

transferred and in the case of CMAQ for certain operating costs. FTA and FHWA have issued guidance on project eligibility under the CMAQ program in a Notice at 65 FR 9040 *et seq.* (February 23, 2000). In accordance with 23 U.S.C. 104(k), all FTA requirements are applicable to transferred funds except local share—FHWA local share requirements apply. Transferred funds should be combined with regular FTA funds in a single annual grant application.

Transfers From FTA to FHWA. The Metropolitan Planning Organization (MPO) submits a request to the FTA Regional Office for a transfer of FTA section 5307 formula funds (apportioned to an urbanized area 200,000 and over in population) to FHWA based on approved use of the funds for highway purposes, as contained in the Governor's approved State Transportation Improvement Program. The MPO must certify that: (1) The funds are not needed for capital investments required by the Americans with Disabilities Act; (2) notice and opportunity for comment and appeal has been provided to affected transit providers; and (3) local funds used for non-Federal match are eligible to provide assistance for either highway or transit projects. The FTA Regional Administrator reviews and concurs in the request, then forwards the approval to FTA Headquarters, where a reduction is made to the grantee's urbanized area formula apportionment and FTA's National Operating Budget in TEAM-Web, equal to the dollar amount being transferred to FHWA.

For information regarding these procedures, please contact Kristen D. Clarke, FTA Budget Office, at (202) 366-1686; or Richard Meehleib, FHWA Finance Division, at (202) 366-2869.

B. Matching Share for FHWA Transfers

The provisions of Title 23 U.S.C., regarding the non-Federal share apply to Title 23 funds used for transit projects. Thus, FHWA funds transferred to FTA retain the same matching share that the funds would have if used for highway purposes and administered by FHWA.

There are three instances in which a Federal share higher than 80 percent would be permitted. First, in States with large areas of Indian and certain public domain lands and national forests, parks and monuments, the local share for highway projects is determined by a sliding scale rate, calculated based on the percentage of public lands within that State. This sliding scale, which permits a greater Federal share, but not to exceed 95 percent, is applicable to transfers used to fund transit projects in

these public land States. FHWA develops the sliding scale matching ratios for the increased Federal share.

Secondly, commuter carpooling and vanpooling projects and transit safety projects using FHWA transfers administered by FTA may retain the same 100 percent Federal share that would be allowed for ride-sharing or safety projects administered by the FHWA.

The third instance includes the 100 percent Federal safety projects; however, these are subject to a nationwide 10 percent program limitation.

IX. Capital Investment Program (49 U.S.C. 5309)

A. Fixed Guideway Modernization

The formula for allocating the Fixed Guideway Modernization funds contains seven tiers. The apportionment of funding under the first four tiers, through FY 2003, is based on data used to apportion the funding in FY 1997. Funding under the last three tiers is apportioned based on the latest available route miles and revenue vehicle miles on segments at least seven years old, as reported to the NTD.

Table 7 displays the FY 2003 Fixed Guideway Modernization apportionments. Fixed Guideway Modernization funds apportioned for this section must be used for capital projects to maintain, modernize, or improve fixed guideway systems.

All urbanized areas with fixed guideway systems that are at least seven years old are eligible to receive Fixed Guideway Modernization funds. A request for the start-up service dates for fixed guideways has been incorporated into the NTD reporting system to ensure that all eligible fixed guideway data is included in the calculation of the apportionments. A threshold level of more than one mile of fixed guideway is required to receive Fixed Guideway Modernization funds. Therefore, urbanized areas reporting one mile or less of fixed guideway mileage under the NTD are not included.

The FY 2003 DOT Appropriations Act makes \$1,206,506,400 available for Fixed Guideway Modernization, after application of the across-the-board .65 percent reduction. An amount of \$12,065,064 was then reserved for oversight, leaving \$1,194,441,336 available for apportionment to eligible urbanized areas. In addition, prior year funds available for reapportionment in the amount of \$84,033 are added and increase the total amount apportioned to \$1,194,525,369 under Fixed Guideway Modernization. Table 13 contains

information regarding the Fixed Guideway Modernization apportionment formula.

B. New Starts

The amount made available for New Starts by the FY 2003 DOT Appropriations Act is \$1,252,229,548, after application of the across-the-board .65 percent reduction. This amount includes \$45 million (adjusted for the .65 percent reduction) in FY 2003 funds transferred from the Job Access and Reverse Commute Program (JARC) and additional transfers of \$1,015,648 from unobligated 1999 JARC funds, in accordance with language in the FY 2003 DOT Appropriations Act and accompanying Conference Report. Of the \$1,252,229,548 made available \$12,522,295 was reserved for oversight activities, leaving \$1,239,707,253 available for allocations to projects. The final allocation for each New Starts projects is listed in Table 8.

Prior year unobligated allocations for New Starts in the amount of \$483,496,983 remain available for obligation in FY 2003. This amount includes \$464,241,119 in fiscal years 2001 and 2002 unobligated allocations, and \$19,255,864 for fiscal years 1999 and 2000 unobligated allocations that are extended in the FY 2003 Conference Report. These unobligated amounts are displayed in Table 8A.

Capital Investment Program funds for New Starts projects identified as having been extended in the FY 2003 Conference Report accompanying the FY 2003 DOT Appropriations Act will lapse September 30, 2003. A list of the extended projects and the amount that remains unobligated as of September 30, 2002, is appended to Table 8A for ready reference.

C. Bus and Bus-Related

The FY 2003 DOT Appropriations Act provides \$603,253,200 for the purchase of buses, bus-related equipment and paratransit vehicles, and for the construction of bus-related facilities, after application of the across-the-board .65 percent reduction.

TEA-21 established a \$100 million Clean Fuels Formula Program under 49 U.S.C. 5308 (described in section XII below). The program is authorized to be funded with \$50 million from the Bus and Bus-Related category of the Capital Investment Program and \$50 million from the Formula Program. However, the FY 2003 DOT Appropriations Act directs FTA to transfer the formula portion to, and merge it with, funding provided for the Bus and Bus-Related category of the Capital Investment Program. The .65 percent across-the-