

# FTA Section 5307 Subrecipient Program Vendor Oversight Checklist

A Subrecipient Guide to Vendor Monitoring and Document Review

Updated April 2023





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## Documents to Review:

### Eligible Services Documents

- Rider guides
- Service brochures
- Service policies and procedures
- Vehicle markings (e.g., “public transit” or “public transportation” should be prominent)

### Operations Management

- Organization chart, with FTEs indicated for each position
- Job descriptions for all positions
- Route and schedule brochures
- System maps
- Rider’s guide
- Review of system website
- Operating policies and procedures
- Written training curriculum outline
- Safety/Security Plan

### Use and Maintenance of Project Equipment

- Preventive maintenance plan and schedules
- Maintenance records for sampled vehicles
- Completed pre-trip inspection forms
- Statement or equivalent documentation demonstrating vehicle and facility insurance coverage.

### Civil Rights

- Most recent Title VI program
- Description(s) of any lawsuits or complaints alleging discrimination on the basis of race, color, or national origin in service delivery filed within the last year along with a statement of resolution/outcome
- Written service standards and policies
- EEO program (If the recipient requests or receives capital or operating assistance in excess of \$1 million in the previous federal fiscal year, OR requests or receives planning assistance in excess of \$250,000 in the previous federal fiscal year AND employs more than 50 employees)

### Americans with Disabilities Act

- Service brochures and other system information made available to the public
- Driver handbooks or other operating policy documents
- Copy and description of fare structure employed by the recipient
- ADA-related service and operating policies

- Copies of any complaints filed against the recipient alleging discrimination on the basis of disability in service delivery (filed within last year) along with a statement of resolution/outcome
- Complementary paratransit application and guidelines (if applicable)
- Copy and description of fare structure employed by the recipient
- Suspension policies (if any)

**Charter and School Bus**

- Charter reports, last year
- Contracts with all entities that purchase contracted service from the recipient (if available)

## Section 1. Program Management/Oversight

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### Contractual Agreement

There is an obligation of the subrecipient to fully inform any pass-through entities or contractors what their obligations are when performing the contract. In this section, the reviewer will determine if all required Federal requirements have communicated to the pass-through entity or contractor.

1. Does the contractual agreement between the subrecipient and vendor contain all required Federal provisions?

Yes	No	Requirement	Yes	No	Requirement
<input type="checkbox"/>	<input type="checkbox"/>	No Federal Government Obligations to Third Parties	<input type="checkbox"/>	<input type="checkbox"/>	Transit Employee Protective Arrangements
<input type="checkbox"/>	<input type="checkbox"/>	False Statements or Claims Civil and Criminal Fraud	<input type="checkbox"/>	<input type="checkbox"/>	Clean Air (over \$100,000)
<input type="checkbox"/>	<input type="checkbox"/>	Access to Third Party Contract Records	<input type="checkbox"/>	<input type="checkbox"/>	Clean Water (over \$100,000)
<input type="checkbox"/>	<input type="checkbox"/>	Legal Remedies for Breach	<input type="checkbox"/>	<input type="checkbox"/>	Termination (over \$10,000)
<input type="checkbox"/>	<input type="checkbox"/>	Changes to Federal Requirements	<input type="checkbox"/>	<input type="checkbox"/>	Charter Bus
<input type="checkbox"/>	<input type="checkbox"/>	Civil Rights	<input type="checkbox"/>	<input type="checkbox"/>	Lobbying (over \$100,000)
<input type="checkbox"/>	<input type="checkbox"/>	Disadvantaged Business Enterprise (DBE)	<input type="checkbox"/>	<input type="checkbox"/>	Contract Work Hours and Safety Standards Act
<input type="checkbox"/>	<input type="checkbox"/>	Incorporation of FTA	<input type="checkbox"/>	<input type="checkbox"/>	School Bus
<input type="checkbox"/>	<input type="checkbox"/>	Drug and Alcohol Testing Program	<input type="checkbox"/>	<input type="checkbox"/>	Energy Conservation
<input type="checkbox"/>	<input type="checkbox"/>	Recycled Products	<input type="checkbox"/>	<input type="checkbox"/>	ADA Access

## Oversight Self-Assessment

This section of the review checklist is designed to ensure that the subrecipient fulfills its responsibilities to monitor the operating performance of the vendor. The subrecipient must:

- Provides periodic oversight of system vendors
- Monitor vendor compliance with preventive maintenance schedules of subrecipient owned equipment
- Monitor other programmatic compliance elements, such as ADA and Title VI complaints, provision of equivalent service, etc.

### Questions:

2. Does the subrecipient solicit and review operations reports from the vendors?

Yes  No

3. Does the does the subrecipient monitor the vendor's performance of on-time maintenance activities for subrecipient owned equipment and facilities?

Yes  No

4. Does the subrecipient monitor the vendor's compliance with regulatory aspects of service delivery (e.g., ADA?)

Yes  No

5. Does the subrecipient lease any project equipment to the service contractor?

Yes  No

If "Yes," what measures does the subrecipient use to ensure that it exhibits satisfactory continuing control over project equipment?

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## Section 2. Eligible Services

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Subrecipients must ensure that Section 5307 services must be available and marketed as such to the public for any trip purpose. Review the vendors' documents, such as the following, to ensure that transit services are open to the public. Published material should not suggest that the system uses trip priorities in the scheduling of demand response services.

### Documents for Review:

- Rider guides
- Service brochures
- Service policies and procedures
- Vehicle markings (e.g., “public transit” or “public transportation” should be prominent)

### Questions:

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1. Based on the review of materials, is there any need for clarification of service parameters to determine if the vendor meets Section 5307 requirements?

Yes     No

If Yes, describe:

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## Section 3. Operations Management

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### Overview

Many questions in this section do not relate to a specific compliance topic; rather, the questions relate to the operational efficiencies and effectiveness in the system’s various operational policies. This section addresses organization and staffing, transit operations, scheduling, dispatching, customer service, safety and security, operations planning, marketing, complaint management, and service evaluation.

### Organization and Staffing

The subrecipient is responsible for ensuring that the contractor has the managerial and technical capacity to carry out the program. The vendor is responsible for ensuring that it has sufficient personnel assigned to the various transit functions (administration, operations, and maintenance) to ensure the successful delivery of public and coordinated human services transportation.

### Documents for Review:

- Organization chart, with FTEs indicated for each position
- Job descriptions for all positions



An assessment must be made as to whether the vendor devotes sufficient staffing to each transit function carried out by the vendor.

1. Examine the organization chart. Has the vendor dedicated sufficient human resources to carry out all responsibilities of the transit system?

Yes     No

2. Does it appear, based on the organization chart and job descriptions, that all personnel are dedicated to the transit function?

Yes     No

If "No," what personnel performs non-transit functions?

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3. Verify that each department has sufficient staffing to perform required functions; does the vendor dedicate sufficient human resources to carry out all responsibilities of the transit system?

Yes     No

4. Determine if there are any human resource deficiencies identified in the review and whether the staffing deficiencies are short-term (e.g., unexpected staff departures) or long-term (e.g., unable to fund the position, labor market shortages).

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## Operations

This section is designed to ensure that the subrecipient fully understands the scope of transit services operated by the contractor.

### Documents to Review:

- Route and schedule brochures
- System maps
- Rider's guide

- Review of system website
- Operating policies and procedures
- Written training curriculum outline

5. If the system operates fixed route services, what types of services are offered?

- | Yes                      | No                       | Check all that apply:   |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Non-commuter bus (traditional fixed routes)                     |
| <input type="checkbox"/> | <input type="checkbox"/> | Commuter bus  |
| <input type="checkbox"/> | <input type="checkbox"/> | Intercity bus   |
| <input type="checkbox"/> | <input type="checkbox"/> | Route/point deviation with deviations limited to certain riders |

### Demand Response Operations

6. What modes of demand response services are operated?

- | Yes                      | No                       | Check all that apply:                                |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | ADA complementary paratransit                        |
| <input type="checkbox"/> | <input type="checkbox"/> | Route/point deviation with deviations for the public |
| <input type="checkbox"/> | <input type="checkbox"/> | Other demand response service                        |

### Questions for all Modes

7. What is the extent of operating training prior to being permitted to drive independently.

Hours	Training Component
_____	Classroom Training
_____	Behind the Wheel Training

8. What components make up the vendor's training?

Yes	No	Check all that apply:
<input type="checkbox"/>	<input type="checkbox"/>	Agency policies and procedures
<input type="checkbox"/>	<input type="checkbox"/>	Defensive driving
<input type="checkbox"/>	<input type="checkbox"/>	Passenger Assistance
<input type="checkbox"/>	<input type="checkbox"/>	Accident procedures
<input type="checkbox"/>	<input type="checkbox"/>	Evacuation and emergency procedures
<input type="checkbox"/>	<input type="checkbox"/>	Behind the wheel orientation
<input type="checkbox"/>	<input type="checkbox"/>	ADA requirements
<input type="checkbox"/>	<input type="checkbox"/>	Customer service

Yes	No	Check all that apply:
<input type="checkbox"/>	<input type="checkbox"/>	Pre-trip inspection
<input type="checkbox"/>	<input type="checkbox"/>	Other (specific)_____
<input type="checkbox"/>	<input type="checkbox"/>	Other (specific)_____

9. If both modes are operated, is the workforce divided between fixed route and demand response operations?

Yes       No

## Scheduling

Scheduling is the process of making trip reservations and assigning the trip to vehicle tours efficiently. Scheduling can be manual, computer-assisted, or fully automated.

### Documents to Review:

- Rider’s guide
- Operating policies and procedures
- Review of system website

There are no Federal requirements for scheduling. However, IndyGo recommends the following conditions:

- Customer service lines should be answered directly by transit personnel (e.g., if the vendor is a multipurpose agency, the phone should ring directly to the transit office and be answered in a manner that the consumer understands they are communicating with a transit agency, not a human service agency)
- Avoid the imposition of trip priorities; reservations should be taken on a first-come, first-served basis

10. Are there any policies (written documents or website guidance) that appear to be a violation of FTA and/or ADA requirements?

Yes       No

If “Yes,” what are those issues?

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11. Does published material suggest that the system uses trip priorities in the scheduling of demand response services?

Yes     No

12. How are reservations accepted?

Check	Reservation
<input type="checkbox"/>	Reservations are written on slips of paper and given to the scheduler
<input type="checkbox"/>	Reservations are recorded on a board (blackboard, whiteboard, etc.)
<input type="checkbox"/>	Reservations are entered into an Office Suite application
<input type="checkbox"/>	Reservations are entered into an automated scheduling and dispatch software system
<input type="checkbox"/>	Other (describe): _____

13. Are there periods during the day when the telephone system is unable to accommodate call volume and excessive delays occur in answering telephone lines?

Yes     No

## Safety and Security

Each system must have a Safety/Security Plan developed in accordance with FTA public transit safety plan standards.

### Documents to Review:

- Safety/Security Plan

## Section 4. Use and Maintenance of Project Equipment

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### Overview

Federally-funded equipment and facilities must be kept in good working order. IndyGo will monitor maintenance practices and records of the subrecipients and their vendors to ensure preventive maintenance plans are in place and that they are being followed. As part of the application process for an operating grant, each subrecipient will submit to IndyGo information concerning the maintenance

practices and records of its vendor(s). If the service or maintenance is contracted out, the subrecipient will use its staff to review the vendor’s maintenance practices and records.

The subrecipient and/or designated vendor shall have the requisite fiscal and technical capacity to carry out the project and be responsible for maintaining required insurance coverage, property records, conducting physical inventories, implementing adequate property control systems, and maintaining the equipment in proper working condition. Documentation must be available upon request.

Federally-funded equipment and facilities must be kept in good operating order. IndyGo and subrecipients are responsible for vehicles and other equipment financed by state or Federal grants. Vehicles must be maintained in good or better condition and must be used for the purposes described in the grant agreement.

Meal delivery or other incidental services provided by the subrecipient cannot conflict with the provision of public transit service or result in a reduction of service to transit passengers.

**Documents for Review:**

- Preventive maintenance plan and schedules
- Maintenance records for sampled vehicles
- Completed pre-trip inspection forms
- Statement or equivalent documentation demonstrating vehicle and facility insurance coverage

1. Describe the fleet size and vehicle requirements?

- \_\_\_\_\_ Total fleet size
- \_\_\_\_\_ Number of vehicles in maximum revenue service
- \_\_\_\_\_ Number of spare vehicles
- \_\_\_\_\_ Spare vehicle ratio

Is the spare vehicle ratio reasonable given peak period requirements and the fleet configuration?

- Yes
- No

2. Does the vendor have any project equipment that is no longer needed for transportation purposes?

- Yes
- No

If “Yes,” has the vendor notified the subrecipient and IndyGo that the equipment is no longer needed for program purposes?

Yes     No

3. Has the vendor suffered any casualty loss of project equipment since the last oversight review?

Yes     No

If Yes, did the vendor or subrecipient receive an insurance settlement?

Yes     No

If Yes, did the vendor request guidance from the subrecipient and IndyGo on the procedures for re-investing the settlement proceeds in a replacement vehicle?

Yes     No

## Maintenance of Equipment and Facilities

Vehicle equipment condition is assessed as new, excellent, good, fair, poor, or out of service. Indicators of vehicle condition can include but are not limited to, age, mileage, readily visible exterior vehicle condition (visible body damage or deterioration) and interior condition (torn seats, broken fixtures), condition of lights, mirrors and windows, and presence of fluid leaks. Vendors must make necessary repairs to vehicles in a timely manner.

4. How are vehicle maintenance services performed?

- In-house
- Contractors
- Combination of in-house and contractors

If a combination of methods is used, are there specific functions that are contracted out?

Yes     No

If "Yes," describe:

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5. What procedures does the vendor use to track all maintenance activities?

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## Equipment - Insurance

States set their insurance requirements for maintenance of all equipment acquired with Federal funds. Insurance coverage must be adequate to protect the Federal interest in the vehicle within the useful life determined by IndyGo. State of Indiana nor IndyGo has set a threshold for insurance requirements.

6. Does the vendor or subrecipient maintain comprehensive and collision insurance on all vehicles with remaining useful life at sufficient levels to protect the remaining Federal interest in the equipment?

Yes     No

If no, does the vendor or subrecipient have a self-insurance reserve fund sufficient to repay the FTA direct recipient for the Federal interest of the vehicle that was subject to the casualty loss?

Yes     No

## Equipment – Incidental Use

Subrecipients of Section 5307 funds must exercise satisfactory continuing control over facilities and equipment acquired with Federal funds and must ensure that they are used in public transit service. All equipment must be utilized 100 percent for transit purposes. Under this policy, some incidental use is permitted, however, if the other program or project uses currently or were previously supported with Federal funds. The incidental use may not interfere with use in the Section 5307 program.

7. Does the vendor utilize project equipment for use on other projects or programs supported directly or indirectly by the Federal government?

Yes     No

8. Does the vendor use FTA funded equipment to engage in homebound meal delivery?

Yes     No

If “Yes,” does the vendor have a cost allocation/costing methodology in place to assess the meals program the fully allocated cost of service?

Yes     No

## Section 5. Civil Rights

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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.

### Documents for Review:

- Most recent Title VI program
- Description(s) of any lawsuits or complaints alleging discrimination on the basis of race, color, or national origin in service delivery filed within the last year along with a statement of resolution/outcome
- Written service standards and policies
- EEO program (If the recipient requests or receives capital or operating assistance in excess of \$1 million in the previous federal fiscal year, OR requests or receives planning assistance in excess of \$250,000 in the previous federal fiscal year AND employs more than 50 employees)

1. Are these efforts effective?

Yes     No

Do these effective practices include the following elements that FTA considers “best practice”?

Yes	No	Best Practices
<input type="checkbox"/>	<input type="checkbox"/>	Scheduling meetings at times and locations that are convenient and accessible for minority and LEP communities.
<input type="checkbox"/>	<input type="checkbox"/>	Employing different meeting sizes and formats.



Yes	No	Best Practices
<input type="checkbox"/>	<input type="checkbox"/>	Coordinating with community- and faith-based organizations, educational institutions, and other organizations to implement public engagement strategies that reach out specifically to members of affected minority and/or LEP communities.
<input type="checkbox"/>	<input type="checkbox"/>	Considering radio, television, or newspaper advertisements on stations and in publications that serve LEP populations. Outreach to LEP populations could also include audio programming available on podcasts.
<input type="checkbox"/>	<input type="checkbox"/>	Providing opportunities for public participation through means other than written communication, such as personal interviews or the use of audio or video recording devices to capture oral comments.

## Title VI Requirements Applicable to Small Fixed Route Providers

There are significant additional elements that must be included in a Title VI program if the recipient operates fixed route services. However, if the recipient operates fewer than 50 vehicles in fixed route peak service and is located in a small urbanized area (less than 200,000 in population), the requirements in Chapter IV of the FTA Circular 4702.1B are considerably less in scope, limited to development of system-wide standards and policies apply to all providers of fixed route service.

All fixed route transit providers shall set service standards and policies for each specific fixed route mode of service they provide. Fixed route modes of service include, but are not limited to, local bus, express bus, and commuter bus.

2. Do the service standards include:

Yes	No	Best Practices Service Standards
<input type="checkbox"/>	<input type="checkbox"/>	Vehicle load, by fixed mode, by peak and off-peak periods
<input type="checkbox"/>	<input type="checkbox"/>	Vehicle headway
<input type="checkbox"/>	<input type="checkbox"/>	On-time performance
<input type="checkbox"/>	<input type="checkbox"/>	Service availability for each mode

3. Do the policies include:

Yes	No	Best Practices Policies
<input type="checkbox"/>	<input type="checkbox"/>	Distribution of transit amenities, by mode

Yes	No	Best Practices Policies
<input type="checkbox"/>	<input type="checkbox"/>	Vehicle assignment, by mode

## Limited English Proficiency (LEP)/Language Assistance Programs

Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be considered to be limited English proficient, or "LEP." These individuals may be entitled to language assistance with respect to a particular type of service, benefit, or encounter. Subrecipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. The subrecipient's Title VI program outlines the reasonable steps that should be taken to ensure meaningful access for LEP persons. Vendors have two main ways to provide language services: oral interpretation, either in person or via telephone interpretation service, and written translation.

4. Describe the vendor's efforts to provide access to information and services by LEP persons.

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## Equal Employment Opportunity

FTA requires all applicants, recipients, recipients, and contractors receiving FTA funding to comply with applicable federal civil rights laws and regulations and to follow applicable federal guidance. Any FTA applicant, recipient, recipient, lower-tier recipient, and contractor who meet both of the following threshold requirements must implement all of the EEO Program elements:

- Employs 100 or more transit-related employees; and
- Requests or receives capital or operating assistance in excess of \$1 million in the previous federal fiscal year, or requests or receives planning assistance in excess of \$250,000 in the previous federal fiscal year.

Agencies between 50–99 transit-related employees are required to prepare and maintain an EEO program that includes a statement of policy, a dissemination plan, a designation of personnel, an assessment of employment practices, and a monitoring and reporting system. These smaller agencies are not required to conduct a utilization analysis with goals and timetables or to submit the EEO Program to FTA every four years. Instead, these agencies are required to provide the EEO program to FTA if requested by the Office of Civil Rights or for any State Management Review or Triennial Review.

FTA requires each applicant, recipient, subrecipient, or contractor that meets the EEO Program threshold requirements outlined above to submit an updated EEO Program every four years or as major changes occur in the workforce or employment conditions, whichever comes first.

Employs 100 or more transit-related employees AND requests or receives capital or operating assistance more than \$1 million

5. Does the vendor meet the requirements specified in Question 9?

Yes  No

Has the subrecipient obtained the EEO program from the vendor?

Yes  No

## EEO Questions for All Subrecipients

6. Who is responsible for ensuring that EEO obligations are fulfilled on behalf of the vendor?

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7. Has the vendor posted an EEO statement in a conspicuous and accessible place in the workplace?

Yes  No

8. Is the vendor's EEO policy included in personnel policies and/or employee handbook?

Yes  No

9. Are EEO statements included on the vendor's job applications and employment notices/job postings?

Yes  No

10. How does the vendor ensure non-discrimination for ADA-eligible persons in terms of employment?

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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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11. Have any EEO complaints or lawsuits been received?

Yes     No

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

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Did the vendor report the complaint or lawsuit to the subrecipient?

Yes     No

**EEO Questions for Vendors That Must Submit EEO Programs**

12. Has the EEO program been submitted to the subrecipient?

Yes     No

13. Does the EEO program contain the required elements?

Yes	No	Required List Elements
Required for all submitters:		
<input type="checkbox"/>	<input type="checkbox"/>	Statement of policy
<input type="checkbox"/>	<input type="checkbox"/>	Plan for internal and external dissemination of the program

Yes	No	Required List Elements
<input type="checkbox"/>	<input type="checkbox"/>	Designation of appropriate personnel responsible for carrying out the EEO program, including the designation of an EEO Officer
<input type="checkbox"/>	<input type="checkbox"/>	Assessment of the recipient's employment practices
<input type="checkbox"/>	<input type="checkbox"/>	Plan for monitoring and reporting on the EEO program

## Disadvantaged Business Enterprise (DBE)

IndyGo is committed to a civil rights program that includes the participation of Disadvantaged Business Enterprises (DBEs) in contracting opportunities. IndyGo has established a DBE program in accordance with U.S. DOT regulations 49 CFR part 26.

Recipients receiving planning, capital, and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) exceeding \$250,000 in FTA funds in a federal fiscal year must submit a DBE program.

Subrecipients do not need their own, independent DBE programs or overall goals, since the primary recipient's (IndyGo's) DBE program and overall goals cover the FTA-assisted contracting activities of the recipients. IndyGo has assumed responsibility for recipient procurement activity in establishing its own DBE goals; therefore, recipients need not submit their own DBE program to IndyGo.

If the subrecipient does not meet the DBE threshold, other requirements still apply, such as the submission of periodic reports to IndyGo. The subrecipient will rely on their contractor to report DBE participation. The subrecipient will use the information provided by the contractor to be able to complete the required reports to IndyGo.

14. If the vendor utilizes a DBE, has the vendor properly counted and reported the expenditure to the subrecipient?

Yes     No

## Section 6. Americans with Disabilities Act (ADA)

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Under U.S. Department of Transportation (USDOT) Americans with Disabilities Act of 1990 (ADA) regulations, public and private transportation providers are required to operate services in a way that does not discriminate against persons with disabilities. The regulations include general nondiscrimination provisions that apply to all types of agencies and services. Some provisions apply to only certain types of agencies and services. For example, public fixed route vendors are required to

make on-board stop announcements to keep riders oriented to their location. They are also required to have a system in place at stops served by multiple routes that allows riders to identify the bus they need to catch, or drivers to identify which riders are waiting to catch their bus. Public fixed route vendors also must provide ADA complementary paratransit service to individuals who cannot use the fixed route due to a disability.

Commuter bus service is exempted from this requirement. As defined in 49 CFR part 37.3, commuter bus service is “characterized by service predominantly in one direction during peak periods, limited stops, use of multi-ride tickets, and routes of extended length, usually between the central business district and outlying suburbs. Commuter bus service may also include other service, characterized by a limited route structure, limited stops, and a coordinated relationship to another mode of transportation.” Similarly, intercity bus service may resemble commuter bus service in that there is no attempt to comprehensively cover a service area, it has a limited route structure, limited origins and destinations, and limited purposes of travel, and therefore, the obligation to provide ADA complementary paratransit may not apply. However, other relevant requirements of 49 CFR parts 27, 37, and 38 do apply to intercity bus service.

When a public entity enters into a contract or other arrangement or relationship (including grants or subgrants) with a private entity to operate fixed route or demand-responsive service, the public entity shall ensure that the ADA obligations are met, including any ADA complementary paratransit requirements (49 CFR part 37.23). The nature of the arrangement between the public entity and the private intercity vendor would determine whether 49 CFR part 37.37 or 49 CFR part 37.23 applies.

### **Documents for Review:**

- Service brochures and other system information made available to the public
- Driver handbooks or other operating policy documents
- Copy and description of fare structure employed by the recipient
- ADA-related service and operating policies
- Copies of any complaints filed against the recipient alleging discrimination on the basis of disability in service delivery (filed within last year) along with a statement of resolution/outcome
- Complementary paratransit application and guidelines (if applicable)
- Copy and description of fare structure employed by the recipient
- Suspension policies (if any)

## **Service Classification**

Compliance responsibilities will vary depending on the type of transportation service provided by the vendors. Several types of service that are particularly relevant are:

**Fixed route service** means a system of transporting individuals (other than by aircraft), including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including, but not limited to, specified public transportation service, where a vehicle is operated along a prescribed route according to a fixed schedule.

**Commuter bus service** means fixed route bus service that is characterized by service predominantly in one direction during peak periods, limited stops, use of multi-ride tickets, and routes of extended length, usually between the central business district and outlying suburbs. Commuter bus service may also include other service, characterized by a limited route structure, limited stops, and a coordinated relationship to another mode of transportation. **As of October 2021, none of the subrecipients provides commuter bus service, therefore, this type is not addressed in this guide.**

**Demand responsive service** means any system of transporting individuals, including the provision of designated public transportation service by public entities and the provision of transportation service by private entities, including but not limited to specified public transportation service, which is not a fixed route system.

**Route deviation, point deviation, or flex-bus service** may have a prescribed route, but allows for on-request deviations off of prescribed routes. This service type is considered a type of demand responsive service if the on-request, off-route deviations are available to all riders. If off-route deviations are made only for certain individuals, such as persons with disabilities, the service is considered fixed route. **As of October 2021, only Johnson County provides route deviation service.**

**ADA complementary paratransit** is a specific type of demand responsive service that is required of public entities that provide non-commuter fixed route service. **As of October 2021, only Johnson County provides ADA complementary paratransit.**

1. Evaluate the scope of services and determine all modes of service operated by the recipient. For each recipient, check all the primary and sub-modes that apply:

- Fixed route
  - Non-commuter bus
  - Commuter bus
  - Inter-city bus
  - Route/point deviation with deviations limited to certain riders
- Demand Response
  - ADA complementary paratransit
  - Route/point deviation with deviations for the public
  - Other demand responsive service

## Nondiscrimination - All Providers

No entity shall discriminate against an individual with a disability in connection with the provision of transportation service. Except for very specific circumstances, service policies cannot keep individuals with disabilities from benefiting equally from the transportation services provided. Possible exceptions are if providing the service would fundamentally change the nature of the service provided (e.g., exclusive ride versus shared-ride), or if providing the service would present a “direct threat” (i.e., a safety threat to **others**, not the person with the disability). Examine all public information related to the transportation services provided, including rider guides, operating policies and procedures, service bulletins, employee training materials, etc. for any policies or requirements that could discriminate against or limit service to persons with disabilities.

It is not discrimination under this part for an entity to refuse to provide service to an individual with disabilities because that individual engages in violent, seriously disruptive, or illegal conduct, or represents a direct threat to the health or safety of others. However, an entity shall not refuse to provide service to an individual with disabilities solely because the individual’s disability results in appearance or involuntary behavior that may offend, annoy, or inconvenience employees of the entity or other persons.

2. Following are examples of common policies that discriminate against persons with disabilities. Determine if the vendor engages in any of these actions, or has any other policies that discriminate:

Yes	No	Requirement
<input type="checkbox"/>	<input type="checkbox"/>	Does the vendor have policies that impose any special charges for individuals with disabilities, including wheelchair users?
<input type="checkbox"/>	<input type="checkbox"/>	Does the vendor deny service to any individual because its insurance company conditions coverage or rates?
<input type="checkbox"/>	<input type="checkbox"/>	Does the vendor require that wheelchairs have working brakes, be “in good working condition,” or place any other restrictions on mobility devices? (Exception: a situation that poses a “direct threat to others.”)
<input type="checkbox"/>	<input type="checkbox"/>	Does the vendor have policies that suggest a denial of service for rude behavior, swearing, or other behaviors that do not rise to illegal or seriously disruptive?
<input type="checkbox"/>	<input type="checkbox"/>	Does the vendor <b>require</b> individuals with disabilities to use designated priority seats?
<input type="checkbox"/>	<input type="checkbox"/>	Does the vendor require persons traveling in securement areas to wear seat belts or shoulder straps when all other passengers do not have the same requirement?
<input type="checkbox"/>	<input type="checkbox"/>	Does the vendor require wheelchair users to wear a body belt when traveling up and down on the lift?
<input type="checkbox"/>	<input type="checkbox"/>	Does the vendor policy prohibit respirators or portable oxygen supplies (Exception: items that are prohibited under applicable DOT rules on the



Yes	No	Requirement
<input type="checkbox"/>	<input type="checkbox"/>	transportation of hazardous materials—49 CFR subtitle B, chapter 1, subchapter C.)
<input type="checkbox"/>	<input type="checkbox"/>	Does the vendor have any other policy that could discriminate against persons with disabilities?
<input type="checkbox"/> Yes	<input type="checkbox"/> No	

Individuals with disabilities must be allowed to travel with attendants. Attendants cannot be required except if service could otherwise be refused for illegal, violent, or seriously disruptive behavior.

## Demand Response Systems

If subrecipients operating demand response services plan to purchase vehicles that are not accessible, they must first make a determination that the services they will be providing (after the purchase of the inaccessible vehicle or vehicles) are “equivalent.” Therefore, if subrecipients have inaccessible vehicles as part of their fleet that were purchased since the issuance of the regulations, the services they provide must be “equivalent.” Equivalency is defined by specific criteria (noted below).

If all the vehicles in a demand responsive vehicle fleet are fully accessible, the equivalent service standards (summarized in Questions 6 – 13) do not apply.

3. **Service Area:** Consider the service area and how accessible and inaccessible vehicles are distributed throughout the area. Are persons with disabilities who need an accessible vehicle able to travel throughout the area on an equivalent basis to all other riders?

Yes     No

4. **Response Time:** Consider the advance notice requirement to use the service. If accessible vehicles are operated separate from or different from inaccessible vehicles, consider the advance notice required for use of each type of vehicle. Is the same (or lesser) advance notice required of riders with disabilities who need and use accessible vehicles?

Yes     No

5. **Fares:** Consider the fares charged for the service. Note if there are different costs to riders who need and use accessible vehicles versus those who can use inaccessible vehicles. Is the fare the same (or lower) for riders with disabilities who need to use accessible vehicles?

Yes     No

6. **Days and Hours:** Consider the days and hours of service operation. Note if there are any differences in days and hours based on the accessibility of the vehicles. Are the days and hours the same (or more) for riders with disabilities who need and use accessible vehicles?

Yes     No

7. **Trip Purpose:** Consider the types of trips that are provided by the entity. Note if there are any differences in policy about trip purposes for service provided with accessible versus inaccessible vehicles. Are riders with disabilities able to travel for the same purposes (or more) than riders who do not need accessible vehicles?

Yes     No

8. **Capacity Constraints (Part 1):** Consider if trip requests are sometimes denied for lack of capacity, or if waiting lists or trip caps are employed due to capacity limitations. Examine trip denial records, waiting lists, or other documentation to determine if riders with disabilities who need to use accessible vehicles are denied or wait-listed more frequently than other riders.

Note what information or data the system develops and uses to compare the level of trip denials, waitlists, or trip caps for riders with disabilities and for other riders to allow for this type of comparison and analysis.

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**Capacity Constraints (Part 2):** Examine records of service quality (on-time performance, onboard ride times). Consider if there are differences in service quality for trips provided to riders who need to use accessible vehicles versus other riders. Consider if the number and percentage of accessible vehicles in the system suggests that there could likely be problems responding to late trips in an equivalent way throughout the service area. Do riders with disabilities, including riders who need to use accessible vehicles receive the same (or better) level of service?

Yes     No

Note what information or data the system develops and uses to compare the level of service (on-time performance, onboard ride times) for riders with disabilities and for other riders to allow for this type of comparison and analysis.

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9. **Information and Reservations Capacity:** Consider the service information that is provided and the trip reservations capacity (hours of call-taking, accessibility of information, and phone services). If information and reservations are different for those using accessible versus inaccessible vehicles, note the differences. Are information and communication provided in accessible formats, and are riders with disabilities who need an accessible vehicle able to get information and reservation assistance equivalently?

Yes     No

## Route/Point Deviation Systems – Demand Response

10. Are off-route deviations provided for all riders?

Yes     No

If Yes, answer Questions 11- 15 below. If No, the system does not qualify as demand responsive and must be evaluated as a fixed route system. The fixed route section of the field guide should be completed. ADA complementary paratransit service must also be provided and that section of the checklist must be completed.

11. Are off-route deviations provided throughout the defined service area all along the route?

Yes     No

12. Do riders who request deviations experience the same “response time” as riders who walk to stops to use the service (i.e., advance reservation for deviations equal to the route headway)?

Yes     No

13. Are off-route deviations accepted during all days and hours that the service is operated?

Yes     No

14. Do riders who request deviations experience the same “capacity constraints” as riders who walk to stops to use the system (i.e., no trip denials, the same on-time performance, and onboard ride time)?

Yes     No

15. In the opinion of the reviewer, based on the description of services and responses to the questions above, are deviation services well designed, and do they result in customer-centric services with few or no trip denials?

Yes     No

## Fixed Route Systems – Fixed Route Services

16. Does the material indicate that stops are to be announced at transfer points with other fixed routes, other major intersections and destination points, and intervals along a route sufficient to permit individuals with visual impairments or other disabilities to be oriented to their location?

Yes     No

If Yes, does the material indicate that stops are to be announced anytime at the request of a passenger with a disability?

Yes     No

**Vehicle Identification System Information:** Examine policies and training materials related to vehicle identification (*e.g.*, external vehicle/route announcements). Does the material require that drivers make external announcements at all stops served by more than one route?

Yes     No

Are these announcements to be made any time there are waiting passengers and not just when there is a passenger that the driver feels has a vision disability (*e.g.*, white cane or service animal)?

Yes     No

## Complementary Paratransit

This portion of the guide should be completed if the vendor operates any non-commuter fixed route services, or if route/point deviation services are operated where off-route deviations are made only for some riders (not all riders).

17. Does the vendor provide fixed route services that require the provision of complementary paratransit service?

Yes     No

**If No, skip this section and continue with Question 42. Otherwise, continue with this section.**

18. Does the vendor have a process for certifying the eligibility of persons for complementary paratransit services?

Yes     No

Is this function performed in-house or contracted to a third party?

In-House     Third-Party Contractor

Describe the method used to determine eligibility.

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19. Is information concerning the application process available in alternative formats upon request?

Yes     No

20. Is ADA paratransit service provided, at a minimum, to all areas within three-quarters of a mile of non-commuter fixed routes? (Examine public information describing the ADA paratransit service. Compare any service area maps to maps of fixed routes.)

Yes     No

Are small areas surrounded by service corridors also served?

Yes     No

Does the ADA paratransit service area cross all boundaries unless there is a specific legal bar prohibiting agency vehicles from crossing a boundary?

Yes     No

21. Can trip requests be made on a “next day” basis on all days that precede a day of service (including Sundays and holidays)? (Examine public information describing the ADA paratransit service. Note the advance notice requirements and the days and hours of trip reservations.)

Yes     No

Are trip reservations taken during typical administrative business hours?

Yes     No

22. Are ADA paratransit fares no more than twice the base adult fixed route fares?

Yes     No

**Note:** consider all fixed routes, including any free shuttle or circulators that may exist. Examine public information describing the ADA paratransit service. Compare ADA paratransit fares to base, non-discounted adult fares on the fixed route service.

23. Is ADA paratransit service provided, at a minimum, during all the days and hours that fixed route service is provided? (Examine public information describing the ADA paratransit service. Compare the days and hours of operation to the earliest pickup times and latest drop-off times on all fixed route schedules.)

Yes     No

24. Does public information describing the ADA paratransit service indicate that all trip purposes are served?

Yes     No

Are all trip requests taken and scheduled the same, without trip purpose priorities?

Yes     No

25. Does the vendor have a goal to have zero trip denials? (Examine recent service delivery data, particularly trip denials, missed trips, on-time pickup and drop-off performance, onboard ride times, and telephone hold times. Also, examine how each of these measures of performance is defined and the goal or standard for each.)

Yes     No

Are trips with pickups more than one hour from the time requested counted as trip denials?

Yes     No

26. When the vendor makes changes to its fixed route services, are corresponding changes made to the complementary paratransit service?

Yes     No

27. Are ADA complementary paratransit eligibility decisions made within 21 days of receipt of a complete application? Examine the log of recent determinations (or a sample of files). What percent of determinations take longer than 21 days from receipt of a complete application?

Time Frame	Response
Percent Fewer than 21 Days	_____
Percent Greater than 21 Days	_____

Does public and/or application information indicate that if determinations are not made within 21 days that service will be provided until a determination is made?

Yes     No

If some determinations take longer than 21 days, is presumptive eligibility granted and service provided until a determination is made?

Yes     No

28. Are persons whose eligibility is limited (denied, conditioned, only temporary) given a written statement with specific reasons for the denial (not a standard statement or statement that person “can use fixed route”) and a notice of their right of appeal?

Yes     No

29. Does the appeals process adhere to DOT ADA regulations (opportunity to be heard, separation of function, decision within 30 days, and written notification of the decision, with a reason for it)?

**Note:** Concerning the “opportunity to be heard,” a request for appeal can be required to be in writing, but appellants cannot be required to submit in writing the reasons for their appeal or why they feel the decision was not correct. This type of information can be provided if the appellant chooses but can’t be required.

Yes     No

If appeals are not decided within 30 days of being heard, is presumptive eligibility granted and service provided until a decision is made?

Yes     No

Are appeals heard and decided by an individual or individuals who have not been involved in the initial decision, and who do not have a direct line of authority to those who made the initial decision (i.e., separation of authority)?

Yes     No

30. Does the service operate without a substantial number of trip denials?

Yes     No

Number of denials in last year: \_\_\_\_\_

31. Is the service operated without a waiting list and trip caps?

Yes     No

What is the goal/standard for missed trips? \_\_\_\_\_

32. Are missed trips defined correctly? Missed trips include those where the vendor's error results in an incomplete passenger trip.

Yes     No

Does the service operate without a substantial number of missed trips?

Yes     No

What percentage of scheduled trips were missed in the last year? \_\_\_\_\_

33. Does the service operate without a substantial number of significantly late pickups?

Yes     No

What is the on-time pickup window and the goal/standard for on-time pickups? \_\_\_\_\_

34. What is the on-time pickup window? \_\_\_\_\_

35. How are excessively long trips defined, and what is the goal/standard for on-board travel times?



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36. What is the goal/standard for telephone hold times for reservations and dispatch (if separate)?

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Is this standard reasonable (e.g., average hold times less than one minute, or 95 percent of all calls answered within three minutes)?

Yes     No

Does the service operate without excessive telephone hold times?

Yes     No

## **Personal Care Attendants, Companions, and Visitors**

A Personal Care Attendant (PCA) is someone designated or employed specifically to help the eligible individual meet his or her personal needs. A PCA typically assists with one or more daily life activities such as providing personal care, performing manual tasks, or providing assistance with mobility or communication. PCA assistance is not always needed during a complementary paratransit trip itself; because of the nature of typical PCA functions, it is most likely the services provided by a PCA would be required throughout the day at the passenger's destination.

PCAs are sometimes family members or friends. In some instances, PCAs are other individuals with a disability. This might be an individual with a physical disability who assists someone with a vision disability or who accompanies an individual with an intellectual disability who cannot travel independently.

Vendors are not required to provide a PCA or PCA services to meet the needs of passengers with disabilities on demand response, complementary paratransit, or fixed route trips; it is the responsibility of the passenger to arrange for the services of a PCA. The vendor can request that the PCA board at the same pick-up and drop-off points as the passenger.

The requirement for vendors to transport PCAs without charging a fare only applies to complementary paratransit and not to fixed route or public demand responsive services; however, since travel with a PCA assists the transit systems, it is a best practice for all entities not to charge the PCA a fare.

It is permissible for transit agencies to require riders making trip reservations to indicate that they will be traveling with a PCA or companion.

Vendors must provide complementary paratransit service to individuals with disabilities visiting their area. Visitors are defined as individuals who reside outside an agency's jurisdiction. FTA notes that granting visitor eligibility should be a simple process enabling individuals to contact the entity to learn what is required and then being able to easily meet the requirements. This also means that upon receipt of any required documentation, the vendor must immediately enter the necessary information into any databases or systems to permit visitors to place trip requests. FTA envisions this as a process that can often be completed the same day or no more than one day later.

## Suspensions

A vendor may establish an administrative process to suspend, for a reasonable period of time, the provision of complementary paratransit service to ADA eligible individuals who establish a pattern or practice of missing scheduled trips. FTA defines missed trips and the suspension process in FTA Circular 4710.1, as follows:

- Trips missed by the individual for reasons beyond their control (including, but not limited to, trips that are missed due to vendor error) shall not be a basis for determining that such a pattern or practice exists.
- Before suspending service, the vendor shall take the following steps:
  - Notify the individual in writing that the vendor proposes to suspend service, citing with specificity the basis of the proposed suspension and setting forth the proposed sanction.
  - Provide the individual an opportunity to be heard and to present information and arguments;
  - Provide the individual with written notification of the decision and the reasons for it.
- The appeals process is available to any individual on whom sanctions have been imposed under the vendor's suspension policy. The period of suspension is stayed pending the outcome of the appeal (§ 37.125(h)).

## Passenger Assistance

"Origin-to-destination service means providing service from a passenger's origin to the passenger's destination. A vendor may provide ADA complementary paratransit in a curb-to-curb or door-to-door mode. When an ADA paratransit vendor chooses curb-to-curb as its primary means of providing service, it must provide assistance to those passengers who need assistance beyond the curb in order to use the service unless such assistance would result in a fundamental alteration or direct threat" (49 CFR § 37.3).

Except as provided in this section, complementary paratransit service for ADA paratransit eligible persons shall be origin-to-destination service." (49 CFR § 37.129(a)).

## Subscription Caps

Subscription service is helpful to transit agencies and the riders who receive it. For agencies, such service provides predictability for a portion of their service, so they can assign these trips to vehicle runs in advance. Because riders only have to call once, subscription trips make traveling easier for riders and can lower call volumes for agencies. While subscription service is generally beneficial, requests may need to be reviewed for efficiency. Some trips may run counter to the typical travel flows and may then not be able to be effectively grouped with other requests. In addition, the placement of subscription trips on the most efficient runs may also change over time. An optional good practice is to have schedulers regularly review requests for subscription service and to actively manage subscription trips that have been accepted. Subscription trips are still complementary paratransit trips. Even if transit agencies choose to reserve and schedule certain trips in this way, trips reserved and scheduled on a subscription basis remain subject to the regulatory requirements pertaining to service performance (e.g., agencies must ensure trip lengths are comparable to the fixed route and pickups are timely).

## General Requirements

In addition to specific requirements imposed on public and private entities, there are additional service requirements that may be applicable under the ADA.

Is the vendor's service animal policy consistent with U.S. DOT regulatory requirements? (The policy should not require certification of training and should not inappropriately limit the type of animal—except emotional support or comfort animals, or animals that cannot be trained to assist.)

Yes     No

37. Does the vendor make adequate information concerning transportation services available to individuals with disabilities?

Yes     No

38. Does the vendor “do the best it can” to secure mobility devices, but not deny riders because the mobility devices they are using cannot be secured to the satisfaction of the driver or agency?

Yes     No

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## Reasonable Modification

Amendments to the ADA regulations at 49 CFR part 37.169(a)(1) require transit agencies to respond to requests for reasonable modification of policies and practices, and 49 CFR part 37.169(a)(2) requires agencies to make information about the process for requesting reasonable modifications readily available to the public. When making this information available to the public, a transit agency must use the same means it uses to inform the public about its policies and procedures. For example, if an agency uses printed media and a website to inform customers about bus and complementary paratransit services, then it must use these means to inform people about the reasonable modification process. As stated in the preamble, “like all communications, this information must be provided by means accessible to individuals with disabilities.”

Further, 49 CFR part 37.169(b) requires transit agencies to provide an accessible means by which individuals with disabilities can request a reasonable modification. This element of the rule explains that individuals requesting modifications only need to describe what they need in order to use the service and do not need to use the term “reasonable modification” to request such a modification.

Additionally, a new section (49 CFR § 37.17) was added requiring covered entities to implement a formal complaint procedure, similar to those required for Title VI. This section stipulates that:

“A covered entity must adopt procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part and 49 CFR parts 27, 38, and 39. The procedures shall meet the following requirements:

- The process for filing a complaint, including the name, address, telephone number, and email address of the employee designated under paragraph (a) of this section, must be sufficiently advertised to the public, such as on the entity’s website;
- The procedures must be accessible to and usable by individuals with disabilities;
- The entity must promptly communicate its response to the complaint allegations, including its reasons for the response, to the complainant and must ensure that it has documented its response.”

## Section 7. Charter and School Bus

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### Overview

The FTA was established by the Federal Transit Act, as amended. The Act provided funds for “mass transportation” purposes, defined as: “transportation by bus or rail or other conveyance, either publicly

or privately owned, serving the public (but not including school buses or charter or sightseeing service) and moving over prescribed routes.” This provision illustrates the balance Congress sought to strike between the public and private sectors of the economy. Congress acted to provide federal funding for the continued existence of urban fixed route providers by enacting a capital program to acquire private transit companies and establish new public transportation agencies. The charter services provided by private companies were still profitable; accordingly, Congress excluded charter service from the definition of “mass transportation.”

"Charter service" does not include demand response service to individuals and means:

- (1) Transportation provided by a recipient at the request of a third party for the exclusive use of a bus or van for a negotiated price. The following features may be characteristic of charter service:
  - (a) A third party pays the transit provider a negotiated price for the group;
  - (b) Any fares charged to individual members of the group are collected by a third party;
  - (c) The service is not part of the transit provider’s regularly scheduled service, or is offered for a limited period of time; or
  - (d) A third party determines the origin and destination of the trip as well as scheduling.
  
- (2) Transportation provided by a recipient to the public for events or functions that occur on an irregular basis or for a limited duration and:
  - (a) A premium fare is charged that is greater than the usual or customary fixed route fare;  
or
  - (b) The service is paid for in whole or in part by a third party.

Regulations provide for both exemptions and exceptions to the regulations. FTA excludes recipients of four funding programs (Section 5310, Section 5311, Section 5316, and Section 5317) from charter regulation coverage *if* the service is for “program purposes.” FTA defines this term as: “...*transportation that serves the needs of either human service agencies or targeted populations (elderly, individuals with disabilities, and or low income individuals).*”

No FTA recipient or contract using project equipment is permitted to engage in exclusive school bus operations using buses, facilities, or equipment funded under the Act. Note: FTA considers Head Start to be human service agency transportation (not school bus transportation for purposes of 49 CFR part 605).

### **Documents for Review:**

- Charter reports, last year
- Contracts with all entities that purchase contracted service from the recipient (if available)

1. Does the vendor operate any services that are defined in the federal regulations as exceptions as defined in 49 CFR part 604.5 - 604.11?

Yes     No

If Yes, describe the charter service provided.

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If Yes, does the vendor prepare and submit the requisite charter reports to subrecipient?

Yes     No

Does the vendor have a policy on the retention of charter records?

Yes     No

## Section 8. Drug-Free Workplace Act

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### Overview

Vendors are required to maintain a drug-free workplace for all award-related employees; report any convictions occurring in the workplace timely; and have an ongoing drug-free awareness program. Vendors are required to have and distribute to award-related employees a written drug-free workplace policy as prescribed by the Drug-Free Workplace Act (DFWA).

The vendor is required to have and distribute to award-related employees a written policy that states:

- The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the workplace is prohibited
- Employees must abide by the terms of the policy statement as a condition of employment
- If convicted of a drug statute violation that occurred in the workplace, employees are to report it to the employer in writing no later than five calendar days after such a conviction

The DFWA requirement applies to employees of a vendor directly engaged in the performance of work under the award, including both direct and indirect charge employees as well as temporary employees on the recipient's payroll. If an indirect charge employee's impact or involvement in the performance of

work under the award is insignificant to the performance of the award, then the requirements do not apply to that employee. The requirements do not apply to volunteers, consultants, or independent contractors not on the vendor’s payroll, or employees of recipients or contractors in covered workplaces.

The DFWA policy can be in the FTA drug and alcohol testing policy as long as it is differentiated and it is extended to all applicable employees, not just safety-sensitive employees. These requirements should not be confused with FTA drug and alcohol testing requirements, which apply only to “safety-sensitive” employees as well as contractors and subcontractors with safety-sensitive employees. This requirement does not extend to recipients.

**Documents for Review:**

- Written drug-free workplace policy
- Examples of drug-free awareness notification such as brochures, posters, information on bulletin boards,
- Employee assistance programs
- Number of employees with a drug statute conviction during the review period

Does the written policy state:

Yes	No	Requirement
<input type="checkbox"/>	<input type="checkbox"/>	The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the workplace is prohibited
<input type="checkbox"/>	<input type="checkbox"/>	Employees must abide by the terms of the policy statement as a condition of employment
<input type="checkbox"/>	<input type="checkbox"/>	If convicted of a drug statute violation that occurred in the workplace, employees are to report it to the employer in writing no later than five calendar days after such a conviction

**Miscellaneous Oversight Elements**

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Transit Employee Protective Arrangements

- Vendors are required to post information for employees.

Contract Work Hours and Safety Standards Act

- Vendors are required to follow this regulation concerning work hours for laborers and mechanics, and include the specified language in any subcontracts they enter into.

Background Checks, as stated in RFP (not a Federal requirement)

- Vendor should demonstrate background checks, motor vehicle records checks, and driver's license status for employees.

#### Worker's Compensation, General Liability, and Professional Liability Certificates of Insurance

- Vendor must supply current certificates.

#### OSHA Compliance Requirements

- Vendor must have a written Hazard Communication Program ("HAZCOM") meeting the Federal OSHA Standard 29 CFR 1926.59 or 29 CFR 1910.1200. This program must include provisions for conducting a chemical inventory and developing a list of materials to be used, inspecting and maintaining container labels, providing and maintaining onsite safety data sheets ("SDS") for all materials to be used, employee training, furnishing of personal protection equipment, and provide for emergency responses, hazards of non-routine tasks, multi-contractor sites, and posting.

The vendor must submit a copy of the chemical inventory data and a copy of its safety plan to the subrecipient before the work may begin. The vendor shall be responsible to subrecipient for the payment of any and all penalty fees incurred by subrecipient as a result of any violations.

#### Distracted Driving/Safe Operation of Motor Vehicles

- Vendor should demonstrate distracted driving policy (e.g., no texting while driving).

#### E-Verify

- Vendor must demonstrate that is has enrolled in and verified the work eligibility status of all his/her/its newly hired employees through the E-Verify program as defined in Ind. Code §22-5-1.7-3.

#### NTD Reporting

- The vendor must supply all requested data to the subrecipient for NTD reporting purposes and assist the subrecipient with NTD data entry as agreed upon.