

wishes to increase the number of wheelchair accessible over-the-road buses available to persons with disabilities throughout the country, and the purchase of used accessible vehicles, whether or not they were previously funded by FTA, does not further this objective.

FTA has sponsored the development of accessibility training materials for public transit operators. FTA-funded Projected Action is a national technical assistance program to promote cooperation between the disability community and the transportation industry. Project Action provides training, resources and technical assistance to thousands of disability organizations, consumers with disabilities, and transportation operators. It maintains a resource center with the most up-to-date information on transportation accessibility. Project Action may be contacted at: Project Action, 700 Thirteenth Street, NW., Suite 200, Washington, DC 20590, Phone: 1-800-659-6428, Internet address: <http://www.projectaction.org/>.

G. Grant Criteria

FTA will award grants based on:

1. The identified need for over-the-road bus accessibility for persons with disabilities in the areas served by the applicant;
2. The extent to which the applicant demonstrates innovative strategies and financial commitment to providing access to over-the-road buses to persons with disabilities;
3. The extent to which the over-the-road bus operator acquires equipment required by DOT's over-the-road bus accessibility rule prior to the required timeframe in the rule;
4. The extent to which financing the costs of complying with DOT's rule presents a financial hardship for the applicant; and
5. The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of the requirements on service to rural areas and for low-income individuals.

These are the statutory criteria upon which funding decisions will be made. In addition to these criteria, FTA may also consider other factors, such as the size of the applicant's fleet and the level of FTA funding that may already have been awarded to applicants in prior years.

H. Grant Requirements

Applicants selected for funding must include documentation necessary to meet the requirements of FTA's Nonurbanized Area Formula program

(Section 5311 under Title 49, United States Code). Technical assistance regarding these requirements is available from each FTA regional office. The regional offices will contact those applicants selected for funding regarding procedures for making the required certifications and assurances to FTA before grants are made.

Those applicants selected for funding will be required to comply with all of the Federal requirements applicable to the OTRB Accessibility Program, provided in the comprehensive compilation below. Federal requirements apply to the incremental cost of adding wheelchair accessibility features to new vehicles or when retrofitting existing vehicles, not to the entire vehicle. All applicants are advised to read the entire list of requirements to be confident of their responsibilities and commitments for compliance.

The authority for these requirements are provided by the Transportation Equity Act for the 21st Century, Pub. L. 105-178, June 9, 1998, as amended by the TEA-21 Restoration Act 105-206, 112 Stat. 685, July 22, 1998, 49 U.S.C. chapter 53, Title 23, United States Code, DOT and FTA regulations at 49 CFR, and FTA Circulars.

1. Buy America

In the OTRB Accessibility program, FTA's Buy American regulations, 49 CFR part 661, apply to the incremental capital cost of making vehicles accessible. Those regulations do not apply to associated labor costs. The following discussion relates to the contract between the grantee and the prime contractor.

The "General Requirements" found at 49 CFR 661.5 apply to that portion of the accessibility system being funded. That section requires that all of the manufacturing processes for the product take place in the United States and that all components of the product be made in the United States. A component is considered domestic if it is manufactured in the U.S.A., regardless of the origin of its subcomponents. The lift, the moveable seats, and the securement devices will all be considered components for purposes of this program; accordingly, as components, each must be manufactured in the United States. Should a recipient choose to request funding for only a specific component, such as the lift or the securement device, then the Buy America requirements would apply only to that item funded by FTA.

Three exceptions to the general requirements can be found at 49 CFR

661.7: first, a waiver may be requested when the application of the regulation is not in the public interest; second, a waiver may be requested if the materials and products being procured are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; and third, a price differential waiver may be requested where the results of competitive procurement show that there is a 25 percent price difference between the domestic and foreign products. FTA approval of a waiver must be received by the recipient of FTA funds prior to the execution of contract.

It should also be noted that FTA has issued a general public interest waiver for all purchases under the Federal "small purchase" threshold, which is currently \$100,000. This waiver can be found in 49 CFR 661.7, Appendix A(e). In section 3038(b) of TEA-21, Congress authorized FTA financing of the incremental capital costs of compliance with DOT's OTRB accessibility rule. Consistent with this provision, the small purchase waiver applies only to the incremental cost of the accessibility features FTA is funding. Where more than one bus is purchased, the grantee must consider the incremental cost increase for the entire procurement when determining if the small purchase waiver applies. For example, if \$30,000 is the incremental cost for the accessibility features eligible under this program per bus (regardless of the Federal share contribution), then a procurement of three buses with a total such cost of \$90,000, would qualify for the small purchase waiver. No special application to FTA would be required.

The grantee must obtain a certification from the bus manufacturer that all items included in the incremental cost for which the applicant is applying for funds meet Buy America requirements.

The Buy America regulations can be found at <http://www.fta.dot.gov/library/legal/buyamer/>.

2. Labor Protection

Before FTA may award a grant for capital assistance, 49 U.S.C. 5333(b) requires that fair and equitable arrangements must be made to protect the interests of transit employees affected by FTA assistance. Those arrangements must be certified by the Secretary of Labor as meeting the requirements of the statute. When a labor organization represents a group of affected employees in the service area of an FTA project, the employee protective arrangement is usually the product of negotiations or discussions with the