

Federal Certifications and Assurances

for

WisDOT 5310 Grant Awards



Calendar Year 2021

**Prepared by the Wisconsin Department of Transportation
Bureau of Transit, Local Roads, Railroads and Harbors**

May 18, 2021

NOTE: This booklet contains Certifications and Assurances that **must** be submitted for Federal funds.

Background Information

The following Certifications and Assurances have been compiled for Federal Transit Administration (FTA) assistance programs applicable to WisDOT grant applications and awards.

A complete list of Federal Fiscal Year 2021 Annual Certification and Assurances for FTA grants is available at on the FTA website.

The Applicant/Recipient understands and agrees that not every provision of these certifications and assurances will apply to every Applicant/Recipient or every Project or Award for which FTA provides Federal funding. The type of project and the selection of the statute authorizing Federal financial assistance for the project will determine which provisions apply. The terms of these certifications and assurance reflect applicable requirements of FTA's enabling legislation currently in effect.

The Certifications and Assurances have been prepared in light of:

- ✓ Previous legislation that remains in effect, and
- ✓ Appropriations Acts or Continuing Resolutions funding the U.S. Department of Transportation during Federal Fiscal Year 2021.

The Applicant/Recipient understands and agrees that these Certifications and Assurances are *pre-award* requirements, generally imposed by Federal law or regulation, and do not include all Federal regulations that may apply to the Applicant/Recipient or its project. The FTA Master Agreement, which is updated annually and located on FTA's website, contains the current list of most requirements:

Each Applicant/Recipient is ultimately responsible for compliance with the Certifications and Assurances selected on its behalf that apply to its Project or Award, itself, any Subrecipient, or any other Third-Party Participant in its Project, except as FTA determines otherwise in writing.

Instructions:

Step #1: Read each Certification and Assurance.

Step #2: Initial each Certification and Assurance, indicating you have read and understand each one.

Step #3: Sign and date the certification statement.

Step #4: Submit the initialed and signed Certifications and Assurances signature (page 3) to WisDOT.

Step #5: Keep a copy of the Certifications and Assurances signature page and booklet for your records.

2021 FTA Certifications and Assurances

CATEGORY	SUBJECT	Initial or N/A for each
A-1	Standard Assurances	
A-2	Nondiscriminatory Assurances	
A-3	Coronavirus Response and Relief Supplemental Appropriations Act and CARES Act Funding	
A-4	Procurement	
A-5	Suspension and Debarment	
A-6	Tax Liability and Felony Convictions	
A-7	Disadvantaged Business Enterprise (DBE)	
A-8	Lobbying	
A-9	Rolling Stock Buy America Reviews and Bus Testing	
A-10	Transit Asset Management Plan	

Chief Elected or Administrative Official Statement

The undersigned chief elected or administrative official hereby certifies that the Applicant/Recipient has read and understands the Certifications and Assurances initialed in the table above and further assures that, as a condition to receiving Federal financial assistance from the Wisconsin Department of Transportation, the Applicant/Recipient will comply with the requirements as specified in the attached Certifications and Assurances.

The person whose signature appears below is authorized to sign this assurance on behalf of the grant Applicant/Recipient. While an attorney's signature is not required, the Wisconsin Department of Transportation encourages counsel to participate in the review and signature of this document.

Grant Program:	
Grant Applicant/Recipient:	
Signature of Chief Elected or Administrative Official	
Printed Name:	
Date:	

Text in italics is for guidance and does not have the force and effect of law. It is intended only to provide clarity regarding existing requirements under the law or agency policies.

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STANDARD ASSURANCES

These assurances are consistent with U.S. Office of Management and Budget's (OMB) assurances required in U.S. OMB's standard form 424B "Assurances – Non-Construction Programs". This certification has been modified in places to include analogous certifications required by U.S.DOT statutes or regulations.

The Applicant/Recipient assures that it:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763), relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR Part 900, Subpart F).
6. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Uniform Act") (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases. The requirements of the Uniform Act are effectuated by U.S. DOT regulation 49 C.F.R. Part 24.
7. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal Funds.
8. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted constructed subagreements.
9. Will comply, if applicable, with flood insurance purchase requirements of 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurances if the total cost of insurable

construction and acquisition is \$10,000 or more.

10. Will comply with environmental standards which may be prescribed pursuant to the following:
 - (a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514;
 - (b) Notification of violating facilities pursuant to EO 11738;
 - (c) Protection of wetlands pursuant to EO 11990;
 - (d) Evaluation of flood hazards in floodplains in accordance with EO 11988;
 - (e) Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.);
 - (f) Conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.);
 - (g) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and
 - (h) Protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
11. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic river system.
12. Will assist with the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470), EO 11593 (identification and protection of historic priorities), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
13. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
14. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling and treatment of warm-blooded animals held for research, teaching, or other activities supported by this award of assistance.
15. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction, or rehabilitation of residence structures.
16. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 CFR Part 200, Subpart F, "Audit Requirements", as adopted and implemented by U.S. DOT at 2 CFR Part 1201.
17. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the program under which it is applying for assistance.
18. Will comply with the requirements of Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000, as amended (22 U.S.C. §7104) which prohibits grant award recipients or a subrecipient from:
 - i) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect; or
 - ii) Procuring a commercial sex act during the period of time that the award is in effect; or
 - iii) Using forced labor in the performance of the award or subawards under the award.

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NONDISCRIMINATION ASSURANCE

The Applicant/Recipient assures that it will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:

1. Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color, or national origin as effectuated by U.S. DOT regulation 49 C.F.R. Part 21;
2. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex, as effectuated by U.S. DOT regulation 49 C.F.R. Part 25;
3. Section 5332 of the Federal Transit Law (49 U.S.C. § 5332), which prohibits any person being excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance from FTA because of race, color, regional, national origin, sex, disability, or age.
4. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps, as effectuated by U.S. DOT regulation 49 C.F.R. Part 27.
5. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age.
6. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse.
7. The comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism.
8. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records.
9. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing.
10. Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and,
11. The requirements of any other nondiscrimination statute(s) which may apply to the application.

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CORONAVIRUS RESPONSE AND RELIEF SUPPLEMENTAL APPROPRIATIONS ACT, AND CARES ACT FUNDING

The Applicant/Recipient certifies that, to the maximum extent possible, and consistent with the Consolidated Appropriations Act, 2021 (Public Law 116-260):

1. Funds made available under title IV of division M of the Consolidated Appropriations Act, 2021 (Public Law 116-260), and in title XII of division B of the CARES Act (Public Law 116-136; 134 Stat. 599) shall be directed to payroll and operations of public transit (including payroll and expenses of private providers of public transportation); or
2. The Applicant/Recipient certifies that it has not furloughed any employees.

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PROCUREMENT

The Uniform Administrative Requirements, 2 CFR §200.324, allow a recipient to self-certify that its procurement system complies with Federal requirements, in lieu of submitting to certain pre-procurement reviews.

The Applicant/Recipient certifies that its procurement system complies with:

1. U.S. DOT regulations, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 1201, which incorporates by reference U.S. OMB regulatory guidance, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 CFR part 200, particularly 2 CFR §200.317-200.326 "Procurement Standards";
2. Federal laws, regulations, and requirements applicable to FTA procurements; and
3. The latest edition of FTA Circular 4220.1 and other applicable federal guidance.

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SUSPENSION AND DEBARMENT

Pursuant to Executive Order 12549, as implemented at 2 CFR Parts 180 and 1200, prior to entering into a covered transaction with an Applicant/Recipient FTA must determine whether the Applicant/Recipient is excluded from participating in covered non-procurement transactions. For this purpose, FTA is authorized to collect a certification from each Applicant/Recipient regarding its exclusion status 2 CFR §180.300. Additionally, each Applicant/Recipient must disclose any information required by 2 CFR §180.335 about the Applicant/Recipient and its principals prior to entering into an award agreement with FTA. This certification serves both purposes.

Suspension and Debarment

The Applicant/Recipient certifies that to the best of its knowledge and belief that, it, and each of its principals:

1. Is not presently debarred, suspended, proposed for debarment, declared ineligible, voluntarily or involuntarily excluded from covered transactions by and Federal department or agency;
2. Has not, within the preceding three-years, been convicted of or had a civil judgment rendered against him or her for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or commission of any other offense indicating a lack of business integrity or business honesty;
3. It is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any offense listed in the preceding section of this certification;
4. Has not, within the preceding three years, had one or more public transactions (Federal, State, or local) terminated for cause or default.

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TAX LIABILITY AND FELONY CONVICTIONS

If the Applicant/Recipient is a business association (regardless of for-profit, not for-profit, or tax-exempt status), it must make this certification. Federal appropriations acts since at least 2014 have prohibited FTA from using funds to enter into an agreement with any corporation that has unpaid Federal tax liabilities or recent felony convictions without first considering the corporation for debarment. E.g., Consolidated Appropriations Act, 2021, Pub. L. 116-260, div. E, title VI, §§ 744-745. U.S. DOT Order 4200.6 defines a "corporation" as "any private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association", and applies the restriction to all tiers of subawards. As prescribed by U.S. DOT Order 4200.6, FTA requires each business association Applicant/Recipient to certify as to its tax and felony status.

If the Applicant/Recipient is a private corporation, partnership, trust, joint-stock company, sole proprietorship, or other business association, the Applicant/Recipient certifies that:

1. It has no unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
2. It has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months.

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DISADVANTAGED BUSINESS ENTERPRISE (DBE)

The Applicant/Recipient will adhere to the following assurance language:

Disadvantaged Business Enterprise (DBE) provisions apply to U.S. DOT (including FTA) assisted contracts. As a recipient of FTA planning, capital, and/or operating assistance with contracting opportunities in excess of \$250,000 (excluding transit vehicle purchases), WisDOT has a written Transit DBE Program Plan to address the requirements. The WisDOT Transit DBE program addresses FTA funded contracting activities conducted by WisDOT as well as those of its subrecipients.

As a subrecipient of FTA assistance, the DBE requirements apply to subrecipients. The following assurance per 49 CFR Part 26.13(a) applies to subrecipient grant agreements:

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of U.S. DOT- assisted contracts. The recipient's DBE Program, as required by 49 CFR Part 26 and as approved by U.S. DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the U.S. DOT may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer to the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. § 3801 et seq.).

LOBBYING

If the Applicant/Recipient will apply for a grant or cooperative agreement exceeding \$100,000, or a loan, line of credit, loan guarantee, or loan insurance exceeding \$150,000, it must make the following certification and, if applicable, make a disclosure regarding the Applicant/Recipient's lobbying activities. This certification is required by 49 C.F.R. § 20.110 and app. A to that part.

This certification does not apply to an Applicant/Recipient that is an Indian Tribe, Indian organization, or an Indian tribal organization exempt from the requirements of 49 C.F.R. Part 20.

Certification for Contracts, Grants, Loans, and Cooperative Agreements.

The Applicant/Recipient certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance.

The Applicant/Recipient states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ROLLING STOCK BUY AMERICA REVIEWS AND BUS TESTING

Rolling Stock Buy America Reviews.

If the Applicant/Recipient will apply for an award to acquire rolling stock for use in revenue service, it must make this certification. This certification is required by 49 C.F.R. § 663.7.

The Applicant/Recipient certifies that it will conduct or cause to be conducted the pre-award and post-delivery audits prescribed by 49 C.F.R. Part 663 and will maintain on file the certifications required by Subparts B, C, and D of 49 C.F.R. Part 663.

Bus Testing.

If the Applicant/Recipient will apply for funds for the purchase or lease of any new bus model, or any bus model with a major change in configuration or components, the Applicant/Recipient must make this certification. This certification is required by 49 C.F.R. § 665.7.

The Applicant/Recipient certifies that the bus was tested at the Bus Testing Facility and that the bus received a passing test score as required by 49 C.F.R. Part 665. The Applicant/Recipient has received or will receive the appropriate full Bus Testing Report and any applicable partial testing reports before final acceptance of the first vehicle.

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TRANSIT ASSET MANAGEMENT PLAN

If the Applicant/Recipient owns, operates, or manages capital assets used to provide public transportation, the following certification is required by 49 U.S.C. § 5326(a).

The Applicant/Recipient certifies that it is in compliance with 49 C.F.R. Part 625.