



## *Questions & Answers*

### **Elderly Individuals & Individuals with Disabilities (Section 5310), JARC & New Freedom Programs Last Updated October 16, 2008**

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#### **All Programs:**

1. Q. Do applicants have to list the source of non-U.S. DOT funds for the local match?  
  
A. As a general rule, applicants do not have to list the source of a non-U.S. DOT local match. However, FTA grant representatives reserve the right to ask for more detailed information from the grantee such as the source of local match.
  
2. Q. Are contributions of funds from human service agencies eligible to be used as local match? How are these applied as local match?  
  
A. Local funds and non-U.S. DOT federal funds may be used as local match for these programs. If human service agencies are using other federal funds as a source of local match, the grantee should verify that those funds are eligible to match transportation projects and are being used for eligible costs of the project.
  
3. Q. Can revenue from human service transportation contracts be used as local match?  
  
A. Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide local match for New Freedom or JARC operating assistance. In either case, the cost of providing the contract service is included in the total project cost. FTA program funds may not be used as a source of local match for other FTA programs, even when used to contract for service. For example, if a Section 5310 subrecipient has a service contract to buy service from a Section 5311 provider, the Section 5311 provider may not use the revenue from the Section 5310 service contract as local match for other FTA grants.
  
4. Q: Can fare-box revenue be used as local match?  
  
A: Fare box revenue cannot be used as local match, however it can be used to reduce the net project cost of a project.
  
5. Q. Who is responsible for determining that matching funds are allowable for transportation purposes?  
  
A. The grantee is responsible for ensuring that non-U.S. DOT federal funds may be used to match transportation projects and that the funds are available for the project.



6. Q. If the MPO, State DOT or other designated recipient had a JARC plan in place prior to the passage of SAFETEA-LU, what else do they need to do to be in compliance with the coordinated planning requirements to receive JARC, New Freedom, or Section 5310 funds for FY 2007?
- A. In order to receive program funds for FY 2007 the MPO, State DOT, or other designated recipient must 1) make an assessment of available services; 2) make an assessment of needs; 3) develop strategies to address gaps for target populations; and 4) the lead agency developing the plan should also include the needs of elderly individuals and individuals with disabilities in the coordinated plan, unless they do not plan to apply for Section 5310 or New Freedom funding.
7. Q. If the MPO, State DOT, or other designated recipient did not have a coordinated plan prior to the passage of SAFETEA-LU, will they need to have a completed plan in place to receive JARC, New Freedom, and/or Section 5310 funds for fiscal year 2007?
- A. Yes, and the coordinated plan should be consistent with the program circulars for fiscal year 2007 planning requirements. These requirements are outlined in Chapter V of the program circulars.
8. Q. Beginning in fiscal year 2008, must MPOs, State DOTs, and other designated recipients have a completed coordinated public transit-human service transportation plan in place in accordance with the JARC, New Freedom, and Section 5310 programs before they can be awarded any program funds?
- A. Yes. FTA expects plans developed for FY 2008 and beyond to include more information than plans developed for FY 2007. Please see Chapter V of the program circulars for the required elements of coordinated plans.

**JARC (Section 5316) and New Freedom (Section 5317) Programs:**

9. Q. Can a Small Urbanized Area be a designated recipient?
- A. No. Please see Chapter III, Section 4, ELIGIBLE DIRECT RECIPIENTS, in the JARC and New Freedom circulars, stating, "The State is the designated recipient and may apply directly to FTA for grant funds for itself and its subrecipients." This is consistent with the language found in 49 U.S.C. 5316 and 5317.
10. Q: Can New Freedom funds be transferred between the non-urbanized portion of the governor's apportionment to and the small-urbanized apportionment, or to or from a large urbanized apportionment?
- A: No. With the exception of consolidating grants to insular areas, Congress did not provide States and Designated Recipients with the authority to transfer New Freedom funds into or out of the areas in which they were apportioned. Accordingly, funds apportioned to non-urbanized areas, small-urbanized, and large-urbanized areas must be used for projects in those areas. New Freedom funds can be transferred to Section 5307 or 5311 recipients provided that they are used for projects that are eligible under the New Freedom program.



11. Q. When the State is transferring funds from JARC or New Freedom to Section 5307 or Section 5311, is a certification or declaration needed to assure JARC and New Freedom needs are met?
- A. No. Please see Chapter III, Section 8 of the circulars:
- Transfer to Other FTA Programs. A State may transfer funds apportioned to it for rural or small urbanized areas to apportionments under Section 5311(c) or 5307, or both. The purpose of the transfer provision, however, is not to supplement the resources available under the State's Section 5311 or Section 5307 apportionments. Transfer to Section 5311 or Section 5307 is permitted, but not required. Transferred funds must be used for JARC and New Freedom projects. A State may make the transfer only after consulting with local officials and publicly owned operators of public transportation. The period of availability for the transferred funds is not changed by the transfer.
  - Notification of Transfers. The State must notify the FTA regional administrator of the State's intent to have funds transferred so that FTA can initiate the transfer. For transfers of JARC or New Freedom funds into the Section 5307 program for urbanized areas (UZAs) under 200,000 in population or Section 5311(c), and for transfers of flexible funds, the notification must indicate the amount of funds transferred, the recipient of transferred funds, and the program to which they are being transferred.
12. Q. How do we differentiate State administration for each program at the time of draw down if funds are transferred to Section 5307? How will we know if they are JARC or New Freedom funds?
- A. JARC, New Freedom, and Section 5307 funds should not be combined in a single grant. Grantees should have individual Section 5307 grants for each program. A Section 5307 grant that contains JARC or New Freedom funds should use the appropriate scope code in TEAM (646-00 for JARC and 647-00 for New Freedom.)
13. Q. What is the difference between a "direct" and a "designated" recipient?
- A. The "designated recipient" is the entity designated, pursuant to 49 U.S.C. 5302(a)(2), by the Governor of a State to receive FTA funds. Under the JARC and New Freedom programs, the designated recipient is responsible for competitively allocating JARC or New Freedom funds to itself and subrecipients in an area. The "direct recipient" is an entity that can apply directly to FTA for grant funding they have received through the designated recipient's competitive selection process.
- The designated recipient may be the direct recipient for all funds on behalf of itself and all subrecipients
- For example:
- **In Small UZAs** (50,000 – 200,000 population) an entity receiving Section 5307 funds directly from FTA can be the direct recipient for JARC and New Freedom funds if the State (the designated recipient) transfers the funds to Section 5307 after consultation with responsible local officials and publicly owned operators of public transportation.



- **In a large UZA** (over 200,000 in population) a public entity that is a designated recipient for Section 5307 can be the direct recipient of a JARC and New Freedom grant if it is selected for funding through the designated recipient's competitive selection process.
  - **In nonurbanized areas** (areas under 50,000 in population) tribes can be direct recipients for JARC and New Freedom funds if the funds are transferred to the Section 5311 program and applied for in a Section 5311 grant. The appropriate scope codes 646-00 and 647-00 should be used in TEAM.
  - **In all other cases**, the entity selected to receive JARC and New Freedom funds will be a sub-recipient of the designated recipient.
    - Private non-profits
    - Private for profit operators
    - Public transportation providers in nonurbanized areas.
- 14.** Q: Can a Section 5307 recipient in a small urbanized area apply directly to FTA for JARC and New Freedom funds or does the application need to come from the State?
- A: The 5307 recipient can apply directly to FTA for funds provided the State has competitively awarded the funds to small urbanized areas and that the State transfers the funds to the Section 5307 recipient. The state must notify FTA of the amount of funds transferred, the program to which they are transferred, and the specific projects to be implemented under JARC and New Freedom.
- 15.** Q. Does the designated recipient have to be a public agency?
- A. Yes, consistent with FTA's interpretation of 49 U.S.C. 5307(a)(2).
- 16.** Q. Can the title for vehicles purchased using JARC or New Freedom funds pass from a designated recipient through to a subrecipient?
- A. Yes. Please refer to Chapter VI, Section 6 "TITLE TO VEHICLES" and Section 7 "SATISFACTORY CONTINUING CONTROL" in the circulars. The designated recipient is encouraged to either hold title or record a lien against the title to vehicles. This is not mandatory, however. What is mandatory is that the designated recipient establish continuing control over the vehicles and accept the responsibility for continued public transit use of the vehicles, and more particularly use for New Freedom purposes, whether by itself or a subrecipient. When capital equipment or facilities are acquired, built, or improved, provisions must be made to assure satisfactory continuing control of that capital equipment and facilities. While the designated recipient may delegate these responsibilities to a subrecipient, the designated recipient is ultimately responsible for compliance with this requirement.



This means that designated recipients responsible for administering JARC or New Freedom funds may hold title to vehicles purchased with Section 5316 or Section 5317 funds, or title may be held by a subrecipient.

17. Q. Which activities are capital and which are operating? Where can grantees find guidance on determining the difference? Is there a more detailed listing of eligible capital and operating expenses for JARC and New Freedom grants? Specifically, are insurance costs associated with some of the New Freedom projects, costs associated with car loan programs, and costs associated with voucher programs operating or capital expenses?

A. The basic definition of an operating cost is something that does not have a useful life of more than one year. In contrast, a capital item is usually a tangible item that has a useful life of more than one year. For example, vouchers are considered an operating expense, consistent with FTA program requirements; insurance is considered an operating expense; a guaranteed loan fund or a revolving fund used to make loans are capital expenses; and funds used to pay the administrative costs of loan programs are operating expenses. The construction of bus stops, installation of elevators, or the purchase of buses are examples of capital expenses. Also, mobility management is defined by law as an eligible capital expense. Chapter III of each program circular contains a list of eligible activities for the program.

18. Q: Are private, for-profit taxicab companies that seek to purchase accessible taxis eligible subrecipients under the New Freedom program?

A: In some cases, yes. FTA considers private taxi companies that provide shared-ride taxi service to the public or to special categories of users (such as older adults or persons with disabilities) on a regular basis to be operators of public transportation, and therefore eligible subrecipients. “Shared-ride” means two or more passengers in the same vehicle who are otherwise not traveling together. Similar to general public and ADA demand response service, every trip does not have to be shared-ride in order for a taxi company to be considered a shared-ride operator, but the general nature of the service must include shared rides.

Local (municipal/State) statutes or regulations, or company policy, will generally determine whether a taxi company provides shared-ride or exclusive-ride service. For example, if the local regulation permits the driver to determine whether or not a trip may be shared, the service is not shared-ride. Similarly, if the regulation requires the consent of the first passenger to hire a taxi be obtained before the taxi may take on additional riders, the service is not shared-ride. In essence, services which can be reserved for the exclusive use of individuals or private groups, either by the operator or the first passenger’s refusal to permit additional passengers, is exclusive-ride taxi service, and is not shared-ride taxi service. A recipient passing funds through to a taxi company subrecipient should request documentation from the taxi company to assure the company is providing shared-ride service.

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Taxi companies that provide only exclusive-ride service are not eligible subrecipients; however, they may participate in the New Freedom program. Exclusive-ride taxi companies can receive New Freedom funds to purchase accessible taxis under contract with a State, designated recipient or eligible subrecipient such as a local government or non-profit organization. The taxi company may hold title to the accessible vehicle(s) as long as the agreement between the State, designated recipient or subrecipient and the taxi company is sufficient to establish satisfactory continuing control. Acceptable means of establishing satisfactory continuing control could include a State, designated recipient or subrecipient's lien on the vehicle, or contract provisions that require the accessible taxi to be used to provide transportation to people with disabilities, and that the vehicle may not be removed from service or disposed of prior to the end of its useful life without the express written consent of the FTA recipient or subrecipient.

19. Q Can New Freedom funds be used to expand service hours and days for existing fixed route or demand responsive services (other than ADA complementary paratransit), and (2) Can NF funds be used to fund public transportation services where they currently do not exist?

A: In our March 15, 2006, Federal Register notice on the New Freedom program, FTA proposed that "new public transportation services" and "public transportation alternatives beyond those required by the Americans with Disabilities Act (ADA)" be considered separate categories of service. Subsequent to this notice, we received feedback from Congressional offices that projects that do not meet both criteria--new and beyond the ADA--are not eligible for funding.

Even though FTA understands that expanded service would be helpful to individuals with disabilities, providers of demand responsive or fixed route service to the general public cannot use New Freedom funds to expand their service area or hours or days of service. Nor can New Freedom funds be used to provide public transit service where none previously existed. While the ADA does not require any minimum level of public transit service in any community, it does require that any service provided be ADA compliant (e.g. in regard to size of lifts, wheelchair restraints, calling of stops, etc.) so the service, while new, cannot be beyond the ADA. Expanding transportation that is provided to the public at large is therefore not an eligible activity under the New Freedom program.

On the other hand, the ADA does provide very specific minimum requirements for ADA complementary paratransit service, when a public agency provides fixed route service. That is why New Freedom funds can be used to expand the scope of that ADA paratransit service beyond the minimum requirements of the ADA to enhance the mobility to individuals with disabilities.



At the same time, many other types of services that are eligible under the New Freedom program can be implemented in areas that lack ADA complementary paratransit service. Vehicle modifications that are beyond the ADA, such as equipment to accommodate over-sized wheelchairs, or increased securement locations on vehicles, would be an eligible New Freedom expense on fixed route or demand-response vehicles. Travel training and mobility management activities may be valuable in rural areas, as would the addition of new feeder service to outlying transit stations for which ADA complementary paratransit is not required, such as commuter rail stations, express or commuter bus service, or an intercity bus stop or rail station. In addition, alternatives to public transportation such as accessible taxis and volunteer driver programs can be invaluable to rural residents. FTA encourages rural operators (as well as urbanized area operators) to use the planning process to create innovative solutions to meet the needs of individuals with disabilities in their communities. A non-exhaustive list of eligible New Freedom activities can be found on pages III-7 through III-11 of the New Freedom circular 9045.1. The circular, in turn, can be found on the New Freedom page of the FTA website, [http://www.fta.dot.gov/funding/grants/grants\\_financing\\_7185.html](http://www.fta.dot.gov/funding/grants/grants_financing_7185.html).

**20** Q: Can New Freedom program funds be used to purchase new vehicles designed to accommodate oversized wheelchairs or that include multiple securement areas, for use on fixed route or demand response service?

A: Yes. While the New Freedom circular lists the acquisition of vehicles designed to accommodate oversized wheelchairs and installing additional securement locations within the context of enhancing paratransit services beyond the minimum requirements of the ADA, these vehicles can also be put into service on fixed routes and demand response service, provided that the service is targeted towards people with disabilities. New Freedom funds can be used to acquire the vehicle and fund the labor costs of aids to help drivers assist passengers with oversized wheelchairs.

**21** Q: Can a human service transportation provider use New Freedom funds to reduce the cost of fares paid by their clients?

A: No. Although New Freedom program funds can be used to support voucher programs offered by human service providers, the vouchers are intended to supplement existing services and expand the number of providers available or the number of passengers receiving transportation services. Offering reduced fares on an existing service does not meet the New Freedom program goal of expanding services. Other Federal funding is available for transit passes.

**22.** Q: Are there limits on what constitutes an “employment support service” for the purposes of the JARC program?

A: FTA considers job training and childcare to be employment support services because access to these services can help low-income persons attract and retain employment. Applicants who are considering providing service to destinations other than job training or child care locations should



contact FTA to determine whether these destinations constitute employment support service. Projects that transport children of low-income parents to and from school or after school locations do not constitute transportation to employment support services under the JARC program and would not be eligible for JARC funds.

23. Q: Can mobility management projects be funded and implemented over multiple years?

A: Yes. Although mobility management refers to “short term”: management activities to plan and implement coordinated services these activities can occur on a multi-year basis.

24. Q: Is sidewalk construction an eligible activity under the JARC and New Freedom programs?

A. Sidewalk construction is not an eligible activity under the JARC program and may be an eligible activity under the New Freedom program, provided two conditions are met.

First, the sidewalk must be constructed in order to provide an accessible path to a bus stop that is currently inaccessible. Secondly, the recipient should determine whether Federal highways or other funds are available for pedestrian improvements before applying for New Freedom funds for this purpose.

25. Q: Is travel training considered a capital expense on an operating expense under the New Freedom program?

A: The New Freedom program circular treats travel training as a component of mobility management, which is considered a capital expense and is eligible for up to an 80 percent Federal match.

### **Planning Process:**

26. Q. Do the FTA regional offices have to verify that projects are derived from coordinated plans?

A. Yes, in coordination with the grant application. Direct and designated recipients must certify that projects to be funded are derived from a coordinated plan and the grant application should include a page reference to the plan. In reviewing the application the FTA Regional Office needs to ensure that the grantee provides this information in the program of projects (POP). Appendix A of the circulars includes the following language: “Project activities shall be sufficiently described to assist the reviewer in determining eligibility under the program and shall include the page number of the coordinated plan from which the project was derived, as well as the date the plan was adopted.”

27. Q: Are applicants required to attach their coordinated plan to their application in TEAM?

A: No. FTA regional offices will not review coordinated plans as a part of their review of an application for Section 5310, JARC, or New Freedom funding. Rather, FTA will rely on:



- (1) The applicant's certification in the grant that a project is derived from a coordinated plan; and
- (2) The "paper clipped" Program of Projects that contains the name of the applicable plan and the page number where the project or strategy is located within the plan.

28. Q. Does the State have to have its own coordinated plan or can it rely on local plans?

A. There is no requirement for a State plan, just a local coordinated plan. However, the community will define "local" and in some cases the planning area may be defined as statewide. Please reference Chapter V, Section 2 of the circulars.

29. Q. Do projects have to be in both the STIP/TIP?

A: If the project is within the planning boundary of a Metropolitan Planning Organization (MPO), the project has to be in both the TIP and the STIP. Projects in nonurbanized areas only have to be in the STIP. Depending on State or local requirements, the projects may show on the aggregate (program level) or be listed on the individual project level listing. TIP and STIP listings must be consistent with the metropolitan and statewide transportation plans.

30. Q: Can an applicant hold a competitive selection and apply to FTA for funding for projects that are derived from draft coordinated public transit human services transportation plans?

A: Designated recipients can hold a competitive selection for projects that are derived from a draft coordinated plan and can place those projects that were selected in Category B of their application to FTA. Projects in Category B are those projects the designated recipient anticipates approving during the current year, but have not yet met all of the Federal statutory or administrative requirements. Grant money for projects derived from a draft coordinated plan can be obligated by FTA but may not be expended by the designated recipient until the plan is finalized.

**Competitive Selection Process:**

31. Q. For projects or needs that cross UZA and rural or small urbanized boundaries, whose coordinated plans or competitive selection process should we compete in?

A. This is a local decision. If the service is completely located within an urbanized area, providers should compete for those funds in the urbanized area; and in a rural competition if the area is rural. If the service is targeted to serve the residents of the rural area (even if the provider is located within the urbanized area) the service is eligible for rural funding. Ideally in this situation the coordinated plan boundaries could include services in urbanized, rural, and small urban areas; however, this does not have to be the case.

32. Q. May a stakeholder or transportation provider that meets the criteria of both urban and rural compete within both categories?



- A. A transportation provider that provides services in rural, small urban, and/or large urbanized areas can compete and therefore receive funding in any area to provide services.
33. Q. May a transportation provider bid on projects if it participated in the coordinated planning process?
- A. Yes.
34. Q. Is a transportation provider required to participate in the coordinated planning process in order to bid on projects?
- A. No.
35. Q. Is it acceptable to compete different project components/costs in each of the categories, urban and rural?
- A. Yes, This is acceptable.
36. Q. Do projects have to be specifically listed or can they be “generally” consistent with the coordinated plan?
- A. Projects do not have to be listed specifically, but they have to be consistent with and derived from the coordinated plan. Chapter IV of the circulars contains examples of different types of competitive selection processes. These examples also illustrate how projects may be derived from the coordinated plan without being specifically listed in the plan.
37. Q. Can the State ask for projects regardless of specific program and then determine under which program the project will be funded?
- A. Yes, the State may have an open call for projects which meet the objectives of the various programs. However, the State must use developed criteria to competitively select projects funded by JARC or New Freedom program funds.
38. Q: In response to a designated recipient’s request for proposals, can a potential subrecipient propose to pass through the funds to another subrecipient, or must an applicant conduct a third-party procurement before passing through funds to the subrecipient?
- A: States or designated recipients can, in some cases, choose to grant Section 5310, JARC, or New Freedom assistance to a subrecipient through an intermediary subrecipient. For example, a state could pass funds to a non-profit organization through a local government authority. The arrangement between the first tier and second tier subrecipient is not a third party contract if the ultimate subrecipient would otherwise be eligible under Section 5310, JARC, or New Freedom to receive funds directly from the State or Designated recipient. If the ultimate subrecipient is not otherwise eligible, the intermediary subrecipient would need to conduct a procurement, consistent with FTA guidelines in Circular 4220.1

**General Questions/Suggestions:**



39. Q. If a project includes purchase of a vehicle for a specific program and the program ceases to exist before useful life of the vehicle is achieved, what happens to the vehicle?
- A. Grantees must follow the requirements of the Common Rule (49 CFR Part 18 or Part 19, depending on the nature of the grantee). This information is also referenced in Chapter VI, Section 5 in the program circulars.
40. Q. Has oversight for JARC and New Freedom been established?
- A. For States and Section 5307 direct recipients of JARC and New Freedom funds, FTA will incorporate additional questions into the State Management and Triennial Reviews. FTA is in the process of exploring oversight options for direct recipients that are not States or Section 5307 direct recipients.
41. Q. If the State does not want to be responsible for implementing the JARC or New Freedom program can the Governor designate a large metropolitan/urban area to be responsible for the programs?
- A. No, the State is the designated recipient for rural and small urbanized areas. For JARC and New Freedom the Governor may designate any state agency to manage the program.
42. Q. Can the State be a designated recipient for a large urbanized area?
- A. Yes, if the designation is in accordance Section 5307(a)(2).
43. Q. Large UZA – If a traditional grantee that is not a designated recipient of New Freedom is allowed to apply directly, do they need to apply in a Section 5317 (“57”) application or can the funds be added to their regular Section 5307 (“90”) application for administrative purposes?
- A. A traditional grantee in a large UZA could apply directly to FTA for the Section 5317 funds allocated to them through the designated recipient's competitive selection process. However, the grantee must make an application for a Section 5317 (57) grant in TEAM because there is no transfer provision that allows transfer to Section 5307 for large urbanized areas. A supplemental agreement will need to be executed between the designated recipient and the traditional Section 5307 recipient. This would also be the process if the funds being applied for were JARC funds: the direct recipient would apply for a Section 5316 (37) grant.
44. Q. Small UZA – If the state transfers funds to Section 5307 so traditional grantees can apply directly, is a supplemental agreement with the state necessary?
- A. No, the transfer also removes the oversight responsibility for those funds from the designated recipient to the grant recipient under Section 5307. The State will only be responsible for the program requirements (such as competitive selection and ensuring projects are derived from a coordinated plan) and data collection for annual reporting purposes. Although the funds can be applied for in a Section 5307 grant, the grant should only contain funding and activities for the



New Freedom project. New Freedom, JARC, and Section 5307 funds cannot be combined in a single grant because disbursements cannot be recorded to the appropriate program.

45. Q. If different funding programs administered by the State (JARC, New Freedom, 5310, 5311) are included in one application, what grant number is used (37, 57, 16, 18) or does it matter as long as the separate scopes are used?

A. The State will use the grant number for Section 5311 (18); separate scopes would still be used within the project budget to distinguish between the funds used. States may combine funds from multiple programs in a consolidated Section 5311 grant, but the State must track, manage, and report on each program's funds separately within the consolidated grant.

46. Q. If a grantee submits one grant for the program administration (10%) for all three programs, how is the grant coded/numbered?

A. Administrative funds may not be combined into a single section 5307 grant. However, Chapter III of the program circulars specifies the following: "FTA will allow all or a portion of the administrative funds for JARC, New Freedom, and Section 5310 to be combined to support activities (such as coordinated planning) that are common to all three programs. Recipients may combine program administration funds into one administrative account, so long as the recipient uses the funds for costs associated with administering the Section 5310, JARC, and New Freedom programs. However, FTA must still track the funds attributable to each program at the accounting classification code, Activity Line Item (ALI), and Financial Purpose Code (FPC) Level in respective grants. As a recipient incurs expenses against the pooled funds for program administration, it can draw down the reimbursement against any grant that has undisbursed program administration funds." If the funds for multiple programs are combined in a Section 5311 grant, there could be one line item for state administration, equaling the total of state administration obligated using FPC 06 for all the programs included in the grant.