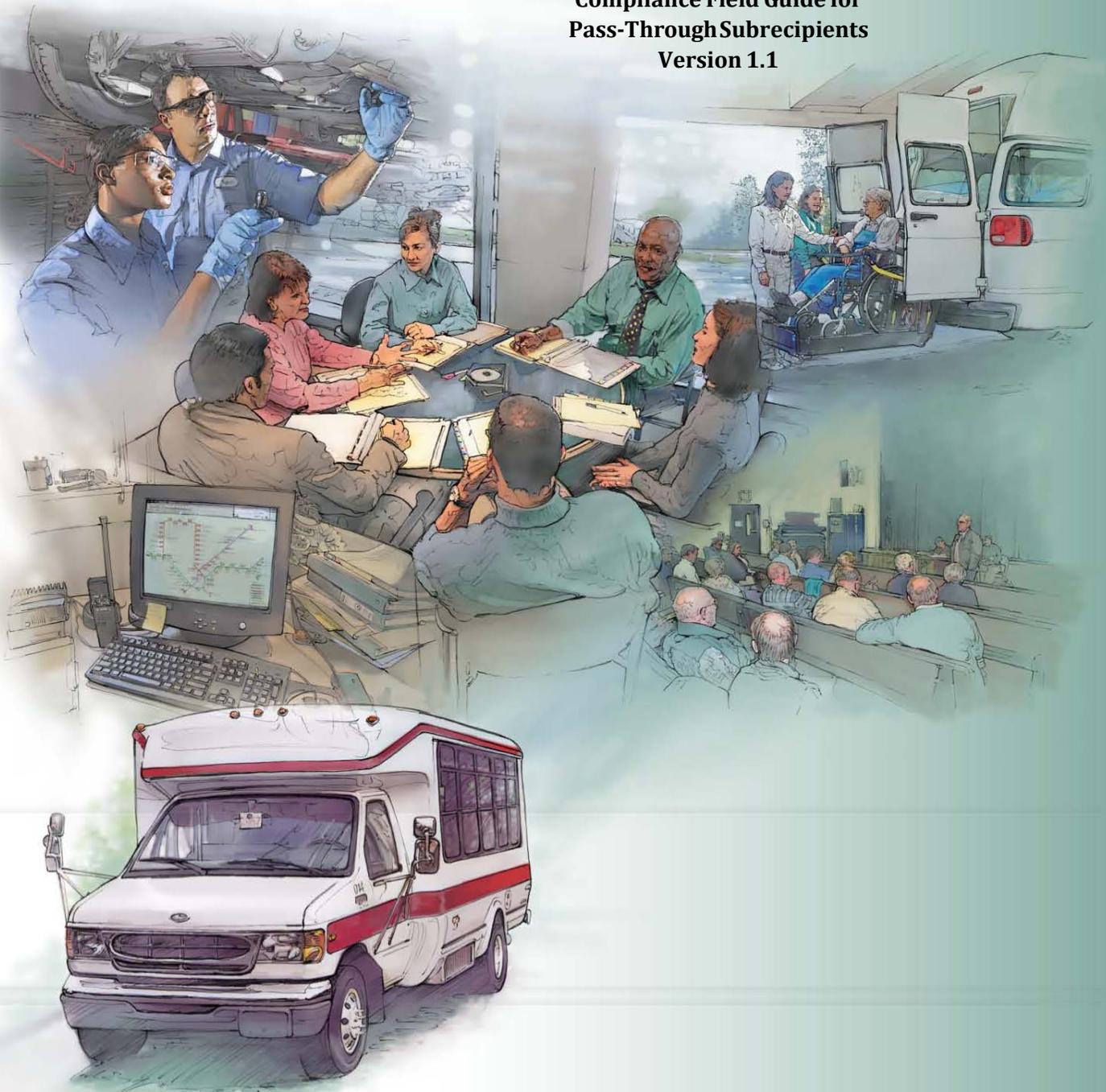




**Oregon Department of Transportation  
Public Transportation Division**

**Compliance Field Guide for  
Pass-Through Subrecipients  
Version 1.1**



# ODOT Pass-through Recipient Compliance Review Field Guide

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# Introduction

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## ODOT Compliance Review Program

### Scope of the Review

The Public Transit Division's Compliance Monitoring Program Field Guide is designed to assist the Division and public transportation providers assess how transit agencies in Oregon meet the varied compliance requirements imposed by the Federal Transit Administration and Oregon DOT. This document, developed in February 2015, is a modified version of the original Field Guide to address only the compliance requirements of Oregon's pass-through grantees, i.e., those agencies that receive funds from the Oregon DOT, but pass them thru to another eligible subrecipient to operate the transit service.

The purpose of the on-site review is to assess how the pass-through agency's management of the Oregon DOT funding complies with Federal and state laws, rules, requirements, and regulations. The overall goal of the program is to improve the agency's compliance with applicable regulations while strengthening managements' abilities in these areas.

The review will be organized into six major areas, encompassing:

1. Program Management
2. Financial Management
3. Procurement
4. Civil Rights
5. Special Transportation Fund
6. Other Elements of the Review - Miscellaneous Topics

Depending on the scope of the review, not all topics may be addressed.

Data collection to support the Compliance Review will be conducted in two stages: (a) a desk review, conducted by the consultant based on the submittal of requested data by the transit system; and (b) information gathered during a one to two day site visit to the project.

### Desk Review

The review process will kick-off with notification via letter from the Public Transportation Division that the system has been scheduled for a compliance review. The letter will outline the scope and parameters of the review and request that the pass-through agency provide data in advance of the compliance review team's site visit.

Agencies will be given 30 days to provide information requested for the desk review. All information is to be submitted electronically to a secure cloud server. Requested data is documented in that attached "CMP Document Control" Form.

## **On-Site Review**

ODOT and the transit system will mutually determine the dates for the site review. While on-site, the review team may need to interview multiple personnel at the transit system, including, but not necessarily limited to, the individuals who perform the following functions:

- Program Administrator
- Governing board chair
- Advisory board chair
- Fiscal director
- Procurement manager

The site visit will begin with an entrance interview. During this session, the review consultant and ODOT staff will review the scope of the review and provide an opportunity to ask questions about the review.

Depending upon the complexity of the pass-through agency's administration of the program, including the number of individuals to be interviewed, ODOT envisions that the site review will take a maximum of eight hours.

At the conclusion of the review, an exit conference will be held. The review consultant will be prepared to discuss preliminary findings and discuss potential remediation strategies.

## **Compliance Report**

Following the desk review, site visit, analysis of documents, interviews with agency staff, and inspection of records, equipment, or procedures, the review consultant will render a finding. Findings may include:

- The pass-through agency is in compliance with state requirements;
- The pass-through agency is not in complete compliance with state requirements; or
- The pass-through agency is in compliance, however, an advisory recommendation to improve adherence to a regulation or improve the management of the transit program is provided.

In this report, two types of findings are rendered: observations and advisories. Observations represent an area where the pass-through agency is not in compliance with a Federal or state requirement, and are given either high or low priority status depending upon the severity and potential impact of the observation. High priority observations are labeled as such due to possible safety concerns, or because the observation topic is deemed among the most important to FTA. These observations will be assigned a period of remedy, ranging from 30 to 180 days. Deficiencies with less impact or that have a required public hearing and/or approval process will be provided with a longer remedy period. Low priority observations still represent a lack of compliance and therefore must be addressed, but no timeline is assigned. It is expected that these findings will be remedied before the next compliance review is performed. Advisory recommendations do not require implementation, but instead are suggestions provided by the reviewer which represent industry best practices and which may assist in achieving greater agency efficiency.

Thirty days after the site visit the review consultant will release the draft report to ODOT. Following state review, the report will be released to the transit system.

The report will be organized by topic, corresponding to the outline of this Review Guide. Each section will provide a summary of the compliance requirements, the observations and advice of the reviewer, and the actions necessary to remedy the findings.

### **Resolution of Compliance Findings**

During the remediation period, ODOT expects the transit system to satisfactorily resolve all compliance observations. Energies should be directed at “high priority” compliance observations. ODOT anticipates that “low-priority” compliance will be remedied prior to the next compliance review cycle. Advisory recommendations may be accepted or rejected, as appropriate – these are only recommendations, not requirements.

After issuance of the report, the Regional Transportation Coordinator (RTC) will be available to assist the system remedy and close findings; provide examples of policies, procedures, and best practices; and review system proposals for remedy. It will be the primary responsibility of the RTC to close findings.

The review consultants will also be available, as needed, for consultation via e-mail and/or by telephone, to provide further assistance.

## Compliance Review Desk Review Item Checklist

Yes   N/A   Document

### Program Management

- Copies of Any Subcontracts with Lower Tier Operators

### Financial Management

- Pass-through Agency's chart of accounts, if applicable  
      Indirect cost allocation plans and cognizant agency approval letter, if applicable  
      Written financial management policies and procedures

### Procurement (may not be applicable if entity does not use grant funds to purchase supplies and equipment)

- Copies of written procurement policies  
      Copies of code of conduct governing personnel involved in procurement (if not included in written procurement policy)  
      Non-accessible vehicle acquisition certification  
      Copies of third party contracts arising from all formal procurements, last three years  
*(Note: if there are multiple instances of formal procurements, contact the review team and seek clarification on the submittal)*  
      For locally conducted procurements, copies of procurement documents, including IFB, RFP, or purchase orders and vendor lists, bid tabulations, etc. *(Note: if there are multiple instances of formal procurements, contact the review team and seek clarification on the submittal)*

### Civil Rights

- Description(s) of any lawsuits or complaints alleging discrimination in service delivery filed within last year along with statement of resolution/outcome  
      Summary of all civil rights complaints, last three years  
      Copy of EEO program (If the pass-through agency receive more than \$1,000,000 in Federal assistance or employ more than 50 employees)  
      Copy of DBE Program and Goals (If the pass-through agency has more than \$250,000 (exclusive of vehicle purchases) in contracting opportunities)

# Section 1. Program Management

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In this section, a pass-through agency's eligibility and authority to receive FTA funds is established.

## Program Identification

Eligibility for Federal and state programs is determined by ODOT as part of the planning and grants management process. In this stage of the review, the reviewer must document the funding sources used by the transit system during the last three years. The reviewer does not need to verify eligibility or eligible services. If upon review of the scope of services the reviewer determines that the described services vary from that outlined in the project application and/or as described in a statement of work or grant agreement, report this as a finding.

1. What are the sources of Federal funds received by this pass-through agency during the last three years (check all that apply)?

Section 5311  
 Section 5339  
 Other

Section 5311(f)

Section 5310

STF

## Governance

All ODOT grant recipients must be legally constituted and have a governing board, structured according to the organizational status of the agency. Governing boards, in addition to providing the legal authority to enter into an agreement with ODOT, must provide appropriate oversight of the financial affairs of the organization and approve all key policies of the agency (*e.g.*, procurement policies). If the governing board delegates any of these responsibilities, the reviewer should examine such delegation authority.

FTA requirements include approval actions by the governing board. These policies, plans or programs include DBE, Title VI, and Drug and Alcohol regulations.

2. What is the governing body of the organization that is duly authorized to operate the public transit project?

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3. How often does this body meet?

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4. Is there documented evidence that the governing body actively participated and/or approved in the decision to pass funds through to a lower tier subrecipient?

Yes     No

Comments:

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If “Yes,” is there any evidence of governing board oversight of the lower tier entity?

Yes     No

Comments:

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5. If “Yes,” is there a governing board resolution or other appropriate action that approves this delegation of authority?

Yes     No

## Control Environment

An agency's overall control environment sets the tone of the organization and influences the control consciousness of its employees. To successfully address risks and achieve its objectives, agency management must institute various control activities, such as segregation of duties, physical controls, and a system of approvals.

6. Are agency employees skilled and trained to perform the duties associated with their particular job functions (e.g., daily management of staff, accounting functions, delivery of services)?

Yes     No

If “Yes,” describe how the agency ensures that individuals with the proper training and credentials are assigned job duties.

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7. How does management remain abreast of the requirements of laws and regulations pertinent to the transit grant programs?

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8. Is there a formal (written) conflict of interest policy or code of conduct in effect?

Yes     No

If "Yes," describe the key elements of this policy.

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Who is covered by this policy?

Yes	No	Covered Individuals
<input type="checkbox"/>	<input type="checkbox"/>	Employees
<input type="checkbox"/>	<input type="checkbox"/>	Officers of the organization
<input type="checkbox"/>	<input type="checkbox"/>	Board members
<input type="checkbox"/>	<input type="checkbox"/>	Immediate family members of (a), (b), (c) above
<input type="checkbox"/>	<input type="checkbox"/>	Agents/contractors of the organization
<input type="checkbox"/>	<input type="checkbox"/>	Prospective employees

9. How does the agency management convey the message that integrity cannot be compromised?  
How is this communicated to employees?

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## Section 2. Financial Management

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### Overview

As a primary recipient of grant funds and as the State agency designated to administer such funds for public transit activities, ODOT manages the fiscal elements of these programs in accordance with its existing procedures, FTA guidelines, and other applicable state and Federal regulations.

All subrecipients are required to establish and maintain an accounting system to which all transportation-related costs, revenues, and operating costs are recorded so that they may be clearly identified, easily traced and substantially documented. The fully allocated cost of the public transit program must be clearly identified regardless of the operational nature of the agency.

### Accounting Practices

Receipt of an ODOT grant obligates the grantee to use funds it receives as specified in the project application and grant agreement. Execution of the grant agreement establishes a partnership between ODOT and the pass-through agency wherein ODOT assumes an oversight role in the use of grant funds and retains a vested interest in the unused grant balances, improperly applied funds, and property and facilities purchased or otherwise acquired under the grant. Subrecipients, lower tier operators, and third party contractors are responsible for establishing and maintaining adequate internal control over all their functions that relate to project administration and execution of the project. These control systems must adhere to: applicable Federal requirements outlined in the Common Rule (49 CFR part 18 and 49 CFR part 19), OMB Circular A-87, program specific program guidance contained in State Management Plan and appropriate FTA Circular, and other requirements as may be established by ODOT.

Both 2 CFR part 225 (formerly OMB Circular A-87), Cost Principles for State, Local, and Indian Tribal Governments, and 2 CFR part 230 (formerly OMB Circular A-122), Cost Principles for Nonprofit Organizations, indicate that reports reflecting the distribution of activity of each employee must be maintained of all staff members whose compensation is charged, in whole or in part, directly to (a grant) award. Additionally, the report must reflect an after-the-fact determination of actual activity of each employee. Budget estimates (i.e., estimates determined before the services are performed) do not qualify as support for charges to (grant) awards. The use of percentage time allocations of staff in their charges of time is not permissible under the cost principles of either local government or nonprofit organizations. Time charged to any Federal award must:

- Reflect after-the-fact determination of actual activity;
- Account for the total activity of the employee;
- Be signed by the individual employee; and
- Be prepared at least monthly and coincide with one or more pay periods.

Financial records, supporting documentation, and all other records pertinent to a grant must be retained by the pass-through agency and must be made readily available to authorized representatives

including ODOT, for a period of three years from the date of project completion and final payment under the agreement has been rendered.

If any litigation, claim, or audit is started before the expiration of the three-year period, the records must be retained beyond three years, until all litigation, claims, or audit findings involving the records have been resolved.

1. Does the pass-through agency expend any State or Federal funds other than the payment of invoices to another eligible subrecipient?

Yes     No

**If “Yes,” continue with the review. If “No, skip to Question 42**

2. If the pass-through agency does expend State or Federal funds, directly, is the pass-through agency's chart of accounts sufficiently detailed to accumulate project revenues and expenses in detail?

Yes     No

3. Is the chart of accounts sufficiently detailed to distinguish between project capital and operating expenses?

Yes     No

4. Is the pass-through agency's accounting system capable of generating reports to ensure the timely collection of revenues and grant receipts?

Yes     No

5. Are the personnel responsible for recording financial transactions, generating reports, and ensuring the accuracy of financial data suitably trained to perform these functions?

Yes     No

6. Does the pass-through agency adhere to the requirement that all financial records pertaining to an ODOT grant be retained for three years following the final payment?

Yes     No

7. Does the pass-through agency have written financial management procedures?

Yes     No

8. Federal cost principles require that all costs incurred under a grant must be “reasonable and necessary.” Does the pass-through agency have a process in place to determine reasonable and necessary costs prior to making the expenditure?

Yes     No

If “Yes,” what are these procedures?

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9. How does the pass-through agency ensure that costs claimed under a Federal grant award are not included as a cost or used to meet cost sharing or matching requirements of any other Federally-financed program in either the current or a prior period?

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10. Financial capacity is measured by the lower tier subrecipient’s ability to handle a number of functions, including the following management elements

11. Does the pass-through agency monitor the lower tier subrecipient

Yes     No

If “Yes,” does the pass-through entity monitor:

Yes	No	Requirement
<input type="checkbox"/>	<input type="checkbox"/>	Match and manage FTA grant funds.
<input type="checkbox"/>	<input type="checkbox"/>	Cover grant cost overruns.
<input type="checkbox"/>	<input type="checkbox"/>	Cover operating deficits through long-term, stable, revenue sources.
<input type="checkbox"/>	<input type="checkbox"/>	Maintain and operate grant-funded equipment.
<input type="checkbox"/>	<input type="checkbox"/>	Conduct annual A-133 audits (if applicable).

## Indirect Costs

Indirect costs are those: (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. The term "indirect costs," applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities.

There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Federal award or other final cost objective. Therefore, it is essential that each item of cost be treated consistently in like circumstances either as a direct or an indirect cost.

Where an accumulation of indirect costs will ultimately result in charges to a Federal award, a cost allocation plan is required.

Amounts not recoverable as indirect costs or administrative costs under one Federal award may not be shifted to another Federal award, unless specifically authorized by Federal legislation or regulation.

For organizations that seek reimbursement of indirect costs under their Federal grant awards, an indirect cost rate proposal must be prepared annually and submitted to the cognizant Federal agency for indirect costs, an agency designated as responsible for reviewing, negotiating, and approving indirect cost rate. In the absence of a designated cognizant agency, the Federal funding source providing the most significant amount of funding will typically serve as the cognizant agency. In cases where funds first flow to a primary recipient to a pass-through agency, the primary recipient may review, negotiate, and approve indirect cost rate proposals (this scenario describes the relationship between ODOT and its subrecipients).

12. Does the pass-through agency seek reimbursement of indirect costs in its claims under its various Federal grant awards?

Yes     No

If "Yes," has the pass-through agency submitted the plan for approval to a cognizant Federal agency or ODOT?

Yes     No

If "Yes," which agency approved the Cost Allocation Plan (CAP)?

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13. Is the Cost Allocation Plan (CAP) updated annually?

Yes     No

What is the date on the latest approved CAP?

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14. Are claims for reimbursement of indirect costs made in accordance with the latest approved indirect cost rate?

Yes     No

## Internal Controls

Subrecipients are responsible for establishing and maintaining adequate internal controls over their functions that affect implementation of a grant. For proper management of grants, these controls must be used by each pass-through agency in all of its operating, accounting, financial, and administrative systems. To ensure proper accountability for grant funds, internal controls must be integrated with the management systems used by the grantee to regulate and guide its operations.

15. Pass-through agencies must demonstrate that it has certain policies, procedures, and protocols in place to demonstrate that it has sufficient internal controls over financial management. Does the pass-through agency address the following internal controls?

Yes	No	Requirement
<input type="checkbox"/>	<input type="checkbox"/>	Does the pass-through agency have written grants administration policies that govern organizational control of its activities?
<input type="checkbox"/>	<input type="checkbox"/>	Does the pass-through agency's formal organizational structure clearly define, assign, and delegate appropriate authority for all duties?
<input type="checkbox"/>	<input type="checkbox"/>	Given the size of the organization, is there sufficient segregation of duties in financial management functions to ensure that adequate internal checks and balances exist?
<input type="checkbox"/>	<input type="checkbox"/>	Does the pass-through agency have a system of organizational planning to determine financial, property, and personnel resource needs?
<input type="checkbox"/>	<input type="checkbox"/>	Are there sufficient checks and balances in place to prevent illegal or unauthorized transactions or acts?
<input type="checkbox"/>	<input type="checkbox"/>	Do the pass-through agency's information systems reliably provide needed operating and financial data for decision-making and performance review?
<input type="checkbox"/>	<input type="checkbox"/>	Does the pass-through agency have any type of internal audit functions to ensure that grant funds are expended properly?
<input type="checkbox"/>	<input type="checkbox"/>	Are the pass-through agency's personnel properly qualified for their assigned responsibilities, duties, and functions? Are education, training, experience, competence, and integrity considered in assigning work?
<input type="checkbox"/>	<input type="checkbox"/>	Are the pass-through agency's expenditures controlled so that construction, equipment, goods, and services are acquired and received as contracted for (as to quality, quantity, price, and time of delivery)?
<input type="checkbox"/>	<input type="checkbox"/>	Does the pass-through entity ensure that it is the title holder and hold first lien on the title if a state-funded vehicle?
<input type="checkbox"/>	<input type="checkbox"/>	Does the pass-through agency exercise sufficient control over real property, equipment, expendables, and funds to prevent misuse, misappropriation, waste, or unwarranted deterioration or destruction?

16. If vehicles have been acquired and used by the lower tier subrecipient, is title to the vehicle held by the primary (pass-through) entity receiving ODOT funds?

Yes       No

17. How is the security of financial data maintained? Who has access to records? How often is the financial system backed-up?

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Subrecipients are responsible for monitoring expenditures or outlays and must compare these outlays to budgeted amounts for each grant or subgrant. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If the unit cost data are required, estimates based on available documentation will be accepted whenever possible.

Applicable Office of Management and Budget (OMB) cost principles, as stated in 2 CFR parts 225 and 230, agency program regulations, and the terms of grant and subgrant agreements will be followed in determining the allowability and allocability of costs.

Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contracts, and subgrant award documents.

18. How is the budget developed? Who is responsible for developing the budget?

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19. Who is responsible for approving the budget?

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20. Who is responsible for ensuring that costs are consistent with the project budget and the limitations set forth in the grant agreement?

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21. Who is responsible for determining cost allowability? Are budget officials knowledgeable about Federal cost principles governing cost allowability?

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22. How is the budget managed throughout the fiscal year? Does the accounting system generate periodic reports regarding revenues, expenses, budget variances, etc.? Who receives these reports? How are the reports used by transit management?

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23. What role does the governing board play in monitoring the organization's budget?

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24. What is the pass-through agency's fiscal year?

Start date (current year) \_\_\_\_\_ End date (current year) \_\_\_\_\_

25. What is the pass-through agency's basis of accounting?

- Cash Basis
- Modified Cash
- Accrual Basis
- Other (Describe) \_\_\_\_\_

26. If the pass-through agency provides service under contract to human service agencies, what is the frequency for issuing invoices to the contracting organizations? What is the typical aging cycle on such receivables?

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27. What procedures does the pass-through agency have in place to track and collect on aged receivables?

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28. Does the pass-through agency provide credit cards to its employees?

Yes     No

If "Yes," are their written policies in place governing the use of such cards?

Yes     No

Do these policies provide sufficient protection against fraud and abuse? Is there sufficient separation of function to detect fraud and misuse of agency credit cards?

Yes     No

## Documentation of Costs

Normally, supporting documentation consists of receipts, invoices, vouchers, contracts, leases, etc. There are special requirements for the documentation of personnel expenses, particularly those employees whose time is split between (a) more than one Federal award; (b) a Federal award and a non-Federal award; (c) an indirect cost activity and a direct cost activity; (d) two or more indirect activities which are allocated using different allocation bases; or (e) an unallowable activity and a direct or indirect cost activity.

29. Does the pass-through agency maintain proper supporting documentation for routine purchases?

Yes     No

30. How does the pass-through agency support personnel charges made to Federal grants?

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If “Yes,” do the affected employees maintain personal activity reports consistent with OMB requirements below?

- | Yes                      | No                       | Personal Activity Report or Equivalent Document Must:                           |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Reflect an after-the-fact distribution of the actual activity of each employee. |
| <input type="checkbox"/> | <input type="checkbox"/> | Account for the total activity for which each employee is compensated.          |
| <input type="checkbox"/> | <input type="checkbox"/> | Prepared at least monthly and must coincide with one or more pay periods.       |
| <input type="checkbox"/> | <input type="checkbox"/> | Must be signed by the employee.   |

## Cash Management

The pass-through agency must periodically reconcile grant accounts, reconcile bank records with financial system records, ensure the timely deposit of cash receipts to prevent fraud or loss, and ensure sufficient separation of function to provide adequate checks and balances in the cash handling process.

31. Describe the process in which the transit system receives cash and checks from ODOT and or other entities that purchase service. Include cash donations in this analysis.

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32. How often are receipts deposited to the bank?

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33. Does a person other than the individual who conducts the accounting function verify the cash receipts listing against the deposit slips?

- Yes     No

34. Document the following elements associated with fare collection:

Are there written procedures governing fare collection?

- Yes     No

Are system vehicles equipped with fareboxes?

- Yes     No

If "No," describe the procedures in place to protect fare collections from theft or loss?

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How often are revenues pulled from system vehicles/fareboxes?

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Where are farebox revenue counts conducted?

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Is this location secure? Who has access?

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How are the counts posted to the agency's general ledger?

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Are farebox counts reconciled against driver logs?

Yes     No

35. What steps has the organization taken to protect itself from theft, fraud, or loss? Are employees who handle cash bonded? Is there insurance to cover loss or theft?

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36. Does the pass-through agency sell passes, pass books, or paper tickets?

Yes     No

If "Yes," what controls are in-place to prevent theft, fraud or misuse of the passes?

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If "Yes," what steps are taken to secure storage or unsold media?

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37. Is there a petty cash fund?

Yes     No

If yes, are there written policies and procedures in place for petty cash expenditures which include how it may be used and who is eligible to withdraw funds?

Yes     No

38. Who is responsible for check writing?

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Are two original signatures required on all checks?

Yes     No     Other

If "Other," please explain:

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39. Are check signers authorized by the governing board?

Yes     No

40. Are bank accounts reconciled on a regular basis?

Yes     No

41. Does the pass-through agency have written policies regarding the payment of travel expenses incurred by employees who travel away from their duty station on agency business?

Yes     No

PTD requires that requests for reimbursement be supported by a statement of revenues and expenditures for each quarter, including documentation of local match contributions.

42. What is the frequency of report submission to ODOT?

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43. Do the reports include a statement of revenues and expenditures for each quarter, including documentation of local match contributions?

Yes     No

44. Does the pass-through agency utilize monthly financial reports and/or variance reports to monitor budget adherence?

Yes     No

45. In reporting service data, what methods are used to collect and validate the accuracy of reported data?

Yes     No

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## Local Match

Federal and state grants awarded by ODOT may require match or local participation in the share of project costs. The amount of local match is specified in the grant agreement.

Examples of local sources that may be used for the local share include: State or local funds; dedicated tax revenues; private donations; and net income generated from advertising and concessions. Additionally, revenues derived from a service agreement with a State or local social service agency or a private social service organization may be used to meet the local matching share, even if the source of those funds was another Federal program.

Subrecipients may count non-cash shares such as donations, volunteered services, or in-kind contributions toward the local match only if the recipient formally documents the value of each non-cash share, and if this value represents a cost that would otherwise be eligible under the project. The net project cost must include the value of any in-kind contributions included in net project cost to the extent it is used as local match.

46. What are the sources of funds being used to generate the local match? Are these sources non-Federal as defined above? Do these sources meet FTA requirements for local match as defined below?

**Yes    No    Check all that apply:**

Statutorily Defined Sources:

- |                          |                          |  |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | State or local appropriations                          |
| <input type="checkbox"/> | <input type="checkbox"/> | Dedicated tax revenue                                  |
| <input type="checkbox"/> | <input type="checkbox"/> | Other Cash   |
| <input type="checkbox"/> | <input type="checkbox"/> | Private donations                                      |
| <input type="checkbox"/> | <input type="checkbox"/> | Net income derived from advertising and/or concessions |

Other Federal funds that are unrestricted in their use as match:

- |                          |                          |  |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Funds received from a service agreement with a State or local social service agency or a private social service organization |
| <input type="checkbox"/> | <input type="checkbox"/> | Federal Lands Highway Program  |
| <input type="checkbox"/> | <input type="checkbox"/> | Other <sup>1</sup>   |

In-Kind or Contributed Services:

- |                          |                          |                        |
|--------------------------|--------------------------|------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | In-Kind <sup>2</sup>   |
| <input type="checkbox"/> | <input type="checkbox"/> | Volunteer <sup>2</sup> |

<sup>1</sup> Verify there are no restrictions on use as match.

<sup>2</sup> See next section to verify allowability as in-kind or volunteer service.

47. Are the funds cited above verified as not being included as a cost or used to meet cost sharing or matching requirements of any other Federal award in either the current or a prior period, except as specifically provided by Federal law or regulation?

Yes     No

48. Is the pass-through agency generating sufficient local match to meet the applicable percentage as defined in the grant agreement?

Yes     No

## In-Kind or Contributed Services

Non-cash shares such as donations, volunteered services, or in-kind contributions are eligible to be counted toward the local match only if the value of each is formally documented and supported. Additionally, any donation or volunteer service must represent a cost which would otherwise be eligible under the project.

ODOT allows donated or volunteer services to be furnished to a nonprofit organization by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of the donations may be used to meet the local match requirements, but may not be claimed for reimbursement.

There are conditions governing the use of donations and/or volunteer services. Such items and services: (a) must be verifiable from the recipient's records; (b) not included as contributions for any other Federally-assisted project or program; (c) necessary and reasonable for proper and efficient accomplishment of project or program objectives; (d) must be allowable under the applicable cost principles; (e) must not be paid by the Federal Government under another award, except where authorized by Federal statute to be used for cost sharing or matching; and (f) provided for in the approved budget when required by the Federal awarding agency; and (g) conform to other provisions of 2 CFR part 200, as applicable.

Fair market value of contributed or volunteer labor must be computed based on the regular rates paid for similar work in other activities of the organization or, in cases where the kinds of skills involved are not found in other activities of the organization, the rates used must be consistent with those paid for similar work in the labor market in which the organization competes for such skills.

Under any circumstance, the value of these services is not reimbursable either as a direct or indirect cost under Federal grant awards; rather this value may only be used as local match.

49. Does the pass-through agency utilize contributions or donations to meet part of the match share of ODOT grants?

Yes     No

50. How did the pass-through agency assign fair market value to the donated or contributed service?

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51. Are the services or items donated necessary and reasonable for proper and efficient accomplishment of project or program objectives?

Yes     No

52. Did the pass-through agency use the value of the donation only as local match (*e.g.*, the pass-through agency does not seek reimbursement from grant funds for the donation)?

Yes     No

## Single Audit

Subrecipients expending \$750,000 or more in Federal financial assistance from all sources in the subrecipient’s fiscal year must prepare a single audit pursuant to 2 CFR part 200.500.

Additionally, ODOT requires that subrecipients entering into lower tier subcontracts require those lower tier contractors to also adhere to the requirements of 2 CFR part 200.500. Subrecipients are obligated to ensure that these terms are contractually stipulated in the lower tier agreement and that the lower tier contractor provides ODOT a copy of the audit report.

Subrecipients and lower tier contractors are responsible for prompt resolution of all audit findings and recommendations. This responsibility requires that the subrecipient:

- Promptly evaluate the report;
- Determine the appropriate follow-up actions and establish a date for their completion;
- Directly submit report to ODOT; and
- Complete all required actions within the established period of time.

Subrecipients receiving less than \$750,000 in Federal funds must submit to the Public Transit Division a copy of any annual audit, if conducted (for example, Municipal Audits), covering the funds expended under current grant agreements with ODOT.

If a finding relates to an ODOT grant, ODOT requires the subrecipient to take follow-up action to resolve the finding. ODOT will review the remedial action and/or remedy and close the finding or work with other state agencies to ensure closure.

53. Did the pass-through agency receive more than \$750,000 in Federal funds, from all grants and agreements in the last fiscal year?

Yes     No

If “Yes,” continue with the remainder of the questions. If “No,” skip to Section 3: Procurement.

If "Yes," did the pass-through agency prepare an single audit?

Yes     No

54. Does the single audit contain any findings relative to the pass-through agency's use of ODOT/FTA funds?

Yes     No

If "Yes," has the pass-through agency submitted a remedial action plan to ODOT?

Yes     No

55. Does the pass-through agency enter into any lower tier agreements?

Yes     No

If "Yes," does the pass-through agency ensure that the lower tier subrecipient is in compliance with the single audit obligations?

Yes     No

If "Yes," does the pass-through agency ensure that the lower tier subrecipient submits a copy of the single audit to the pass-through agency and oversees the remediation of the audit's findings as it relates to the transportation program?

Yes     No

## Section 3. Procurement

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### Overview

Subrecipients must comply with all federal, state and local laws, ordinances, regulations and policies regarding procurement and contracting. Circular 4220.1F documents the FTA's procurement requirements. Subrecipients who are public entities will follow the requirements that apply to state and local governments, called the Common Rule, 49 CFR Part 18, and nonprofit agencies will comply with 49 CFR Part 19. Both types of agencies will also comply with the following requirements:

All governmental subrecipients follow State procurement procedures. However, because of differences between 49 CFR part 18 and 49 CFR part 19 (the Common Rule), FTA third party contracting requirements are fewer for States and subrecipients that are local or tribal governments than for subrecipients that are private non-profit organizations.

Subrecipients that are governmental authorities such as local or Indian tribal governments must comply with the same Federal requirements governing State procurements. ODOT is responsible for ensuring that subrecipients are aware of and comply with Federal requirements. These procurement practices must, at a minimum, comply with five specific Federal requirements contained in FTA Circular 4220.1F. These include the following: (1) for rolling stock, a five year limitation on contract period of performance; (2) a requirement for full and open competition; (3) a prohibition against geographic preferences; (4) the use of Brooks Act procedures for procurement of architectural and engineering services if the State has not adopted a statute governing procurement of such services; and (5) inclusion in contracts of all Federal clauses required by Federal statutes and Executive Orders and their implementing regulations.

Subrecipients that are private for-profit organizations must comply with FTA procurement requirements contained FTA Circular 4220.1F for procurements conducted with Federal funds. ODOT is responsible for ensuring that private for-profit subrecipients are aware of and comply with these additional requirements.

Capital equipment is defined as a tangible item with an aggregated purchase price of \$5,000 or more and with a useful life of at least one year. For all equipment, subrecipients are responsible for maintaining appropriate equipment records, including a method of assigning a property tag number to each item; performing a periodic inventory (at least every two years); safeguarding the equipment from misuse and abuse; maintaining the equipment in useful, safe condition; and following appropriate disposal procedures when the item is no longer needed or has exceeded its useful life.

### Standards of Conduct

The Common Grant Rules require each recipient to maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts.

1. Has the pass-through agency purchased any vehicles or other items under its own authority other than vehicles purchased through the State's cooperative purchase program?

Yes     No

If "Yes," continue with the remainder of this section. If "No," skip to Section 4, Civil Rights.

2. Does the pass-through agency maintain written standards of conduct governing the performance of its employees that are engaged in the award and administration of contracts?

Yes     No

3. Does the written policy cover employees, officers, agents, or board members, or their immediate family members, partners, or organizations that employ or are about to employ any of the foregoing individuals? Does the standard of conduct preclude such persons from participating in the selection, award, or administration of a grant agreement supported with FTA financial assistance if there is a conflict of interest, real or apparent?

Yes     No

4. Does the written policy deal with the acceptance of gifts?

Yes     No

5. Does the written policy address penalties, sanctions, or other disciplinary action for violation of such standards by the recipient's officers, employees, agents, board members, or by contractors or subrecipients or their agents?

Yes     No

## Third Party Contracting Capacity

As part of the subrecipient's obligation to maintain adequate technical capacity to carry out its project, the subrecipient's third party contracting capability must be adequate to undertake its procurements effectively and efficiently in compliance with applicable Federal, State, and local requirements. Subrecipients must maintain a contract administration system to ensure that it and its third party contractors comply with the terms, conditions, and specifications of their contracts or purchase orders and applicable Federal, state, and local requirements. If the subrecipient lacks qualified personnel within its organization to undertake the various procurement tasks, such as drafting specifications, evaluating contracts, or performing internal audits for the recipient, ODOT expects the recipient to acquire the necessary services from sources outside the recipient's organization. When using outside sources, the subrecipient should take appropriate steps to prevent or mitigate organizational conflicts of interest

that would result in conflicting roles that might bias a contractor’s judgment or would result in unfair competitive advantage.

6. Does the pass-through agency have written procurement policies?

Yes     No

7. Do these policies address the following elements:

<b>Yes</b>	<b>No</b>	<b>Elements</b>
<input type="checkbox"/>	<input type="checkbox"/>	Use of clear, performance based specifications that use non-restrictive terms and requirements and incorporate “brand name or equal” terms when specific references cannot be avoided?
<input type="checkbox"/>	<input type="checkbox"/>	Internal procedures that result in an assessment of the pass-through agency’s need for the property or services?
<input type="checkbox"/>	<input type="checkbox"/>	The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement?
<input type="checkbox"/>	<input type="checkbox"/>	Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources, protect the environment, and are energy efficient?
<input type="checkbox"/>	<input type="checkbox"/>	Include race-neutral considerations with respect to DBE participation?

8. If the pass-through agency is a public entity, does the agency follow a locally adopted and procurement policy that has been approved by the governing board?

Yes     No

Are the approved procedures used on all publicly sponsored procurements by the governmental agency or are the procedures uniquely applied to transit system procurements?

- The transit system uses its own procurement policies.
- The transit system uses local government procurement policies.

Is the procurement policy up-to-date with the current FTA Circular?

Yes     No

9. Does the pass-through agency incorporate required Federal terms and conditions in procurement specifications and contracts?

Yes     No

10. Does the pass-through agency maintain a written history of every procurement?

Yes     No

Does this history include the following elements:

Yes	No	Requirement
<input type="checkbox"/>	<input type="checkbox"/>	Documentation for basis of the procurement method used.
<input type="checkbox"/>	<input type="checkbox"/>	Documentation for the contract type used.
<input type="checkbox"/>	<input type="checkbox"/>	Documentation of the basis for vendor selection.
<input type="checkbox"/>	<input type="checkbox"/>	Justification for the contract cost or price.
<input type="checkbox"/>	<input type="checkbox"/>	Other documents as necessary, commensurate with the size and complexity of the procurement itself, so that compliance with applicable standards can be documented.

11. Does the pass-through agency's procurement policy permit access to records by ODOT and appropriate Federal representatives (or any of their representatives), access to and the right to examine and inspect all records, documents, and papers, including contracts, related to any project financed with Federal assistance authorized by 49 U.S.C. Chapter 53?

Yes     No

12. Does the pass-through agency have in place a methodology to ensure it acquires only quantities it needs for transit services?

Yes     No

13. Has the pass-through agency undertaken any procurement in the last three years where it split the quantities to take advantage of small purchase procedures?

Yes     No

If "Yes," was the purpose of breaking the purchase into smaller quantities to permit DBEs greater opportunity to participate?

Yes     No

14. What steps does the pass-through agency use to ensure that awards are only made to "responsible" contractors?

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Does the pass-through agency consider the following elements in the determination that the contractor is responsible?

Yes	No	Requirement
<input type="checkbox"/>	<input type="checkbox"/>	Contractor integrity
<input type="checkbox"/>	<input type="checkbox"/>	Compliance with public policy
<input type="checkbox"/>	<input type="checkbox"/>	Record of past performance
		Financial and technical resources to conduct the required work or provide the good or service

15. Does the pass-through agency apply U.S. DOT's debarment and suspension requirements to itself and each third party contractor at every tier if the estimated cost of the contract is \$25,000 or greater?

Yes     No

If "Yes," does the pass-through agency routinely check the System for Award Management available at the Web site: <http://www.SAM.gov/> before awarding a third party contract?

Yes     No

16. If the third party contract will exceed \$100,000, does the pass-through agency obtain both a lobbying and Buy America certification from a prospective third party contractor?

Yes	No	Requirement
<input type="checkbox"/>	<input type="checkbox"/>	Lobbying certificate
<input type="checkbox"/>	<input type="checkbox"/>	Buy America

17. Does the recipient use sound business judgment in establishing and extending a contract's period of performance?

Yes     No

If "Yes," does the pass-through agency adhere to FTA limitations in the five year limitation in the period of performance on rolling stock and replacement part contracts?

Yes     No

## Purchase Methods

Most subrecipient purchases will be micro purchases, or purchases under \$3,000. Micro-purchases are relatively simple in terms of required procedures and may be made without obtaining competitive quotes. These purchases are exempt from FTA's Buy America requirements. Davis-Bacon prevailing

wage requirements, however, will apply to construction contracts exceeding \$2,000, even though the recipient uses micro-purchase procurement procedures. The transit operator’s governing board may set lower thresholds for micro-purchases in compliance with local law or as it considers appropriate.

ODOT anticipates that subrecipients will distribute micro-purchases equitably among qualified suppliers. Subrecipients, however, are not permitted to divide or reduce the size of its procurement merely to come within the micro-purchase limit.

The only documentation requirement for micro-purchases is a determination that the price is fair and reasonable and a description of how the recipient made its determination. In micro purchase, the subrecipient is not required to provide its rationale for the procurement method used, selection of contract type, or reasons for contractor selection or rejection.

Above \$3,000, transit systems may use “small purchase” procedures. Small purchase procedures may be used to acquire services, supplies, or other property valued at more than the micro-purchase threshold but less than the Federal simplified acquisition threshold (now set at \$150,000). Again, the governing board may set a lower threshold.

When using small purchase procedures, the subrecipient must obtain price or rate quotations from an adequate number of qualified sources and, like micro-purchases, may not divide or reduce the size of its procurement to avoid the additional procurement requirements applicable to larger acquisitions.

The subrecipient is responsible for preparing the bid contract and specification, advertising and soliciting quotes, bid, or proposals, receiving and reviewing bids, and awarding the contract to the vendor that most advantageous to the recipient’s program with price and other factors considered. This may be low bid or other factors deemed relevant by the purchaser.

A Request for Proposals (RFP) is the method generally used when conditions are not appropriate for the use of sealed bids. If the RFP method is used, the following requirements apply:

- The request must identify all evaluation factors and their relative importance, including cost, as a factor. Please note that cost may not be used as an evaluation factor for architectural and engineering services, in accordance with the Brooks Amendment;
- Any bonding requirements or other evidence of financial responsibility must be stipulated;
- Solicitation of an adequate number of qualified vendors must occur;
- The subrecipient must have a written method for conducting technical evaluation for the proposals; and
- Contract award will be made to the responsible vendor whose proposal is determined in writing to be the most advantageous to the program.

### **Micro Purchases**

18. Do the pass-through agency’s written purchase policies recognize micro-purchases?

Yes       No

If “Yes,” what is the micro purchase threshold?

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19. If the pass-through agency undertakes micro purchases, does the agency:

- | <b>Yes</b>               | <b>No</b>                | <b>Policy</b>  |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Distribute micro-purchases equitably among qualified suppliers?  |
| <input type="checkbox"/> | <input type="checkbox"/> | Break the purchase into smaller quantities or reduce the size of its procurement merely to come within the micro-purchase limit? |
| <input type="checkbox"/> | <input type="checkbox"/> | Maintain documentation on the procurement to FTA standards?  |
| <input type="checkbox"/> | <input type="checkbox"/> | Make a determination that the price is fair and reasonable and a description of how the recipient made its determination?        |

20. What documentation does the pass-through agency maintain for micro purchases?

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### **Small Purchases**

21. Do the pass-through agency’s written purchase policies recognize small purchases?

- Yes       No

If “Yes,” what is the small purchase threshold?

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22. If the pass-through agency undertakes small purchases, does the agency:

- | <b>Yes</b>               | <b>No</b>                | <b>Action</b>  |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Solicit quotes from a minimum of three suppliers?<br>Document the quotes in writing and attach the written quote to the purchase requisition/order?                            |
| <input type="checkbox"/> | <input type="checkbox"/> | Maintain documentation on the procurement?<br>Break the purchase into smaller quantities or reduce the size of its procurement merely to come within the small purchase limit? |
| <input type="checkbox"/> | <input type="checkbox"/> | Make awards to the low responsive and responsible vendor?  |

**Formal Purchase**

23. Do the pass-through agency's written purchase policies recognize formal purchases that require competitive bids/proposals?

- Yes     No

If "Yes," do the policies set a threshold for use of formal procedures at levels less than that set by Oregon code (\$150,000)?

- Yes     No

If "Yes," what is the formal purchase threshold used by the organization?

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24. Has the pass-through agency undertaken any formal procurements during the last three years?

- Yes     No

If "Yes," what was the procurement used:

- Sealed bid (Invitation for Bid)  
 Competitive Proposals (Request for Proposal)

25. If sealed bids were used, did the pass-through agency's procurement meet the following prerequisites necessary for use of this procurement method?

<b>Yes</b>	<b>No</b>	<b>Condition</b>
<input type="checkbox"/>	<input type="checkbox"/>	A complete, adequate, precise, and realistic specification or purchase description is available.
<input type="checkbox"/>	<input type="checkbox"/>	Two or more responsible bidders are willing and able to compete effectively for the business.
<input type="checkbox"/>	<input type="checkbox"/>	The procurement was concluded with a firm, fixed price contract.
<input type="checkbox"/>	<input type="checkbox"/>	The successful bidder was selected on the basis of price and those price-related factors listed in the solicitation including, but not limited to, transportation costs, life cycle costs, and discounts expected to be taken.
<input type="checkbox"/>	<input type="checkbox"/>	No discussions with bidders were held after bids were received as award was based on price and price-related factors alone.

26. If seal bids were solicited, did the pass-through agency procurement documents include the following:

<b>Yes</b>	<b>No</b>	<b>Procurement Specification</b>
<input type="checkbox"/>	<input type="checkbox"/>	A clear and accurate description of the recipient’s technical requirements for the property or services to be acquired in a manner that provides for full and open competition.
<input type="checkbox"/>	<input type="checkbox"/>	A functional specification rather than designation of specific brands.
<input type="checkbox"/>	<input type="checkbox"/>	Specific quantities predicated on the subrecipients needs.
<input type="checkbox"/>	<input type="checkbox"/>	If alternatives to use of brand names could not be avoided, did the pass-through agency include “or equal” language in the specifications to ensure competition was not hindered?

27. Examine the most recent bid documents (formal procurements undertaken during the last three years) to determine if the pass-through agency engaged in any of the following prohibited actions:

<b>Yes</b>	<b>No</b>	<b>Action</b>
<input type="checkbox"/>	<input type="checkbox"/>	Imposition of unreasonable business requirements for bidders or offerors.
<input type="checkbox"/>	<input type="checkbox"/>	Imposition of unnecessary experience requirements for bidders and offerors.
<input type="checkbox"/>	<input type="checkbox"/>	Utilization of prequalification procedures that conflict with the prequalification standards described in FTA Circular 4220.1, Chapter VI, paragraph 1.c.
<input type="checkbox"/>	<input type="checkbox"/>	Utilizing a noncompetitive award to any person or firm on a retainer contract with the recipient if that award is not for the property or services specified for delivery under the retainer contract.
<input type="checkbox"/>	<input type="checkbox"/>	Imposition of excessive bonding requirements.
<input type="checkbox"/>	<input type="checkbox"/>	Utilization of brand-name only specifications without permitting or equal substitutions.
<input type="checkbox"/>	<input type="checkbox"/>	Improper imposition of in-state and/or geographic preferences.
<input type="checkbox"/>	<input type="checkbox"/>	Allowance of a procurement action where there was an organizational conflict of interest.
<input type="checkbox"/>	<input type="checkbox"/>	Incorporation of questionable practices or other restraint of trade provisions.
<input type="checkbox"/>	<input type="checkbox"/>	Any other arbitrary action that is contrary to the Circular’s requirements.

28. Has the pass-through agency conducted any formal purchases by competitive negotiation during the last three years?

Yes       No

If “No,” skip to the next section.

If “Yes,” did the solicitation meet the following conditions for the use of this procurement method?

Yes	No	Prerequisite
<input type="checkbox"/>	<input type="checkbox"/>	The property, good, or service can be described in a technical specification.
<input type="checkbox"/>	<input type="checkbox"/>	There was uncertainty over the number of potential qualified suppliers.
<input type="checkbox"/>	<input type="checkbox"/>	Price alone was not the determinative factor in vendor selection.
<input type="checkbox"/>	<input type="checkbox"/>	There was a need for discussion with prospective offerors in order to determine the final scope of work.

29. Did the competitive negotiation meet the following requirements (*check all that apply*)?

Yes	No	Action
<input type="checkbox"/>	<input type="checkbox"/>	Was the RFP publicly advertised?
<input type="checkbox"/>	<input type="checkbox"/>	Were all evaluation factors and their relative importance specified in the RFP?
<input type="checkbox"/>	<input type="checkbox"/>	Were proposals solicited from an adequate number of qualified sources?
<input type="checkbox"/>	<input type="checkbox"/>	Did the pass-through agency use a specific evaluation methodology to conduct the technical review of proposals received?
<input type="checkbox"/>	<input type="checkbox"/>	Was award made to the responsible offeror whose proposal was deemed most advantageous to the pass-through agency’s program with price and other factors considered?
<input type="checkbox"/>	<input type="checkbox"/>	Were any negotiations conducted as part of the evaluation process? If negotiations were conducted, did the pass-through agency keep price information of competitors confidential?

**Special Requirements for Formal Purchases**

FTA’s enabling legislation at 49 U.S.C. Section 5325(b)(1) requires the use of the qualifications-based procurement procedures contained in the “Brooks Act,” 40 U.S.C. Sections 1101 through 1104, to acquire architectural and engineering (A/E) services. In Oregon the provisions of OAR 137-048-0100 address state procedures for screening and selecting persons to perform architectural, engineering or land surveying services or related services contracts.

The pass-through agency must use qualifications-based procurement procedures not only when contracting for A/E services, but also for other services listed in 49 U.S.C. Section 5325(b)(1) and/or OAR.

30. Has the pass-through agency conducted any formal purchases to acquire architectural/engineering services or related services during the last three years?

Yes       No

If “Yes,” what method of solicitation was used:

- Method**
- Direct appointment procedure (OAR 137-048-0200)
  - Informal Selection Procedure (OAR 137-048-0210)
  - Formal Selection Procedure (OAR 137-048-0220)

## Other Than Full and Open Competition

Normally, the pass-through agency must provide for full and open competition when soliciting bids or proposals. The Common Grant Rule for governmental recipients, however, acknowledges that under certain circumstances, a recipient may conduct procurements without providing for full and open competition.

31. Has the pass-through agency undertaken any “sole source” procurements during the last three years?

Yes  No

If “Yes,” did the pass-through agency evaluate the procurement prior to making a sole source purchase to determine unique capability or availability?

Yes  No

If “Yes,” and Federal funds were involved in the purchase, did ODOT approve the sole source procurement?

Yes  No

If “Yes,” and state funds were used in the procurement, did DAS Procurement Services approve the sole source procurement?

Were the following factors present to justify the sole source procurement?

Yes	No	Requirement
<input type="checkbox"/>	<input type="checkbox"/>	The offeror demonstrated a unique or innovative concept or capability not available from another source
<input type="checkbox"/>	<input type="checkbox"/>	There were patent or data rights restrictions that precluded competition
<input type="checkbox"/>	<input type="checkbox"/>	Was this a follow-on contract for the continued development or production of highly specialized equipment and major components thereof, when it is likely that award to another contractor would result in substantial duplication of costs that are not expected to be recovered through competition?
<input type="checkbox"/>	<input type="checkbox"/>	Was this a follow-on contract for the continued development or production of a highly specialized equipment and major components thereof, when it is likely that award to another contractor would have resulted in unacceptable delays in fulfilling the pass-through agency’s needs?

32. Has the pass-through agency undertaken any procurement (bid or proposal) where there was only a single offer?

Yes  No

If “Yes,” did the pass-through agency undertake a post procurement investigation that revealed:

- The single bid was caused by conditions beyond the pass-through agency’s control.
- The single bid was caused by conditions within the pass-through agency’s control.

## Cost and Price Analysis

The Common Grant Rules require the subrecipient to perform a cost or price analysis in connection with **every procurement** action, including contract modifications. The method and degree of analysis depends on the facts and circumstances surrounding each procurement, but as a starting point, the subrecipient must make independent estimates before receiving bids or proposals.

The recipient must obtain a cost analysis when a price analysis will not provide sufficient information to determine the reasonableness of the contract cost.

33. Is there evidence in the procurement files of purchases that the pass-through agency developed a preliminary cost estimate for every procurement?

- Yes     No

34. In procurements of goods and services where competition was deemed adequate, has the pass-through agency conducted a price analysis wherein the entity checks catalog or market prices for the good or service?

- Yes     No

If “Yes,” is the level of effort and documentation commensurate with the scale of the procurement (e.g., micro purchases and small purchases require only simple or abbreviated analysis)?

- Yes     No

35. In the procurement of professional services, A/E firms, etc., where the offeror submits cost elements that included labor hours, overhead, materials, and related costs, the pass-through agency is expected to conduct a cost analysis. Has the pass-through agency conducted any type of procurement where a cost analysis would be required?

- Yes     No

If “Yes,” has the pass-through agency analyzed the following elements in its cost analysis?

Yes	No	Element
<input type="checkbox"/>	<input type="checkbox"/>	Federal cost principles that define the allowability or allocability of costs.
<input type="checkbox"/>	<input type="checkbox"/>	The wage rates and fringe benefits paid to the respective job classifications offered in the bid or proposal.
<input type="checkbox"/>	<input type="checkbox"/>	The proposed indirect cost rate to be charged by the firm.
<input type="checkbox"/>	<input type="checkbox"/>	The proposed profit rate.

36. Does the pass-through agency conduct a cost analysis in the following additional situations where a cost analysis is required?

Yes	No	Requirement
<input type="checkbox"/>	<input type="checkbox"/>	Competition was inadequate during a procurement ( <i>e.g.</i> , single bid).
<input type="checkbox"/>	<input type="checkbox"/>	All sole source procurements.
<input type="checkbox"/>	<input type="checkbox"/>	For all major change orders on existing contract.

## Protests and Disputes

The Common Grant Rules charge subrecipients with the initial responsibility to resolve protests of third party contract awards. Apart from other methods, when the subrecipient may have to resolve third party contract issues, such as mediation or arbitration, the Common Grant Rule for governmental recipients requires the recipient to have protest procedures. While the Common Grant Rule for non-governmental recipients does not impose a similar requirement on a nonprofit subrecipient or operator, FTA expects each subrecipient to have appropriate written protest procedures, as part of its requirement to maintain or acquire adequate technical capacity, to implement the project.

37. Does the pass-through agency have written protest procedures?

Yes     No

38. Has the pass-through agency had any protests during the last three years?

Yes     No

If “Yes,” did the pass-through agency notify ODOT immediately upon notification of a vendor protest?

Yes     No

39. Does the pass-through agency have procedures to resolve disputes that arise in the administration of third party contracts?

Yes     No

40. Has the pass-through agency been engaged in any formal contract disputes with third party contractors during the last three years?

Yes     No

## Pre-Award and Post Delivery Audits

Procurements for vehicles, other than sedans or unmodified vans, must be audited in accordance with 49 CFR part 663, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases." The regulation requires any recipient or subrecipient that purchases rolling stock for use in revenue service with funds obligated after October 24, 1991, to conduct a pre-award and post-delivery review to assure compliance with its bid specifications, Buy America requirements, and Federal motor vehicle safety requirements, and to complete specific certifications.

FTA requires grant recipients purchasing a certain number of revenue passenger rolling stock to undertake reviews of the rolling stock both before the award of the contract and following delivery of the vehicles. The requirement to undertake the pre-award and post-delivery reviews arises from 49 U.S.C. 5323(m) and is specified in FTA regulations at 49 CFR part 663. Compliance must be certified on the Annual List of Certifications and Assurances.

SAFETEA-LU amended this requirement so that procurements of 20 vehicles or fewer, purchased for serving rural areas and cities of less than 200,000 in population, are not subject to either review procedure. The procurement of unmodified vans, in any quantity, is not subject to the review requirement.

41. Has the pass-through agency, during the last three years, engaged in any procurement of vehicles?

Yes     No

If "Yes," did the pass-through agency obtain the following documentation on the procurement (regardless of method) required for all vehicles purchased (either local procurement or state contract as required under 49 CFR part 655)?

Yes	No	Requirement
<input type="checkbox"/>	<input type="checkbox"/>	Pre-Award Manufacturer's Certification (49 CFR part 663.27)
<input type="checkbox"/>	<input type="checkbox"/>	Pre-Award Certification of Compliance With Federal Motor Vehicle Safety Standards (49 CFR part 663.41)
<input type="checkbox"/>	<input type="checkbox"/>	Transit Vehicle Manufacturer DBE Certification (40 CFR part 26.49).

If "Yes," did the procurement involve the acquisition of more than 20 vehicles?

Yes     No

If "Yes," were the necessary in-plant inspections conducted?

Yes     No

42. If “Yes,” to Question 41, did the purchase exceed \$100,000 in total value?

Yes     No

If “Yes,” did the pass-through agency obtain the following certificates with the bids/contracts?

Yes	No	Requirement
<input type="checkbox"/>	<input type="checkbox"/>	Buy America Certificate
<input type="checkbox"/>	<input type="checkbox"/>	Lobbying Certificate

43. For any size vehicle procurement of primary manufacturer standard production and/or unmodified vans not subject to pre- and post-audit, did the pass-through agency conduct a visual inspection and road test of the vehicles to determine that the vehicles met the contract specifications?

Yes     No

## New Model Bus Testing

All new modified bus models must be tested at the FTA sponsored test facility in Altoona, PA, before FTA funds can be expended for their purchase (49 CFR part 665). This requirement applies to all buses and modified vans procured with FTA funds. It does not apply to unmodified vans, including vans with raised roofs or lifts installed in strict conformance with the original equipment manufacturer modification guidelines. A “new bus model” is defined as a model that has not been used in public transportation service in the United States before October 1, 1988, or a model that has been used in such service but which, after September 30, 1988, is being produced with a major change in configuration or components.

44. Has the pass-through agency certified that for any vehicle purchased using its own procurement procedures (other than unmodified vans) that it has obtained a copy of the copy of the official bus testing reports from the Altoona, PA bus testing facility?

Yes     No

If “Yes,” did the pass-through agency submit all documentation and certifications to the ODOT Public Transit Division?

Yes     No

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## Section 4. Civil Rights

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### Overview

Federal civil rights requirements are encompassed in laws, regulations, and Executive Orders. The objective of FTA's oversight in this area is to:

- Ensure that the level and quality of transportation service is provided without regard to race, color, or national origin;
- Identify and address, as appropriate, disproportionately high and adverse human health and environmental effects, including social and economic effects of programs and activities on minority populations and low-income populations;
- Promote the full and fair participation of all affected populations in transportation decision making;
- Prevent the denial, reduction, or delay in benefits related to programs and activities that benefit minority populations or low-income populations; and
- Ensure meaningful access to programs and activities by persons with limited English proficiency.

### Title VI Requirements Applicable to all Recipients/Subrecipients

Some Title VI elements are the responsibility of ODOT and are addressed in the project application and/or grant agreement process. Questions in this section are designed to ensure that subrecipients are compliant with new FTA regulations that went into effect October 1, 2012.

1. Has the pass-through agency developed a Title VI Program?

Yes     No

If "Yes," has it been adopted by the pass-through agency's governing board?

Yes     No

2. Has the program been submitted to ODOT?

Yes     No

If "Yes," skip to the next section. Otherwise, cite the subrecipient for not submitting the required plan as a high priority compliance finding.

## Equal Employment Opportunity

A subrecipient must ensure that it does not discriminate in its hiring practices on the basis of race, color, sex (including pregnancy), national origin, creed, or religion. All subrecipients must take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to race, color, creed, national origin, sex, or age. Such action must include, but not be limited to: hiring, promotion or upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, disciplinary actions, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The subrecipient shall have a written affirmative action plan designed to achieve full utilization of minorities and women in all parts of the work force.

Subrecipients must post, in a conspicuous place, and make available to employees and applicants for employment, notices setting forth the subrecipient's EEO policy. These policies must include procedures for filing complaints of discrimination, both internally as well as externally with the Federal Economic Employment Opportunity Commission (EEOC), a local or state human rights commission, and/or ODOT.

If a subrecipient exceeds size threshold requirements set by FTA, it must prepare an EEO Affirmative Action Plan and submit this plan to ODOT every three years.

3. Who is responsible for ensuring that EEO obligations are fulfilled on behalf of the pass-through agency?

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4. Has the pass-through agency posted an EEO statement in a conspicuous and accessible place in the workplace?

Yes     No

5. Is the pass-through agency's EEO policy included in personnel policies and/or employee handbook?

Yes     No

6. Are EEO statements included on the pass-through agency's job applications and employment notices/job postings?

Yes     No

7. How does the pass-through agency ensure non-discrimination for ADA-eligible persons in terms of employment?

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If requested, were reasonable accommodations made for hiring a person with disabilities in accordance with Title I of the ADA?

Yes     No

If "Yes," describe the accommodation.

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8. Were any EEO complaints or lawsuits received in the past three years?

Yes     No

If "Yes," describe the nature of the complaint or lawsuit.

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Did the pass-through agency report the complaint or lawsuit to ODOT?

Yes     No

## Disadvantaged Business Enterprises (DBE)

The Oregon Department of Transportation (ODOT) is committed to a Civil Rights Program that includes participation of Disadvantaged Business Enterprises (DBEs) in ODOT contracting opportunities. ODOT has established a DBE program in accordance with U.S. Department of Transportation (US DOT) regulations 49 CFR Part 26, as revised January 28, 2011.

9. Did the pass-through agency have contracting opportunities totaling greater than \$250,000 (excluding vehicle purchases) in any of the past three years?

Yes     No

If "Yes," did the pass-through agency prepare and submit a DBE program to ODOT?

Yes     No

10. Even if the pass-through agency is not required to prepare and submit a DBE program, does the pass-through agency include the requisite contract language as directed by ODOT in all subcontracts?

Yes     No

11. If the pass-through agency utilizes a DBE, has the pass-through agency properly counted and reported the expenditure to ODOT?

Yes     No

12. Has the pass-through agency purchased any vehicles using local procurement procedures (*e.g.*, not through state contract)?

Yes     No

If "Yes," did the pass-through agency verify that the vehicle manufacturer has made the requisite certification to FTA regarding DBE commitment?

Yes     No

13. Does the pass-through agency submit DBE reports to ODOT in a timely manner?

Yes     No

14. If the pass-through agency is required to prepare a DBE program, does the program include the following elements?

Yes	No	Requirement
<input type="checkbox"/>	<input type="checkbox"/>	A policy statement that expresses the organization's commitment to its DBE program, states its objectives, and outlines responsibilities for its implementation.
<input type="checkbox"/>	<input type="checkbox"/>	Did the pass-through agency circulate the policy statement throughout the organization and to the DBE and non-DBE business communities that perform work on DOT-assisted contracts?
<input type="checkbox"/>	<input type="checkbox"/>	Did the pass-through agency designate a DBE liaison officer, who has direct, independent access to the Chief Executive Officer concerning DBE program matters?

Yes	No	Requirement
<input type="checkbox"/>	<input type="checkbox"/>	Is the liaison officer responsible for implementing all aspects of the DBE program? Does the pass-through agency have adequate staff to administer the program in compliance with the regulations?
<input type="checkbox"/>	<input type="checkbox"/>	Has the pass-through agency investigated the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community and made reasonable efforts to use these institutions?
<input type="checkbox"/>	<input type="checkbox"/>	Does the pass-through agency encourage prime contractors to use such institutions?
<input type="checkbox"/>	<input type="checkbox"/>	Does the pass-through agency rely on ODOT certified DBEs?
<input type="checkbox"/>	<input type="checkbox"/>	Does the pass-through agency certify firms?
<input type="checkbox"/>	<input type="checkbox"/>	Has the pass-through agency made any determination that DBE firms are over concentrated in a certain type of work? If yes, has the grantee devised appropriate strategies to address this over-concentration?
<input type="checkbox"/>	<input type="checkbox"/>	Has the pass-through agency developed a monitoring and enforcement mechanism?
<input type="checkbox"/>	<input type="checkbox"/>	Does the pass-through agency's program include an element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors?

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## Section 5. Special Transportation Fund

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The State's Special Transportation Fund Program provides financial support to designated counties, transit districts and Indian tribal governments for special transportation services benefiting seniors and people with disabilities. The majority of the STF money (75%) is allocated on a population-based formula. The remaining funds are distributed by the Public Transportation Discretionary Grant Program.

1. Does the agency receive or pass-through STF Funds?

Yes     No

If "Yes," continue with the remainder of this section.

If "No," skip to Section 6, Other Elements of the Review.

2. Is the STF Agency up-to-date in applications for current formula funding allocation?

Yes     No

If "No," why not?

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3. Is the STF Agency up-to-date on quarterly reports from all agencies receiving funds?

Yes     No

If "No," why not?

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4. Does the STF Agency delegate program administration to a second, separate agency?

Yes     No

If "Yes," list the duties of the administrative entity:

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5. Is there an agreement that includes the defined duties between the two entities?

Yes     No

6. Does the STF Agency, individual providers, or administrative entity maintain an inventory of capital items purchased in whole or part with STF?

Yes     No

7. Has the STF Agency appointed an advisory committee of at least five members, and does the membership have a minority of individuals representing agencies receiving STF funds? (For tribes, the committee is composed of three individuals.)

Yes     No

8. Has the STF Agency adopted bylaws for the committee?

Yes     No

9. Does the STF Advisory Committee meet at least two times per year?

Yes     No

10. Does the STF Agency adhere to open meeting laws: publishes meeting notices and keeps records of all meetings?

Yes     No

11. Does the STF Agency use the adopted Coordinated Plan to assist in making funding decisions?

Yes     No

12. Does the STF Agency have contracts with all providers in receipt of STF Funds?

Yes     No

13. Does the contract include the required content?

Yes     No

14. Does the STF Agency have procedures to monitor contracts

Yes     No

### For SAMTD, TriMet, LTD, RVTD, and Basin Transit

15. How does the STF Agency determine the percentage allocation of STF formula to the in- and out-of-district areas?

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16. Is the percentage equivalent to the proportionate share of population in and outside the district's boundaries?

Yes     No

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## Section 6. Other Elements of the Review

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### Overview

This section describes the physical facilities to be conducted during the compliance review.

### Civil Rights Posters

Various civil rights components require that certain postings be placed in the workplace where affected employees may view them.

- Title VI
- EEO