

DEPARTMENT OF TRANSPORTATION

Division of Transportation Development

IMPLEMENTATION OF THE SECTION 5313 (b) PROGRAM OF THE FEDERAL LAWS, 49 U.S.C. SECTION 5300 ET SEQ.

2 CCR 603-3

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

I. Purpose

The purpose of the Rules is to prescribe procedures for application to the Department for federal assistance for planning, research, demonstration projects, human resources programs, training, and technical studies concerning public transportation projects as authorized by Section 5313(b) (formerly Section 26(a) (2)) of the Federal Transit Laws, 49 U.S.C. Section 5300 et seq.

The Section 5313(b) program administered by the Department offers federal assistance by way of a grant program as described in the U.S. Department of Transportation's Federal Transit Administration (FTA) Circular 8100.1A, August 30, 1985, (FTA C 8100.1A), entitled "Program Guidance And Application Instructions For Planning And Technical Studies Grants."

II. Authority

The Rules are promulgated by the Department pursuant to the specific statutory authority of Sections 43-1-901 and 43-1-902, C.R.S. as amended.

- A. The Statement of Basis, Specific Statutory Authority, and Purpose for the Rules for the January, 1990 revision to the Rules is hereby incorporated by reference.
- B. The Statement of Basis, Specific Statutory Authority, and Purpose for the Rules for the May, 1992 revision to the Rules is hereby incorporated by reference.
- C. The Statement of Basis, Specific Statutory Authority, and Purpose for the Rules for the May, 1996 revision to the Rules is hereby incorporated by reference.

Copies of the Statements of Basis, Specific Statutory Authority, and Purpose described above shall be available for copying or public inspection during regular business hours from the Transit Unit Manager, Colorado Department of Transportation.

III. Definitions

The following definitions shall apply to the Rules.

- A. "Annual Work Program" means a list of requested Projects and Departmental activities which have been recommended by the Department and submitted to the FTA for approval.
- B. "Department" means The Colorado Department of Transportation.
- C. "Federal Fiscal Year" means the accounting period from October 1st to the ensuing September 30th.

- D. "Metropolitan Planning Organization" (MPO) means an organization within the State of Colorado designated by agreement among the units of local government and the Governor, charged to develop the transportation plans and programs in a metropolitan area, pursuant to 23 U.S.C. 134, concerning transportation planning in urbanized areas and capable of meeting the requirements of the Urban Mass Transportation Act of 1964, as amended, and 23 CFR 450. The MPO is the forum for cooperative transportation decision making in urbanized areas.
- E. "Project" means transit related studies regarding: Research Development and Demonstration Projects; Planning and Technical Studies; Training Programs; Research and Training in Urban Transportation Problems; and, Human Resource Programs.
- F. "Public Transportation" means transportation by bus, rail or other conveyance, either publicly or privately operated, which provides general or special service to the general public, on a regular and continuing basis, but not including school bus, charter or sight-seeing service.
- G. "Regional Transportation Plan" means a technically based, twenty-year plan designed to meet the future mobility needs for a Transportation Planning Region including, but not limited to, anticipated funding, priorities, and implementation plans, pursuant to, but not limited to, 43-1-1103(1) and (2) C.R.S. (1991), as further described in 43-1-1102(6) C.R.S.
- H. "Section 5303" means the FTA program administered by the Department that provides funding for transportation planning in urbanized areas of the State. Section 5303 was formerly the Section 8 program. (The Department administers all such funds and provides all such funds directly to the MPOs, pursuant to the requirements of federal law. Such funds are used directly by the MPOs and are not subject to the Rules.)
- I. "Transit Development Program" (TDP) means a document adopted by duly authorized public officials within an identified geographical area for a specific time period, and accepted by the Department, which identifies: general and specialized transit needs and coordination of transit services within the service area; existing transit services and proposed additional services; capital and operating costs of the proposed services; existing and proposed sources of funding and an operations plan.
- J. "Urbanized area" means an area within the boundary of a metropolitan area having a population of fifty thousand or more as determined by the United States Bureau of the Census in its latest census, and as included on the urbanized area map approved by the Department.

IV. Applicant Procedures

The purpose of this section is to describe the requirements and application procedures concerning applications for FTA Section 5313(b) funds.

- A. The Department will issue, on an annual basis, a Section 5313(b) application notice to all known councils of governments, regional planning commissions, and boards of county commissioners, and the Colorado Municipal League. The Department will also publish such notice in a newspaper of general circulation, at least 30 days in advance of the application deadline specified therein.
- B. An applicant must submit a completed Section 5313(b) application to the Department no later than 5:00 p.m. on the deadline date specified in the application notice. The application must be completed as described in the application notice, and the Project must comply with applicable requirements of FTA C 8100.1A. If an application is received by the Department after the deadline, or is incomplete, it shall be rejected and not be considered for funding.

- C. The Section 5313(b) application must be signed by the appropriate officer or individual with authority to legally bind the applicant, and must contain a detailed description of the following information:
1. nature and purpose of Project
 2. estimate of the cost of the Project
 3. documentation of availability and source of the Project match
 4. proposed timetable for completion of the Project
 5. information sufficient to enable the Department to rank applications based upon type of study and the prioritization and evaluation criteria as described in the Rules.

V. Threshold Criteria for Applicant Eligibility

The purpose of this section is to describe the threshold criteria the Department will use to determine whether an applicant will be considered for available Section 5313(b) funding.

An applicant for Section 5313(b) funds must comply with all the following threshold criteria:

- A. Eligible applicants for Section 5313(b) funds shall be limited to the following: State and local public bodies; Metropolitan Planning Organizations (MPOs); other public agencies and instrumentalities of one or more municipalities, or of other political subdivisions of the State; public corporations, boards and commissions established under State law; and, publicly owned transit operators.
- B. An applicant must have complied with the application procedures described in Section IV.
- C. Section 5313(b) funds are generally available only for eligible projects in non-urbanized areas. However, an applicant may apply to use Section 5313(b) funds for a Project in an urbanized area, provided that it is approved by the respective MPO in its appropriate work programs. An applicant submitting a Section 5313(b) application for a Project in an urbanized area must demonstrate that the designated MPO for that urbanized area concurs in writing with the Project and that Section 5303 funds from the MPO are unavailable, insufficient, or inappropriate for the Project.
- D. The Section 5313(b) application must be for a Project within one or more of the following areas:
1. Research Development and Demonstration Projects, including the development, testing, and demonstration of new facilities, equipment, techniques, and methods.
 2. Planning and Technical Studies.
 3. Training Programs, including fellowships for training of personnel employed in managerial, technical, and professional positions in the public transportation field.
 4. Research and Training in Urban Transportation Problems, including grants to public and private nonprofit institutions of higher learning to assist in establishing or carrying on comprehensive research in the problems of transportation.

5. Human Resource Programs, including programs that address human resource needs as they apply to public transportation activities. Such programs may include but are not limited to: employment training programs; outreach programs to increase minority and female employment in public transportation activities; research on public transportation manpower and training needs; and, training and assistance for minority business opportunities.

Section 5313(b) applicants that fail to comply with all threshold eligibility criteria will not be considered for funding. Compliance with all threshold criteria does not obligate the Department to award funds, but only allows the applicant to be evaluated for consideration for available funding, based upon the prioritization and evaluation criteria in Section VI of the Rules.

VI. Prioritization and Evaluation Criteria

The purpose of this section is to describe the criteria the Department will use to prioritize and evaluate Section 5313(b) applications to determine whether the Project will be funded.

- A. The first priority for Section 5313(b) funds will be to the Department for: the administration of the FTA Section 5313(b) grant; the administration of the FTA Section 5303 grant; the provision of planning assistance by the Department; the provision of technical and management assistance to transit operators by the Department; and, the provision of statewide Projects by the Department.

If projects in this priority use all available Section 5313(b) funds, then applications for other projects will not be considered for funding.

- B. If there are Section 5313(b) funds remaining after all projects under the first priority have been considered by the Department, then the Department will use the following criteria to evaluate eligible Section 5313(b) applicants for the projects in the second priority. The second priority is defined as applications for funds to develop a TDP for areas having an existing Department approved TDP which will exceed its limitation period in the ensuing application year. The Department will rank such applicants based on:
 1. The extent of their current implementation of the recommendations in the current TDP;
 2. The amount of transportation services currently provided;
 3. The extent of constituent dependency on the service; and,
 4. The extent of local commitment to the study.
- C. If there are Section 5313(b) funds remaining after all projects in the first and second priorities have been considered, the Department will use the following criteria to evaluate Section 5313(b) applications in the third priority. The third priority is defined as applications for funds to develop a new TDP. The Department will rank applicants based on:
 1. The amount of transportation services presently provided;
 2. The immediacy of need for transportation service;
 3. The geographical size of the area for which the TDP shall be conducted;
 4. The extent to which local governments with a common interest have agreed to consolidate transit planning under the proposed TDP; and,
 5. The extent of local commitment to the TDP.

- D. If there are Section 5313(b) funds remaining after all projects in the first three priorities have been considered, the Department will use the following criteria to evaluate eligible Section 5313(b) applicants for the fourth priority. The fourth priority is defined as any other Projects.

The Department will rank applicants based on:

1. Immediacy of need for transportation service;
2. Local commitment to the TDP; and,
3. Statewide applicability of the Project information to other areas, agencies, and transit providers.

VII. Funding Procedures

The purpose of this section is to describe the procedure the Department will use to recommend awards of available FTA Section 5313(b) funds to applicants.

- A. The Department shall list all projects selected for funding in its Section 5313(b) annual work program. The Department shall notify applicants of the annual work program. The award of funds shall be subject to FTA approval and the availability of funds.
- B. The maximum federal share payable for expenses for an eligible grant under the Section 5313(b) program shall not exceed 80% of the eligible project expenses, unless otherwise provided by FTA and described in the application notice. The applicant shall provide the remaining percentage of Project match.

VIII. Appeals Procedure

The Department shall notify all applicants of its annual work program. If an application is denied, the grounds therefore shall be given to the applicant. The notice shall be deemed received by the applicant three days after the date of the mailing of the notice. An applicant that is aggrieved by a Department determination under the Rules may request a hearing pursuant to the provisions of Section 24-4-104, C.R.S., as amended, of the State of Colorado Administrative Procedures Act. If a hearing is requested, it will be conducted in accordance with 24-4-105 C.R.S., as amended. The request for a hearing must be made within 60 calendar days after an applicant is notified of the Department's determination.

Editor's Notes

History