

DEPARTMENT OF TRANSPORTATION

FEDERAL TRANSIT ADMINISTRATION

JUSTIFICATION STATEMENT

**49 U.S.C. SECTION 5339 - BUSES AND BUS FACILITIES PROGRAM
(OMB# 2132-0576)**

Abstract:

This supporting statement is associated with a request for an extension without change of a currently approved information collection. There is no change in this information collection burden hours or respondents. This program provides funding through a competitive allocation process to states and transit agencies to replace, rehabilitate and purchase buses and related equipment and to construct bus-related facilities. With the passing of the FAST Act in 2016, the Buses and Bus Facilities Formula Program was expanded to include the Buses and Bus Facilities and Low or No Emission discretionary programs. The projected respondents and burden hours were estimated accurately during the previous information request approval in 2016 and those same eligible states and direct recipients have not changed since this implementation was approved.

A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION NECESSARY.

The 49 U.S.C. Section 5339 Buses and Bus Facilities Program is authorized under the Fixing America's Surface Transportation (FAST) Act.

The program provides funding to replace, rehabilitate, and purchase buses and related equipment as well as construct bus-related facilities including low or no emission vehicles. Eligibility for funding is based on designated recipients and states that operate or allocate funding to fixed-route bus operators. Eligible sub-recipients include public agencies or private nonprofit organizations engaged in public transportation, including those providing services open to a segment of the public, as defined by age, disability, or low income. Projects are funded at 80 percent federal with a 20 percent local match requirement by statute. Low or no emission buses are funded at 85 percent federal with a 15 percent local match and low no related facilities and equipment are funded at 90 percent federal with a 10 percent local match requirement by statute.

The provisions of 49 U.S.C. Sections 5339, 49 CFR Part 18, the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (the Common Grant Rule), and prudent administration of federal grant funds dictate that grantor agencies review applications for federal assistance to assure eligibility of the grantee, the project activities, and other criteria, as appropriate, and monitor approved projects to ensure timely expenditure of federal funds by grant recipients. The Federal Transit Administration

(FTA) provides financial assistance to designated recipients and states for the acquisition of buses and related equipment through the Section 5339 Buses and Bus Facilities Program. Generally, the reporting requirements are submitted by recipients in two stages, the application stage, and the project management stage. All applications and project management activities are submitted 100% electronically via the Transit Award Management System (TrAMS), FTA's platform to award and manage federal grants. TrAMS was created to provide greater efficiency and improved transparency and accountability and replaces the TEAM platform previously used.

Application Stage

FTA must determine the applicant's eligibility to receive program funds. FTA must know:

a) who the applicant is; b) for what purpose the funds are requested; and c) the amount of federal funds requested or needed. FTA has issued FTA Circular 9030.1E, "Urbanized Area Formula Program: Program Guidance and Application Instructions", detailing the application instructions for the Section 5339 program. Applicants applying for funding must submit:

- a. Authorizing Resolution. As required by 49 U.S.C. 1602 (a)(2)(A), this information is necessary to assure FTA that the individuals involved represent the organization seeking federal assistance and are empowered to enter into contracts on the organization's behalf.
- b. Opinion of Counsel. Also required by 49 U.S.C.1602(a)(2)(A) to ensure that the applicant has the legal capacity to carry out the project and that there is no outstanding litigation that would encumber the federal government upon project approval.

In addition, each application must include:

- a. Project Budget. FTA must know how much federal financial assistance is required, the amount and sources of local funds available for this project, and the specific elements and associated costs for each.
- b. Project Description. Some federal funding is limited to specific categories of transit projects. The project description enables FTA to determine whether funding of the proposed project is allowable under federal transit law and the Common Grant Rule.
- c. Project Justification. For Section 5339 (formula) grant applications only, a "Program of Projects" proposed for funding is required to be submitted. The "Program of Projects" includes those projects in the first-year program of the approved Transportation Improvement Program--the subject of a separate FTA information collection (covered in the Metropolitan and Statewide Transportation Planning Program information collection).

- d. Project Milestone Schedule. This document is submitted annually and consists of milestone dates for major activities and an overall project completion date. Milestone dates are provided for such events as bid advertisement, bid award, and contract completion.
- e. List of Labor Unions. This document is used by the Department of Labor in making the certification of labor protective arrangements required for grants funded under Sections 5339 in statutory language at Title 49 U.S.C. at Section 5333(b).
- f. Environmental Exhibit. This documentation includes a proposed classification of each activity line item in accordance with the Federal Highway Administration (FHWA)/FTA Environmental Impact and Related Procedures, as required by 23 C.F.R. Parts 771.115 and 771.117. Most projects meet the criteria for a categorical exclusion. For each of these projects, proposed classifications and supporting documentation must be submitted. For those projects that do not meet the criteria for a categorical exclusion, an Environmental Assessment or Environmental Impact Statement may need to be submitted, as required by the National Environmental Policy Act.
- g. Public Hearing Notice Transcript. When a capital project under Section 5339 will have a substantial impact on a community or on the mass transit service of the community, grant applicants must provide an opportunity for a public hearing to obtain the views of citizens on the proposed program of projects. Notices of a hearing must include a brief description of the proposed project and be published in a newspaper circulated in the affected area. Section 5323(b) requires that when such a hearing is held a transcript of the hearing is submitted with the application. The transcript submission provides a record of the public's concerns to verify that the comments were taken into consideration during project development.

Annual Certifications and Assurances. Before FTA may award a federal grant, the applicant must provide FTA with all certifications and assurances required by federal laws and regulations for the applicant or project. A grant applicant must sign the appropriate certifications and assurances each year for all anticipated grant applications during that particular fiscal year. This annual certification process replaces individual certifications and assurances that grantees used in the past when submitting each grant application or periodically when warranted by specific circumstances.

Project Management Stage

The reporting requirements under this stage are necessary to ensure the proper and timely expenditure of federal funds within the scope of the approved project.

These reporting requirements are:

- a. Milestone/Progress Reports (QPR). These annual narrative reports define the

level of activity for each project element during the reporting period. Delays, problems and milestone achievements are reported to FTA. The reports greatly reduce the need for on-site visits by staff.

b. Cost Allocation Plan. These narrative reports are required of State or local agencies desiring reimbursement for indirect administrative expenses incurred in connection with a capital grant. The Cost Allocation Plan is necessary to properly determine those indirect costs attributable to capital grants.

c. Annual Federal Financial Reports (FFRs). These quantitative reports provide a financial picture of project activity. The reports include information regarding obligations, payments, receipts, and other pertinent financial data required to ensure proper expenditure of federal funds. Grant recipients under 5339 are required to submit FFRs annually (October 30 of each year).

d. Reports of Significant Events. Unforeseen events that impact the schedule, cost, capacity, usefulness or purpose of the project should be reported to FTA immediately after detection and then reflected in the next quarterly progress report.

e. Pre-award and Post-delivery Rolling Stock Reviews. The reviews are required to be performed by FTA grantees purchasing rolling stock. These reviews are intended to ensure compliance with various requirements, such as Buy America, and to detect any vehicle defects while the vehicle is under warranty. Grantees certify compliance with the review requirements under the implementing rule that was published in September 1991.

2. HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED AND CONSEQUENCES IF THE INFORMATION IS NOT COLLECTED.

The reports are submitted to FTA to determine the applicant's eligibility for funding and subsequently, the grantee's progress in implementing and completing project activities. The reports assure FTA of a level of management of risks. Also, the information submitted ensures FTA's compliance with applicable federal laws, and the Common Grant Rule. Without these reports, significant resources and manpower would be necessary to conduct on-site inspections.

3. CONSIDERATION OF IMPROVED INFORMATION TECHNOLOGY TO

REDUCE BURDEN AND ANY TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN.

FTA's electronic grant making and management system (TrAMS) is a paperless, electronic grant application, review, approval, acceptance and management process. Grantees are also encouraged to use the electronic system for signature of annual certifications and assurances.

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION. SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSES DESCRIBED IN ITEM 2.

The reports are project specific and the information is not available elsewhere. There is no duplication.

5. METHODS USED TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES.

The information collected does not involve small businesses.

6. CONSEQUENCES TO FEDERAL PROGRAMS OR POLICY ACTIVITIES IF INFORMATION WAS NOT COLLECTED OR COLLECTED LESS FREQUENTLY, AS WELL AS ANY TECHNICAL OR LEGAL OBSTACLES TO REDUCING THE BURDEN.

If these and other reports were required less frequently, additional site visits by agency staff would be required to ensure compliance with program objectives.

7. SPECIAL CIRCUMSTANCES THAT REQUIRE THE COLLECTION TO BE CONDUCTED IN A MANNER INCONSISTENT WITH 5 CFR 1320.6.

The information collected is consistent with the guidelines in 5 CFR 1320.6.

8. EFFORTS TO CONSULT WITH PERSONS OUTSIDE THE AGENCY TO OBTAIN THEIR VIEWS.

A 60-day Federal Register notice was published on July 18, 2019 Vol 84, No. 138 (page 34476) soliciting comments prior to submission to the Office of Management and Budget (OMB). No comments were received. A 30-day Federal Register notice was published on November 25, 2019 Vol. 84 No. 227 (page 64955). FTA frequently engages in stakeholder outreach including webinar series and site visits to projects and transit agencies by the regional staff. FTA

also conducts informal presentations at workgroup and association meetings. FTA will continue to provide outreach to stakeholders.

9. EXPLAIN ANY DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS, OTHER THAN REMUNERATION OF CONTRACTORS OR GRANTEES.

No payment or gift is made to respondents.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED RESPONDENTS.

There is no assurance of confidentiality regarding these submissions.

11. ADDITIONAL JUSTIFICATION FOR QUESTIONS OF A SENSITIVE NATURE.

None of the information is of a sensitive nature.

12. ESTIMATE OF THE HOUR BURDEN OF THE COLLECTION, AND ANNUALIZED COST TO RESPONDENTS.

RESPONDENTS: State or local governmental entities; and federally recognized Indian tribes that operate fixed route bus service that are eligible to receive direct grants under 5307 and 5311.

TOTAL RESPONSES: 1,885

TOTAL ANNUAL BURDEN HOURS: 60,650

FREQUENCY: Annual

Requirements	# Annual submissions	Burden hours per submission	Total burden hours
Application Stage (includes all of the following):	1,085	50	54,250
<ul style="list-style-type: none"> • Authorizing/Resolution} • Opinion of Counsel • Project Description • Project Budget • Project Justification • Public Hearing Notice • Project Milestones • List of Labor Unions • Environmental Exhibit 			
Total, Application Stage	1,085	50	54,250
Project Management Stage			
Milestone Progress Report (QPR)			
- Reports of Significant Events			
Federal Financial Report			
- Pre-award and Post-delivery Rolling Stock Reviews			
- Cost Allocation Plans			
Total Project Management Stage	800	8	6,400
Grand Total, Application and Project Management	1,885	58	60,650

All burden hour estimates are based on a comprehensive review of all the requirements associated with 49 U.S.C. Section 5339, discussions with Headquarters and Regional staff,

and discussions with and informal surveys of respondents.

The total number of burden hours associated with this submission in FTA's information collection inventory is 60,650 (54,250 hours application stage + 6,400 hours project management stage).

Estimate of the cost to respondents:

The number and complexity of applications submitted each year may vary and there is a wide variance in the level of effort required. Most of applications are, however simple and straightforward. The figures below are representative of a straightforward application meeting all the criteria for federal funding.

FTA estimates that it takes approximately 50 person-hours to develop and submit an application for review. Since FTA receives approximately 1,085 applications per year, the total hours required are estimated to be (50 hours x 1,085 applications = 54,250 hours). Although various personnel are involved in the development of an application, the median salary for an Urban and Regional Planner (19-3051) according to BLS <https://www.bls.gov/oes/current/oes193051.htm> is \$35.12 per hour plus 28% for fringe benefits equal \$44.95 per hour. Therefore, the cost to the respondents for the application stage is computed at \$2,438,537 (54,250 hours x \$44.95 per hour)

Project Management Stage:

It is determined that the same staff would also prepare all project management reports. Staff time devoted to the preparation of progress and other project management reports takes approximately 8 hours at an average salary of \$44.95 per hour or \$360 per report. There are 800 reports submitted annually; therefore, the cost for the project management stage is estimated to be \$288,000 (800 reports x \$360).

The total cost for the application and project management stages is \$2,726,537 (\$2,438,537 for application stage + \$288,000 for project management stage).

13. ESTIMATE OF TOTAL ANNUAL COST BURDEN TO RESPONDENTS OR RECORDKEEPERS RESULTING FROM THE COLLECTION OF INFORMATION

(NOT INCLUDING THE COST OF ANY HOUR BURDEN SHOWN IN ITEMS 12 AND 14.

There is no additional cost beyond that shown in items 12 and 14.

14. ESTIMATE OF THE ANNUALIZED COST TO THE FEDERAL GOVERNMENT.

The cost is calculated as follows:

Application Stage:

Experience indicates that it takes approximately 8 person-hours to review each application received by FTA. It should be noted that this figure assumes that the application is: 1) complete, 2) fundable and 3) non-controversial. More complex projects or programs of projects would consume additional time.

Although reviewed by several different staffers, from secretaries to the Administrator, it is estimated that the average grade level of the reviewers is GS-12/step 5 https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/DCB_h.pdf (including locality pay) paid at \$45.29 per hour. Since FTA receives and reviews approximately 1,085 applications per year and it takes 8 hours to review, the cost per application is \$362.32. The cost to the federal government is \$393,117(\$362.32 x 1,085 applications)

Project Management Stage:

A review of the progress and other project management reports submitted during a year should be completed within 1 hour by a GS-12/step 5 (including locality pay) at \$45.29 per hour (see link above) There are approximately 800 progress reports submitted during a year. The cost to the federal government is \$36,232 (\$45.29 x 800) Total cost for application and project management stages is \$354,520 (\$393,117 for application stage + \$36,232 for project management stage).

15. EXPLAIN REASONS FOR CHANGES IN BURDEN, INCLUDING THE NEED FOR ANY INCREASES.

In 2016 when two new discretionary components were added to FTA's Bus and Bus Facilities Program under the FAST Act, FTA's economists analyzed the eligible respondents and provided a detailed analysis of the estimated new respondent universe and corresponding burden hours. Those projections were included in the 2016 information collection request to OMB. Their analysis and all data received since that time, indicate that FTA's projections were very accurate. As a result, there is no change in the respondents or burden hours from the previous information collection request. Data will continue to be tracked and modifications to the information collection will be made if a new appropriation bill is approved that will change any aspect of the grant program.

16. PLANS FOR TABULATION AND PUBLICATION FOR COLLECTIONS OF INFORMATION WHOSE RESULTS WILL BE PUBLISHED.

FTA does not plan to publish the results of the information collected for statistical use.

17. IF SEEKING APPROVAL NOT TO DISPLAY THE EXPIRATION DATE FOR OMB APPROVAL, EXPLAIN THE REASONS.

There is no reason not to display the expiration date of OMB approval.

18. EXPLAIN ANY EXCEPTIONS TO THE CERTIFICATION STATEMENT IDENTIFIED IN ITEM 19 OF OMB FORM 83-I.

No exceptions are stated.