to a certified DBE in a joint venture may be credited by a prime contractor toward reaching a DBE goal unless the non-minority prime contractor has certified DBE as subcontractors, which may also be counted.

A joint venture agreement must reveal the scope of the DBE's managerial and financial responsibilities. A joint venture cannot serve as a conduit to meet the DBE contract goal in a situation in which the DBEs are not given the opportunity to make and exercise independent judgments as a viable joint venture. The Massachusetts Executive Office of Administration and Finance Joint Venture Disclosure Affidavit is required for contract administration for joint ventures for RTAs.

LIMITED LIABILITY COMPANY -- A permitted form of unincorporated business organization having two (2) or more members which is organized and existing under certain federal and state laws and annotated codes.

LESSEE -- A business or a person who leases, or is negotiating to lease property from the RTA or the U.S. DOT in an RTA or U.S. DOT facility for the purpose of operating a transportation-related activity or for the provision of goods or services to a facility or to the public in a facility.

MANAGERIAL CONTROL -- Control in this instance means that a disadvantaged or minority owner(s) has the demonstrable ability to make independent and unilateral business decisions needed to guide the future and destiny of a business.

Control may be demonstrated in many ways. For a minority owner to demonstrate control, the following examples are put forth, but are not intended to be all inclusive:

- A. Articles of Incorporation, Corporate Bylaws, Partnership Agreements and other agreements shall be free of restrictive language which would dilute the minority owner's control thereby preventing the minority owner from making those decisions which affect the destiny of a business;
- B. The minority owner shall be able to show clearly through production of documents the areas of the disadvantaged business owner's control, such as, but not limited to:
 - 1. Authority to sign payroll checks and letters of credit;

2. Authority to negotiate and sign for insurance and/or bonds;
 3. Authority to negotiate for banking services, such as establishing lines of credit;
 4. Authority to negotiate and sign for contracts.
- C. Agreements for support services that do not lessen the minority owner's control of the company are permitted as long as the disadvantaged or minority business owner's authority to manage the company is not restricted or impaired.

MANUFACTURER REPRESENTATIVE - - A business that transfers title of a product from a manufacturer to an ultimate purchaser (e.g., a sales representative who invoices a steel product from the steel company to the contractors). Such a business would not be considered a "Regular Dealer." The contractor could not receive credit based on a percentage of the cost of the product for working with such firms. Only the fee received by the manufacturer's representative can be counted towards a DBE goal. For example: use of a disadvantaged or minority sales representative or distributor for a steel company, assuming it is performing a commercially useful function, would entitle the contractor receiving the steel to count only the fee paid to the representative or distributor towards its goal. No portion of the price of the steel could count towards the goal. Basically, manufacturer's representatives and brokers are treated alike and only their fees for services can be counted.

MANUFACTURER -- A firm that produces a product from raw materials or substantially after a previously manufactured product by operating or maintains a factory or establishment that produces on the premises.

MINORITY OR MINORITY PERSON - -

For Federal-Aid Contracts Under 49 CFR, Part 26, Subpart D (FHWA and FTA) - Those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black/African Americans, Hispanic Americans, Native Americans, Asian-Indian Americans, Asian Pacific Americans, women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act. SOMWBA shall make a rebuttable presumption that individuals in the groups listed below are socially and economically disadvantaged. SOMWBA shall also determine and identify, on a case-by case basis, those individuals who are not members of the following groups, but who are socially and economically disadvantaged:

African Americans/Black Americans -- Persons having origins in any of the Black racial groups of Africa, and who are regarded as such by the community of which the persons claim to be a part;

Hispanic Americans .- Persons of Mexican, Puerto Rican, Cuban, Central or South American, Portuguese, or other Spanish culture or origin, regardless of race, and who are regarded as such by the community of which the persons claim to be a part;

Native Americans -- American Indians, Eskimos, Aluets, or Native Hawaiians, and who are regarded as such by the community of which the persons claim to be a part;

Asian-Pacific Americans -- Persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, or the Northern Marianas, and who are regarded as such by the community of which the persons claim to be a part; and

Asian-Indian Americans -- Persons whose origins are from India, Pakistan, or Bangladesh, and who are regarded as such by the community of which the persons claim to be a part.

Women -- Women shall include all women, regardless of race or ethnicity.

NONCOMPLIANCE - - Means that a recipient has not correctly implemented the requirements of the part(s) of the subject guidance.

OPERATIONAL CONTROL - - The disadvantaged or minority owner (s) must possess knowledge necessary to evaluate technical aspects of the business entity. The primary consideration in determining operational control and the extent to which the disadvantaged or minority owner (s) actually operates a business will rest upon the specialties of the industry of which the business is a part. The minority owner should have a working knowledge of the technical requirements needed to operate in his/her industry. Specifically, in the construction industry and especially among small (one to five person firms) contractors, it is reasonable to expect the disadvantaged or minority owner(s) to be knowledgeable of all aspects of the business. Accordingly, in order to clarify the level of operational involvement which a minority owner must have in a business for it to be considered eligible, the following examples are put forth, but are not intended to be all inclusive:

- A. The minority owner should have experience in the industry for which certification is being sought;
- B. The minority owner should demonstrate that basic decisions pertaining to the daily operations of the business are independently made. This does not necessarily preclude the disadvantaged or minority owner(s) from seeking paid or unpaid advice and assistance. It does mean that the minority owner currently must possess the knowledge to weigh all advice given and to make an independent determination.

OPERATIONS HELP - - The RTA will attempt to arrange support for certified DBEs in need of advice and/or business practices technical assistance. Efforts will be made through the auspices of the State Diversity Office (SDO) to secure the services of a business consultant who may respond to the needs of the DBE.

Examples of the types of assistance that may be provided includes, but is not limited to, the following topic areas:

- a. Office practices and procedures
- b. Maintaining records
- c. Bidding techniques

- d. Estimating techniques
- e. Work scheduling
- f. Any technical problem
- g. Practical ways of getting a job done
- h. Bonding
- i. Insurance

OWNERSHIP - -

1. The minority owners of the firm shall not be subject to any formal or informal restrictions which limit the customary discretion of the owner (s). There shall be no restrictions through, for example, charter requirements, by-law provisions, partnership agreements, franchise or distributor agreements, or any other agreements that prevent the minority owner(s), without the cooperation or vote of any non-minority, from making a business decision of the firm.
1. This means that the disadvantaged or minority persons, in order to acquire their ownership interests in the firm, have made real and substantial contributions of capital, expertise, or other tangible personal assets derived from independently-owned holdings without benefit of a transfer of assets, gift or inheritance from non-minority persons. Examples of insufficient contributions include a promise to contribute capital, a note payable to the firm or its owners who are not minority persons, or the mere participation as an employee rather than as a manager. If the ownership interest held by a disadvantaged or minority person is subject to formal or informal restrictions, such as options, security interests, agreements, etc., held by a non-minority person, or business entity, the options, security interests, agreements, etc., held by the non-minority person or business entity must not significantly impair the disadvantaged or minority person's ownership interest.

PARTNERSHIP -- An unincorporated association of two or more persons to carry on as co-owners a business for profit. For partnership to be deemed eligible for certification under the DBE Program, the disadvantaged or minority person's interest must be at least 51 percent of the partnership capital.

PERSONAL NET WORTH - - Means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

PRIMARY INDUSTRY CLASSIFICATION - - Means the four digit Standard Industrial Classification (SIC) Code designation which best describes the primary business of a firm. The Sic code designations are described in the Standard Industrial Classification manual. As the North American Industrial Classification System (NAICS) replaces the SIC system, references to SIC codes and the SIC Manual are deemed to refer to the NAICS Manual and applicable codes. The SIC Manual and the NAICS Manual are available through the National Technical Information Service (NTIS) of the U.S. Department of Commerce (Springfield, VA, 22261). NTIS also makes material

and information available through its web site (WWW.ntis.gov/naics).

PRIMARY RECIPIENT -- Means a recipient which receives DOT financial assistance and passes some or all of it on to another recipient.

PROGRAM ABUSE -- Any violation of the provisions of the DBE Program.

PROJECT MANAGER -- The RTA employee who is responsible for daily surveillance of RTA projects and maintains any daily reports or construction logs to assure compliance with the specifications of the contract. It is also the Project Manager's responsibility to keep records of the DBE activity at the project or work site and to share this information with the DBE Liaison and Department representative in the performance of DBE compliance renewals.

REDUCED CANDIDATES LIST -- A list of businesses established by the RTAs screening or selection committee through the review and evaluation of candidate businesses pursuant to federal contractor selection guidelines, from which technical and price proposals are requested.

REGULAR DEALER -- A firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A Regular Dealer in such bulk items as steel, cement, gravel, stone, and petroleum need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this section.

A Regular Dealer must be engaged in selling the product in question to the public. This is important in distinguishing a Regular Dealer, which has a regular trade with a variety of customers, from a firm which performs supply-like functions on an ad hoc basis or for only one or two contractors with whom it has a special relationship.

A business that simply transfers title of a product from manufacturer to ultimate purchaser (e.g. broker or sales representative who re-invoices a steel product from the steel company to the recipient or contractor) or a firm that puts a product in a container for delivery would not be considered a Regular Dealer. The Prime contractor may compute 60% of the purchase of supplies from regular dealers toward the contract goal. Supplies may not exceed 60% of the entire contract goal. One hundred per cent of supplies can be counted if provided by a disadvantaged or minority manufacturer.

A supplier of bulk goods may qualify as a regular dealer if it either maintains an inventory or owns or operates distribution equipment. With respect to the distribution equipment (e.g. a fleet of trucks), the term "operates" is intended to cover a situation in which the supplier leases the equipment on a regular basis for its entire business. It is not intended to cover a situation in which the firm simply provides drivers for trucks owned or leased by another party, (e.g., a prime contractor) or leases such a party's trucks on an ad hoc basis for a specific job.

SECRETARY -- The Commonwealth of Massachusetts Secretary of Transportation, or his

designated representative.

SIZE ELIGIBILITY PROVISIONS AND STANDARDS - - For the purpose of determining size eligibility of a business concern to participate as a DBE for Federally Aided projects the Massachusetts Department of Transportation is incorporating into this plan by reference 13 CFR, Part 121 Subpart A Size Eligibility provisions and standards.

SMALL BUSINESS CONCERN -- For a federally aided project, a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The criteria shall follow those published and promulgated by the U.S. Small Business Administration. standards for small business size are incorporated in this manual by reference.

SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUAL PURSUANT TO 49 CFR, PART 26.67 (SUBPART D) -- Those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans/African Americans, Hispanic Americans, Native Americans, Asian-Indian Americans, Asian-Pacific Americans, women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act. The RTA shall make a rebuttable presumption that individuals in the groups listed below are socially and economically disadvantaged and may also determine and identify, on a case-by-case basis, those individuals who are not members of the following groups but who are socially and economically disadvantaged:

1. African Americans/Black Americans -- Persons having origins in any of the Black racial groups of Africa, and who are regarded as such by the community of which the persons claim to be a part;
2. Hispanic Americans -- Persons of Mexican, Puerto Rican, Cuban, Central or South American, Portuguese, or other Spanish culture or origin, regardless of race, and who are regarded as such by the community of which the persons claim to be a part;
3. Native Americans -- American Indians, Eskimos, Aluets, or Native Hawaiians, and who are regarded as such by the community of which the persons claim to be a part;
4. Asian-Pacific Americans -- Persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, or the Northern Marianas, and who are regarded as such by the community of which the persons claim to be a part; and
2. Asian-Indian Americans -- Persons whose origins are from India, Pakistan, or Bangladesh, and who are regarded as such by the community of which the persons claim to be a part.
5. Women - Women shall include all women, regardless of race or ethnicity.

SOCIALLY AND ECONOMICALLY DISADVANTAGED STATUS - - For the determination of socially and economically disadvantaged status for certification under Federal guidelines of eligibility, the following process shall be observed, with the understanding that the burden of proof is placed on the applicant.

The social disadvantaged status must be established first. This is accomplished by demonstrating with documentation, discrimination in a number of ways, as discussed below, but should not be limited to:

1. Education
 1. Access to a publicly available educational system or acceptable standards.
 2. Education in a non-discriminatory setting.
2. Work Environment
 1. Access to employment and employment training.
 2. Non-discriminating employment environment and employment training environment.
 3. Access to licenses and registrations necessary to, or supportive of, conducting work.
 4. Access to unions and union programs and activities which are applicable.
3. Living Environment
 1. Access to housing.
 2. Access to social institutions such as transportation, shopping facilities, places of worship and medical care.

Once the social disadvantage is established, economic disadvantaged status must be demonstrated and documented. This shall include but not be limited to:

- 1 Access to financial resources including credit and financing.
2. Access to bonding.
3. Access to business opportunities and contracting including appropriate business organizations.

Data to be considered may include tax records, financial statements, business or contracting opportunities compared to non-disadvantaged firms in the same line of work (i.e. competitiveness) credit availability and bonding availability.

The above socially and economically disadvantaged criteria are not applicable to those groups under Federal certification criteria, which are presumed to be socially and economically disadvantaged. Evidence needs to be evaluated with specific instances of discrimination related to the disadvantaged status of the owner. The evidence must demonstrate that the discrimination

impeded or negatively affected the individual's entry and/or advancement in the business world. In all instances, the totality of circumstances should be considered in arriving at a final decision of social disadvantage status. In the separate test of economic disadvantage the determination should reflect that the applicant firm and its owner are in a more difficult economic situation than most firms (including established firms) and owners who are not socially disadvantaged.

Evidence submitted must clearly demonstrate that the economic disadvantage stems from the social disadvantage. The social and economic disadvantage based on a handicap or disability which the individual has personally suffered must be shown to be chronic, longstanding and substantial. This must be done on a stringent case by case review.

Once an individual is determined to be a member of one of the specified disadvantaged classifications, after certain tests for membership are applied, that individual's status as socially and economically disadvantaged is established as a fact until the presumption is effectively rebutted. Because of the presumption, the individual applying for certification cannot be required to prove his/her disadvantaged status unless reasonable evidence to rebut the presumption is otherwise available to the certifying agency.

SOLE PROPRIETORSHIP -- A for profit business owned and operated by a disadvantaged or minority person in his or her individual capacity. For a sole proprietorship to be deemed eligible for certification under the DBE Program, the disadvantaged or minority person must be the sole proprietor.

SUBCONTRACTOR -- One who has contracted with a prime contractor for the performance of all or part of the work or services which the prime contractor has contracted to perform.

SUPPLIER -- A regular dealer, who owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of a contract are placed, kept in stock, and regularly sold to the public in the usual course of business. The supplier must perform a commercially useful function consistent with normal industry practices. To be a Regular Dealer, the firm must engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A supplier of bulk goods (e.g. steel, cement, gravel, stone, and petroleum products) may qualify as a Regular Dealer if it either maintains an inventory or owns or operates distribution equipment. With respect to the distribution equipment (e.g. a fleet of trucks), the term "operates" is intended to cover a situation in which the supplier leases the equipment on a regular basis for its entire business. It is not intended to cover a situation in which the firm simply provides drivers for trucks owned or leased by another party (e.g., a prime contractor) or leases such a party's trucks on an ad hoc basis for a specific job.

TECHNICAL ASSISTANT -- RTA, Agency or SDO employees who are qualified in the construction field or in a field in which a disadvantaged or minority owner(s) is seeking certification, who may assist the DBE Analyst to determine the level of competence in those areas of skill, service or product within which the applicant(s) is seeking DBE Certification, recertification or a work area within which a certified business is performing.

THIRD TIER CONTRACTING -- The process in which a prime contractor subcontracts a portion of an original contract to a subcontractor who in turn subcontracts a portion of a

subcontract to a third party. This latter action is termed entering into a third tier contract. The RTA realizes that third tier contracting is not the usual way for a prime contractor to achieve a DBE goal. However, the Department also realizes that there may be rare occasions when third tier contracting would be acceptable. Two conditions must be met before the RTA may approve a third tier contracting arrangement which may be entered into to meet a DBE goal:

1. The RTA must be satisfied that there is no way except by third tier contracting that a DBE goal can be achieved;
2. The prime contractor must request of the RTA, in writing, prior to the awarding of a contract, that approval be granted for each third tier contract arrangement. The request must contain the specifics as to why a third tier contracting arrangement is being requested.

Any RTA approved third tier contract will be documented in writing, setting forth the parameters of the third tier contract. Third Tier Contracting is to be considered the exception and not the rule. If the third tier results from a DBE subcontracting to a non-DBE third tier contractor, this participation shall not be counted as DBE participation towards goal attainment.

TIME -- In computing any period of time prescribed by the DBE Program or by the Chair/MBEAC, the day on which the act or event begins is not computed, but the last day of the period is computed. Saturdays, Sundays, and state and federal holidays are not computed.

U.S. DOT -- U.S. Department of Transportation.

Exhibit 1
Organizational Chart

**Nantucket Regional Transit Authority
Organization Chart--2015**

NRTA Advisory Board
Rick Atherton, Chairman
Bob DeCosta, Vice Chairman
Bruce Miller
Matt Fee
Tobias Glidden
Karenlynn Williams

Paula Leary
Administrator

Paula Leary
DBE Liaison Officer

Lois Craine*
VTA Assistant Administrator
Reconsideration Official

*for the purpose of the NRTA's DBE Program only.

Attachment A – Goal Setting Methodology

I. Introduction

Provisions of 49 CFR Part 26.45 outline a DBE goal setting methodology that involves a two-step process. The process consists of: a) establishment of base figure for determining the relative availability of qualified DBEs and b) making adjustments, if any, in the DBE base figure to account for demonstrable evidence of underutilization or overutilization. This section of the DBE program Plan describes the procedures the NRTA followed in establishing the over DBE goal in FY2012.

II. Definition of Terms

To facilitate the clear understanding of the methodology adopted by the NRTA in establishing the overall DBE goal, the following terms are accordingly defined.

DBE – A business that meets the size, ownership, control and definitional requirements of 49 CFR Part 26.5.

READY, WILLING AND ABLE BUSINESSES/ENTERPRISES – Comprises the current universe of SDO certified businesses that perform work, are interested in, and capable of performing such work on NRTA DOT-assisted contracts.

RELEVANT MARKET AREA – The jurisdiction or geographic area in which:

- 1) 85% or more of the listed vendors are located; or
- 2) 85% or more of the awardees are located, or
- 3) 85% or more of the bidders are located.

III. Listing of Available Relevant Evidence

In developing this report, a wide range of reports, studies, procurement records, directories, business firm data, inventories and other reference materials were examined for pertinent statistics, data collection and information verification purposes. Some of the documents and other reference sources used are herewith cited:

1. NRTA contractors, subcontractors and bidders lists, and procurement records,
2. Massachusetts Supplier Diversity Office (SDO) DBE Directory.
3. Commonwealth of Massachusetts, *Executive Office of Transportation and Construction Disparity Study*, March 1994
4. The Sable Group, Inc. *Massachusetts Regional Transit Authority's Minority/Women Owned/Disadvantaged Business Enterprise Disparity Study*, Weston, CT, 1998
5. U.S. Bureau of the Census. 1997. *County Business Patterns: Massachusetts*,

- Washington, D.C.: US Government Planning office
6. U. S. Department of Labor. Standard Industrial Classification (SIC) Codes
 7. Nantucket Island Chamber of Commerce
 8. Nantucket Planning and Economic Development Commission

PROTEST PROCEDURES

- A. Protests will only be accepted by NRTA from prospective bidders or offerors whose direct economic interest would be affected by the award of the contract or refusal to award a contract. NRTA will consider all such protests, whether submitted before or after the award of the contract. All protests must be in writing and conform to the following requirements:
1. Be concise and legally arranged.
 2. Provide name, address and telephone number of protestor.
 3. Identification of the solicitation or contract number.
 4. Provide a clear and detailed statement of the legal and factual grounds of the Protest including copies of all relevant documents.
 5. A statement as to what relief is requested.
- B. A protest before the Bid/RFP opening addressing the adequacy of the Invitation to Bid, RFP's including the pre-award procedure, the Instruction to Bidders, general terms and conditions, specifications and scope of work must be filed with NRTA not less than seven (7) full working days before bid opening. Thereafter, all issues and appeals are deemed waived by all interested parties. Upon receipt of the written protest NRTA will determine if the bid opening should be postponed. If the bid opening is postponed, NRTA will immediately contact prime contractors and subcontractors who have been furnished a copy of the specifications that a protest has been filed and the bid opening is postponed until a final decision is issued. Any appropriate addenda will be issued regarding a rescheduling of the bid opening. Any protest may be withdrawn at any time before NRTA has issued its decision.
- C. A protest of a decision of NRTA to award a contract to a prime contractor or a subcontractor must be received by NRTA within ten (10) full working days of its decision. This protest shall conform to the requirements of letter A above. Thereafter, such issues are deemed waived by all interested parties.

When a written protest against making of an award is received the award shall not be made until five (5) days after the matter is resolved. NRTA may, however, proceed to make an award if it determined that:

1. The items to be produced are urgently requested or;
2. Delivery or performance will be unduly delayed by failure to make the award promptly or;
3. Failure to make a prompt award may otherwise cause harm to NRTA, the Commonwealth of Massachusetts, or the Federal Government.

Complete Protest Procedures may be obtained from NRTA, 3 East Chestnut Street, Nantucket, MA 02554; 508-325-9571; nrt@nantucket-ma.gov

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COMMONWEALTH OF MASSACHUSETTS

**NANTUCKET REGIONAL TRANSIT AUTHORITY
DISADVANTAGED BUSINESS ENTERPRISE(DBE)PROGRAM
In compliance with U.S. DOT 49 CFR 26 Final Rule**

**SECTION I
PROGRAM AUTHORITY**

A. NRTA's DBE POLICY STATEMENT

The Nantucket Regional Transit Authority (hereinafter referred to as the "NRTA") is committed to carrying out all pertinent DBE requirements as contained in 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department Of Transportation Programs." This DBE program will include small business requirements per CFR 26.39. The elements presented in the Authority's Program Plan are intended to assure that all contracts and procurement will be administered without discrimination on the basis of race, color, national origin or sex. The NRTA ensures that Disadvantaged Business Enterprises (DBEs) shall have an equal opportunity to compete for and participate in the performance of all contracts and subcontracts awarded by the Authority.

The NRTA Administrator is responsible for carrying out the policies and procedures as approved by the Advisory Board in the execution of the DBE Program Plan. The designated DBE Liaison Officer, NRTA Administrator will be responsible for the development, implementation, monitoring, compliance and record keeping functions associated with this program. The Advisory Board and Administrator fully intend to see that the provisions of the DBE Program Plan are thoroughly understood by all suppliers, vendors, contractors and subcontractors and addressed in both the spirit and letter of the final rule.

This policy statement will be publicly announced and widely circulated to parties with an interest in DBE pursuits. This includes those community and business organizations engaged in pursuits and activities designed to advance and promote the broader participation of DBEs in the economic mainstream.

**Approved by the NRTA Advisory Board of the Nantucket Regional Transit Authority on
June 21, 2006.**

Amended by the NRTA Advisory Board of the Nantucket Regional Transit Authority on March 5, 2008.

**Amended by the NRTA Advisory Board of the Nantucket Regional Transit Authority on
March 18, 2015**

Chairman of the Board

Administrator

B. Applicability

The Nantucket Regional Transit Authority (NRTA) Disadvantaged Business Enterprise (DBE) Program is based on provisions found in 49 CFR Part 26 and thus observes certain statutory and regulatory requirements as a condition of law and federal funding requirements. The DBE Program will apply to all projects receiving the following types of funds:

Federal transit funds authorized by Titles I, III, V and VI of the Intermodal Transportation and Efficiency Act (ISTEA) of 1991, Public Law 102-240 or by Federal transit laws in Title 49 CFR, or Titles I, III, and V of the Safe Accountable, Flexible, and Efficient Transportation Equity Act – A Legacy for users of 2005 (SAFETEA-LU), Public Law 105-178.

C. DBE Program Requirements

In accordance with 49.CFR 26.21, the NRTA has a DBE program meeting the requirements of the DBE regulations in response to NRTA receiving funds from any of the following sources and when getting DOT-assisted contracts under the following conditions:

Federal Transit Administration (FTA) recipients that receive \$250,000 or more in FTA planning, capital, and/or operating assistance in a Federal fiscal year.

D. Objectives

As a recipient of Federal transit funds authorized by Title I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, CFR, or Titles I, III, and V of SAFETEA-LU, Pub. L. 105-178, the RTA DBE Program seeks to achieve the following objectives:

1. To ensure nondiscrimination in the award and administration of DOT assisted contracts;
2. To create a level playing field on which DBEs and small businesses can compete fairly for DOT assisted contracts
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts; and,
6. To assist the development of firms that can compete successfully in the market place outside the DBE program.