

must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption and the regulatory provision from which the exemption is granted. The notice must specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

### III. Encore's Request

Encore seeks an exemption from the requirement in 49 CFR 393.25(e) that all exterior lamps (both required lamps and any additional lamps) be steady-burning, except for turn signal lamps, hazard warning signal lamps, school bus warning lamps, amber warning lamps or flashing warning lamps on tow trucks and CMVs transporting oversized loads, and warning lamps on emergency and service vehicles authorized by State or local authorities.

Encore asserts that using the Intellistop module, which pulses the rear clearance, identification, and brake lamps from low-level lighting intensity to high-level lighting intensity 4 times in 2 seconds when the brakes are applied rather than providing steady burning lamps during the first 2 seconds, would enhance rear signal systems. Encore submits that pulsing the rear brake lamps of a CMV may significantly increase visibility and reduce the frequency of rear-end crashes, and thus would maintain a level of safety that is equivalent to, or greater than, the level that the CMV would achieve without the requested exemption.

On October 7, 2022 (87 FR 61133), FMCSA denied Intellistop's application for an industry-wide exemption to allow all motor carriers to operate commercial motor vehicles (CMVs) equipped with Intellistop's module. FMCSA noted that the decision did not preclude individual motor carriers from seeking an exemption from 49 CFR 393.25(e) to

purchase, install, and use Intellistop's device subject to terms and conditions to allow sufficient monitoring of the use of the device. Therefore, consistent with the October 7, 2022, decision, the Agency seeks public comment on Encore's carrier-specific exemption application.

A copy of Encore's application is included in the docket referenced at the beginning of this notice.

### IV. Request for Comments

In accordance with 49 U.S.C. 31315(b), FMCSA requests public comment from all interested persons on Encore's application for a five-year exemption from 49 CFR 393.25(e) to allow the company to operate CMVs equipped with Intellistop's module which pulses the rear clearance, identification and brake lamps from low-level lighting intensity to high-level lighting intensity 4 times in 2 seconds when the brakes are applied.

All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and may be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Larry W. Minor,

*Associate Administrator for Policy.*

[FR Doc. 2023-01602 Filed 1-26-23; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### **FY 2023 Competitive Funding Opportunity: Low or No Emission Grant Program and the Grants for Buses and Bus Facilities Competitive Program**

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of funding opportunity (NOFO).

**SUMMARY:** The Federal Transit Administration (FTA) announces the opportunity to apply for approximately \$1.22 billion in competitive grants under the fiscal year (FY) 2023 Low or No Emission Grant Program (Low-No Program) (Federal Assistance Listing

20.526) and approximately \$469 million in competitive grants under the FY 2023 Grants for Buses and Bus Facilities Program (Buses and Bus Facilities Program) (Federal Assistance Listing 20.526), subject to availability of appropriated funding.

**DATES:** Complete proposals must be submitted electronically through the **GRANTS.GOV** "APPLY" function by 11:59 p.m. Eastern time on April 13, 2023. Prospective applicants should initiate the process by registering on the **GRANTS.GOV** website promptly to ensure completion of the application process before the submission deadline.

**ADDRESSES:** Instructions for applying can be found on FTA's website at <https://www.transit.dot.gov/howtoapply> and in the "FIND" module of **GRANTS.GOV**. The funding opportunity ID is FTA-2023-002-TPM-LWNO for Low-No applications and FTA-2023-003-TPM-BUS for Buses and Bus Facilities applications. Please note, if an applicant is choosing to apply to both programs, the applicant must submit a separate **GRANTS.GOV** package to each opportunity ID. Applicants should also select both programs and respond to all questions needed for both programs on the supplemental form. Mail and fax submissions will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** Either Program may be contacted by email at [FTALowNoBusNOFO@dot.gov](mailto:FTALowNoBusNOFO@dot.gov), or applicants may call Margaretta Veltri, FTA Office of Program Management, at 202-366-5094.

**SUPPLEMENTARY INFORMATION:** As required by Federal public transportation law, Low or No Emission Grant Program funds will be awarded competitively for the purchase or lease of low or no emission vehicles that use advanced technologies for transit revenue operations, including related equipment or facilities. As required by Federal public transportation law, Buses and Bus Facilities Program funds will be awarded competitively to assist in the financing of capital projects to replace, rehabilitate, purchase or lease buses and related equipment, and to rehabilitate, purchase, construct or lease bus-related facilities. Zero-emission projects will include costs for workforce development, unless the applicant certifies funds are not needed for this purpose. In general, projects may include costs incidental to the acquisition of buses or to the construction of facilities, such as the costs of related workforce development and training activities, and project administration expenses. As these two programs have overlapping eligibilities

and must be implemented on the same timeline as required by 49 U.S.C. 5339. FTA is publishing this joint NOFO. Per Federal public transportation law, FTA will award grants for these programs within 75 days after the date this solicitation expires from funds available for award at that time. FTA may award additional funding that is made available to the programs prior to the announcement of project selections.

## Table of Contents

- A. Program Description
- B. Federal Award Information
- C. Eligibility Information
- D. Application and Submission Information
- E. Application Review Information
- F. Federal Award Administration Information
- G. Federal Awarding Agency Contacts
- H. Other Information

### A. Program Description

This is a joint NOFO and announces the availability of FY 2023 funding for both the Low-No and the Buses and Bus Facilities Programs.

Federal public transportation law (49 U.S.C. 5339(c)) authorizes FTA to award grants for low or no emission bus projects through a competitive process, as described in this notice. The Low-No Program provides funding to States (including territories and Washington, DC), local governmental authorities, and tribal governments for the purchase or lease of zero-emission and low-emission transit buses, including acquisition, construction, and leasing of required supporting facilities such as recharging, refueling, and maintenance facilities.

Federal public transportation law (49 U.S.C. 5339(b)) authorizes FTA to award grants for the Buses and Bus Facilities Program through a competitive process, as described in this notice. Grants under this program are for capital projects to replace, rehabilitate, purchase, or lease buses and related equipment, or to rehabilitate, purchase, construct, or lease bus-related facilities.

The Department seeks to fund projects under the Low-No and the Buses and Bus Facilities Programs that reduce greenhouse gas emissions in the transportation sector; incorporate evidence-based climate resilience measures and features; avoid adverse environmental impacts to air or water quality, wetlands, and endangered species; and address the disproportionate negative environmental impacts of transportation on disadvantaged communities, consistent with Executive Order 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619).

In addition, the Department seeks to award projects under the Low-No and

the Buses and Bus Facilities Programs that proactively evaluate whether a project will create proportional impacts to all populations in a project area and increase equitable access to project benefits, consistent with Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009). The Department also seeks to award projects that address equity and environmental justice, particularly for communities that have experienced decades of underinvestment and are most impacted by climate change, pollution, and environmental hazards, consistent with Executive Order 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619).

In addition, the Department intends to use the Low-No and the Buses and Bus Facilities programs to support the creation of good-paying jobs with the free and fair choice to join a union and the incorporation of strong labor standards and training and placement programs, especially registered apprenticeships, in project planning stages, consistent with Executive Order 14025, Worker Organizing and Empowerment (86 FR 22829), and Executive Order 14052, Implementation of the Infrastructure Investment and Jobs Act (86 FR 64335). The Department also intends to use the Low-No and the Buses and Bus Facilities programs to support wealth creation, consistent with the Department's Equity Action Plan, through the inclusion of local inclusive economic development and entrepreneurship such as the utilization of Disadvantaged Business Enterprises, Minority-owned Businesses, Women-owned Businesses, or 8(a) firms.

### B. Federal Award Information

Federal public transportation law (49 U.S.C. 5338(a)(2)(N)) authorizes \$73,056,178 in FY 2023 for the Low-No Program. The 2021 Bipartisan Infrastructure Law (BIL) (enacted as the Infrastructure Investment and Jobs Act, Pub. L. 117–58) provided an additional \$1,029,000,000 in advance appropriations for FY 2023 grants after accounting for the authorized takedown for administrative and oversight expenses and the Office of Inspector General (OIG). The Consolidated Appropriations Act, 2023 appropriated an additional \$49,625,000 for FY 2023 grants after accounting for the authorized oversight takedown, for a total of \$1,151,681,178 for grants under the Low-No program. Further, due to less funding being requested than funding available during the FY 2022 competition for low-emission projects,

\$69,668,939 of FY 2022 Low-No Program funds remain available for award, of which \$69,192,987 are reserved for low-emission projects as required by statute. A grand total of \$1,221,350,117 is being made available for the FY 2023 Low-No Program under this notice. Additional funds made available prior to project selection may be allocated to eligible projects.

As required by Federal public transportation law (49 U.S.C. 5339(c)(5)), a minimum of 25 percent of the amount awarded under the Low-No Program will be awarded to low-emission projects other than zero-emission vehicles and related facilities. As noted above, \$69,192,987 of FY 2022 funding for low-emission projects remains available. This amount, along with the \$287,920,295 low-emission set-aside for FY 2023, totals \$357,113,282 specifically set aside by law for low-emission projects through the Low-No Program in FY 2023.

In FY 2022, the Low-No program received applications for 248 projects requesting a total of \$4,033,245,618. One hundred projects were funded at a total of \$1,105,329,750.

Federal public transportation law (49 U.S.C. 5338(a)(2)(N)) authorizes \$383,544,933 in FY 2023 funds for the Buses and Bus Facilities Program. The Consolidated Appropriation Act, 2023 appropriated an additional \$90,000,000. After the oversight takedown of \$4,099,509, FTA is announcing the availability of \$469,445,424 for the Buses and Bus Facilities Program through this notice. Additional funds made available prior to project selection may be allocated to eligible projects.

As required by Federal public transportation law at 49 U.S.C. 5339(b)(5), a minimum of 15 percent of the amount awarded under the Buses and Bus Facilities Program will be awarded to projects located in rural areas. As required by 49 U.S.C. 5339(b)(8), no single grant recipient will be awarded more than 10 percent of the amount made available. In FY 2022, the program received applications for 282 projects requesting a total of \$3,682,203,133. Fifty projects were funded at a total of \$551,366,311.

An applicant may submit a low or no emissions project to both the Buses and Bus Facilities Program and the Low-No Program, or submit the project only to the Low-No Program or only to the Buses and Bus Facilities Program. Applicants are encouraged to submit projects for consideration under both programs whenever practicable. If a project submitted for consideration under both programs is selected for funding, FTA will exercise its discretion

to determine under which program the project will receive an award. Please note that if submitting to both programs, a separate application package must be submitted to each opportunity ID for the respective program listed on *GRANTS.GOV*. If there are not enough eligible requests for either the low-emission set-aside under the Low-No Program or the rural set-aside under the Buses and Bus Facilities Program, and eligible applications that would qualify under either of those set-asides were submitted only to the other program, FTA may contact such applicants to request additional information in order to consider them under the program for which they would satisfy a statutory set-aside.

FTA may cap the amount a single recipient or State may receive as part of the selection process for either program.

FTA will grant pre-award authority to incur costs for selected projects beginning on the date FY 2023 project selections are announced on FTA's website. Funds are available for obligation for three fiscal years after the fiscal year in which the competitive awards are announced. Funds are available only for eligible costs incurred after announcement of project selections. FTA intends to fund as many meritorious projects as possible.

### C. Eligibility Information

#### 1. Eligible Applicants

Eligible applicants for the Low or No Emission Program include designated recipients, States (including territories and Washington, DC), local governmental authorities, and Indian Tribes. Proposals for funding projects in rural (non-urbanized) areas—defined as any area that has not been designated in the 2010 census, as an “urbanized area” with at least 50,000 in population by the Secretary of Commerce—must be submitted as part of a consolidated State proposal. To be considered eligible, applicants must be able to demonstrate the requisite legal, financial, and technical capabilities to receive and administer Federal funds under this program. Assistance on this requirement is available from FTA's Regional Offices.

Eligible applicants for the Buses and Bus Facilities Program include designated recipients that allocate funds to fixed route bus operators, States (including territories and Washington, DC) or local governmental entities that operate fixed route bus service, and Indian tribes. Eligible subrecipients include all otherwise eligible applicants and also private nonprofit organizations engaged in public transportation.

Except for projects proposed by Indian tribes, all proposals for projects in rural (non-urbanized) areas must be submitted by a State, either individually or as a part of a statewide application. States and other eligible applicants also may submit consolidated proposals for projects in urbanized areas. The submission of a statewide or consolidated urbanized area application does not preclude any other eligible recipients in an urbanized area or in a State from also submitting a separate application. Proposals may contain projects to be implemented by the recipient or its subrecipients.

As permitted under Federal public transportation law (49 U.S.C. 5339(b)(10), (c)(8)), an applicant proposing a low or no emission project under both the Buses and Bus Facilities Program and the Low-No Program, or an applicant proposing only a low or no emission project under the Low-No program, may include partnerships with other entities that intend to participate in the implementation of the project, including, but not limited to, specific vehicle manufacturers, equipment vendors, owners or operators of related facilities, or project consultants. If an application that involves such a partnership is selected for funding, the project will be deemed to satisfy the requirement for a competitive procurement under 49 U.S.C. 5325(a) for the named entities. Applicants are advised that any changes to the proposed partnership will require FTA written approval, must be consistent with the scope of the approved project, and may necessitate a competitive procurement.

#### 2. Cost Sharing or Matching

The maximum Federal share for projects that involve leasing or acquiring transit buses (including clean fuel or alternative fuel vehicles) for purposes of complying with or maintaining compliance with the Clean Air Act (CAA) or the Americans with Disabilities Act (ADA) of 1990 is 85 percent of the net project cost.

The maximum Federal share for the cost of acquiring, installing, or constructing vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the CAA or ADA is 90 percent of the net project cost of such equipment or facilities that are attributable to compliance with the CAA or ADA. The award recipient must itemize the cost of specific, discrete, vehicle-related equipment associated with compliance with the CAA to be

eligible for the maximum 90 percent Federal share for these costs.

The Federal share of the cost of other projects shall not exceed 80 percent.

Eligible sources of match include the following: cash from non-Government sources other than revenues from providing public transportation services; revenues derived from the sale of advertising and concessions; amounts received under a service agreement with a State or local social service agency or private social service organization; revenues generated from value capture financing mechanisms; funds from an undistributed cash surplus; replacement or depreciation cash fund or reserve; new capital; or in-kind contributions. Transportation development credits or in-kind match may be used for local match if identified and documented in the application. Other Federal funds from non-U.S. Department of Transportation sources may only be used as match (Federal fund braiding) if the proposed project is eligible under the other Federal program and the other Federal program providing the matching funds expressly authorizes its funds to fulfill the match requirement of other Federal programs. Learn more about Federal fund braiding at <https://www.transit.dot.gov/regulations-and-programs/ccam/about/coordinating-council-access-and-mobility-ccam-federal-fund>.

#### 3. Eligible Projects

Under the Low-No Program (49 U.S.C. 5339(c)), eligible projects include projects or programs of projects in an eligible area for: (1) purchasing or leasing low or no emission buses; (2) acquiring low or no emission buses with a leased power source; (3) constructing or leasing facilities and related equipment for low or no emission buses; (4) constructing new public transportation facilities to accommodate low or no emission buses; or (5) rehabilitating or improving existing public transportation facilities to accommodate low or no emission buses (49 U.S.C. 5339(c)(1)(B)). As required by Federal public transportation law (49 U.S.C. 5339(c)(5)), FTA will consider only eligible projects relating to the acquisition or leasing of low or no emission buses or bus facilities that make greater reductions in energy consumption and harmful emissions than comparable standard buses or other low or no emission buses. A single application may include both vehicle and facility components, along with associated equipment and workforce development plans.

A low or no emission bus is defined as a passenger vehicle used to provide



public transportation that sufficiently reduces energy consumption or harmful emissions, including direct carbon emissions, when compared to a standard vehicle. The statutory definition includes zero-emission transit buses, which are defined as buses that produce no direct carbon emissions and no particulate matter emissions under any and all possible operational modes and conditions. Examples of zero-emission bus technologies include, but are not limited to, hydrogen fuel-cell buses, battery-electric buses, and rubber tire trolley buses powered by overhead catenaries. All new transit bus models must successfully complete FTA bus testing for production transit buses pursuant to FTA's Bus Testing regulation (49 CFR part 665) in order to be procured with funds awarded under the Low-No Program. All transit vehicles must be procured from certified transit vehicle manufacturers in accordance with the Disadvantaged Business Enterprise (DBE) regulations (49 CFR part 26). The development or deployment of prototype vehicles is not eligible for funding under the Low-No Program.

Eligible projects for the Buses and Bus Facilities Program include capital projects to replace, rehabilitate, purchase, or lease buses, vans, or related equipment; or to rehabilitate, purchase, construct, or lease bus-related facilities regardless of propulsion type or emissions. A single application may include both vehicle and facility components, along with associated equipment and workforce development activities.

Recipients are permitted to use up to 0.5 percent of their requested grant award for workforce development activities eligible under Federal public transportation law (49 U.S.C. 5314(b)), including on-the-job training, labor-management partnership training, and registered apprenticeships, and an additional 0.5 percent for costs associated with training at the National Transit Institute. Supportive services, such as childcare and transportation assistance for participants, may be an eligible use of program funds under 49 U.S.C. 5314(b). FTA will publish clarifying frequently asked questions.

For applicants proposing any project related to zero-emission vehicles (including vehicles, facilities, equipment, etc.) for either program, 5 percent of the total requested Federal amount, including the workforce development activities, but not including additional required local share, must be used for workforce development to retrain the existing workforce and develop the workforce of

the future, including registered apprenticeships and other joint labor-management training programs, as outlined in the applicant's Zero-Emission Transition Plan (see Section E(1)(c) of this notice), unless the applicant certifies via the application that less funding is needed to carry out the Plan. Supportive services, such as childcare and transportation assistance for participants, may be an eligible use of program funds within this 5 percent. FTA will publish clarifying frequently asked questions. Applicants must identify the proposed use of funds for these activities in the project proposal and identify them separately in the project budget. These amounts are additional, not a take-down, from other eligible project expenses. For example, if an application includes a Federal request of \$95,000 for total capital costs of the zero-emission vehicles and associated equipment, an additional Federal request of \$5,000 should be included in the budget for workforce development expenses for a total Federal request of \$100,000. The local share for the vehicles, equipment, and workforce development is in addition to the \$100,000 Federal request. Applicants are encouraged to discuss training needs with their workforce and to develop training plans in collaboration with unions and other workforce representatives, as well as with workforce boards, community colleges, and other workforce organizations. Applicants that propose not to use the full 5 percent available must include an explanation as to why the funds are not needed.

If a single project proposal involves multiple public transportation providers, such as when an agency acquires vehicles that will be operated by another agency, the proposal must include a detailed statement regarding the role of each public transportation provider in the implementation of the project.

## **D. Application and Submission Information**

### **1. Address To Request Application Package**

Applications must be submitted electronically through [GRANTS.GOV](https://www.transit.dot.gov/grants). General information for accessing and submitting applications through [GRANTS.GOV](https://www.transit.dot.gov/howtoapply) can be found at <https://www.transit.dot.gov/howtoapply> along with specific instructions for the forms and attachments required for submission. Mail or fax submissions of completed proposals will not be accepted. A complete proposal submission for each program consists of

two forms: the SF-424 Application for Federal Assistance (available at [GRANTS.GOV](https://www.transit.dot.gov/funding/grants/lowno)) and the supplemental form for the FY 2023 Low-No and Buses and Bus Facilities Programs (downloaded from [GRANTS.GOV](https://www.transit.dot.gov/funding/grants/lowno) or the FTA website at <https://www.transit.dot.gov/funding/grants/lowno>). The same supplemental form will be used to apply to either program or both programs. However, please note that if an applicant is applying to both programs, they must submit the materials through each of the [GRANTS.GOV](https://www.transit.dot.gov/funding/grants/lowno) opportunity IDs listed for each program. Failure to submit the information as requested can delay review or disqualify the application.

### **2. Content and Form of Application Submission**

#### **a. Proposal Submission**

A complete proposal submission for each program consists of two forms: (1) the SF-424 Application for Federal Assistance; and (2) the supplemental form for the FY 2023 Low-No and Buses and Bus Facilities Programs. The supplemental form and any supporting documents must be attached to the "Attachments" section of the SF-424. The application must include responses to all sections of the SF-424 Application for Federal Assistance and the supplemental form, unless indicated as optional. The information on the supplemental form will be used to determine applicant and project eligibility for the program, and to evaluate the proposal against the selection criteria described in part E of this notice.

FTA will accept only one supplemental form per SF-424 submission. FTA encourages States and other applicants to consider submitting a single supplemental form that includes multiple activities to be evaluated as a consolidated proposal. If a State or other applicant chooses to submit separate proposals for individual consideration by FTA, each proposal must be submitted using a separate SF-424 and supplemental form.

Applicants may attach additional supporting information to the SF-424 submission, including but not limited to letters of support, project budgets, fleet status reports, or excerpts from relevant planning documents. Applicants for zero-emission projects must attach the fleet transition plan. Any supporting documentation must be described and referenced by file name in the appropriate response section of the supplemental form, or it may not be reviewed.

Information such as applicant name, Federal amount requested, local match amount, description of areas served, etc. may be requested in varying degrees of detail on both the SF-424 and supplemental form. Applicants must fill in all fields unless stated otherwise on the forms. If information is copied into the supplemental form from another source, applicants should verify that pasted text is fully captured on the supplemental form and has not been truncated by the character limits built into the form. Applicants should use both the “Check Package for Errors” and the “Validate Form” validation buttons on both forms to check all required fields on the forms, and ensure that the Federal and local amounts specified are consistent. Applicants should enter their information in the supplemental form (fillable PDF) that is made available on FTA’s website or through the *GRANTS.GOV* application package, and should attach this to the application in its original format. Applicants should not use scanned versions of the form, “print” the form to PDF, convert or create a version using another text editor, etc.

#### b. Application Content

The SF-424 Application for Federal Assistance and the supplemental form will prompt applicants for the required information, including:

- i. Applicant name
- ii. Unique Entity ID (UEI) assigned by *SAM.GOV*
- iii. Key contact information (including contact name, address, email address, and phone)
- iv. Congressional district(s) where project will take place
- v. Project information (including title, an executive summary, and type)
- vi. A detailed description of the need for the project
- vii. A detailed description on how the project will support either Program’s objectives
- viii. Evidence that the project is consistent with local and regional planning documents
- ix. Evidence that the applicant can provide the local cost share
- x. Address all the applicable criteria and priority considerations identified in Section E.
- xi. A description of the technical, legal, and financial capacity of the applicant
- xii. A detailed project budget identifying the amounts requested, amounts of other Federal funds, if any, and amounts of non-Federal funds.
- xiii. An explanation of the scalability of the project

- xiv. Details on the non-Federal matching funds
- xv. A detailed project timeline

Except for the information properly marked as described in Section H, the Department may share application information within the Department or with other Federal agencies if the Department determines that sharing is relevant to the respective program’s objectives.

#### 3. Unique Entity Identifier and System for Award Management (SAM)

Each applicant is required to: (1) be registered in *SAM.GOV* before submitting an application; (2) provide a valid unique entity identifier in its application; and (3) continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by FTA. These requirements do not apply if the applicant has an exemption approved by FTA pursuant to 2 CFR 25.110(c), or is otherwise excepted from registration requirements. FTA may not make an award until the applicant has complied with all applicable unique entity identifier and SAM requirements. If an applicant has not fully complied with the requirements by the time FTA is ready to make an award, FTA may determine that the applicant is not qualified to receive an award and use that determination as a basis for making a Federal award to another applicant.

All applicants must provide a unique entity identifier provided by SAM. Registration in SAM may take as little as 3–5 business days, but since there could be unexpected steps or delays (for example, if there is a need to obtain an Employer Identification Number), FTA recommends allowing ample time, up to several weeks, for completion of all steps. For additional information on obtaining a unique entity identifier, please visit <https://www.sam.gov/>.

#### 4. Submission Dates and Times

Project proposals must be submitted electronically through *GRANTS.GOV* by 11:59 p.m. Eastern time on April 13, 2023. *GRANTS.GOV* attaches a time stamp to each application at the time of submission. Proposals submitted after the deadline will only be considered under extraordinary circumstances not under the applicant’s control. Mail and fax submissions will not be accepted.

Within 48 hours after submitting an electronic application, the applicant should receive an email message from *GRANTS.GOV* with confirmation of successful transmission to *GRANTS.GOV*. If a notice of failed

validation or incomplete materials is received, the applicant must address the reason for the failed validation, as described in the email notice, and resubmit before the submission deadline. If making a resubmission for any reason, include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating this is a resubmission.

FTA urges applicants to submit applications at least 72 hours prior to the due date to allow time to receive the validation messages and to correct any problems that may have caused a rejection notification. *GRANTS.GOV* scheduled maintenance and outage times are announced on the *GRANTS.GOV* website. Deadlines will not be extended due to scheduled website maintenance.

Applicants are encouraged to begin the process of registration on the *GRANTS.GOV* site well in advance of the submission deadline. Registration is a multi-step process, which may take several weeks to complete before an application can be submitted. Registered applicants may still be required to take steps to keep their registrations up to date before submissions can be made successfully. For example, (1) registration in *SAM.GOV* is renewed annually, and (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in *GRANTS.GOV* by the AOR to make submissions.

#### 5. Funding Restrictions

Funds under this NOFO cannot be used to reimburse applicants for otherwise eligible expenses incurred prior to FTA award of a grant agreement until FTA has issued pre-award authority for selected projects. FTA will issue pre-award authority to incur costs for selected projects beginning on the date that project selections are announced. FTA does not provide pre-award authority for competitive funds until projects are selected, and even then, there are Federal requirements that must be met before costs are incurred. FTA will issue specific guidance to awardees regarding pre-award authority at the time of selection. For more information about FTA’s policy on pre-award authority, please see the most recent Apportionment Notice on FTA’s website. Refer to Section C.3., Eligible Projects, for information on activities that are allowable in this grant program. Allowable direct and indirect expenses must be consistent with the Governmentwide Uniform Administrative Requirements and Cost

Principles (2 CFR part 200) and FTA Circular 5010.1E. Funds may not be used to support or oppose union organizing.

#### 6. Other Submission Requirements

All applications must be submitted via the *GRANTS.GOV* website. FTA does not accept applications on paper, by fax, email, or other means. For information on application submission requirements, please see Section D.1. of this notice, Address to Request Application.

### E. Application Review Information

#### 1. Criteria

Projects will be evaluated primarily on the responses provided in the supplemental form. Additional information may be provided to support the responses; however, any additional documentation must be directly referenced on the supplemental form, including the file name where the additional information can be found. FTA will evaluate proposals based on the criteria described in this notice.

Applicants are encouraged to identify scaled funding options in case insufficient funding is available to fund a project at the full requested amount. If an applicant indicates that a project is scalable, the applicant must provide an appropriate minimum funding amount that will fund an eligible project that achieves the objectives of the program and meets all relevant program requirements. The applicant must provide a clear explanation of how the project budget would be affected by a reduced award. FTA may award a lesser amount regardless of whether a scalable option is provided.

If an applicant is proposing to deploy autonomous vehicles or other innovative motor vehicle technology, the application should demonstrate that all vehicles will comply with applicable safety requirements, including those administered by the National Highway Traffic Safety Administration (NHTSA) and Federal Motor Carrier Safety Administration (FMCSA). Specifically, the application should show that vehicles acquired for the proposed project will comply with applicable Federal Motor Vehicle Safety Standards (FMVSS) and Federal Motor Carrier Safety Regulations (FMCSR). If the vehicles may not comply, the application should either (1) show that the vehicles and their proposed operations are within the scope of an exemption or waiver that has already been granted by NHTSA, FMCSA, or both agencies or (2) directly address whether the project will require

exemptions or waivers from the FMVSS, FMCSR, or any other regulation and, if the project will require exemptions or waivers, present a plan for obtaining them.

#### a. Demonstration of Need

Since the purpose of these programs is to fund vehicles and facilities, applications will be evaluated based on the quality and extent to which they demonstrate how the proposed project will address an unmet need for capital investment in vehicles and/or supporting facilities. For example, an applicant may demonstrate that it requires additional or improved charging or maintenance facilities for low or no emission vehicles, that it intends to replace existing vehicles that have exceeded their minimum useful life, or that it requires additional vehicles to meet current ridership demands or expand services to better connect underserved communities.

FTA will consider an applicant's responses to the following criteria when assessing the need for capital investment underlying the proposed project:

##### *For bus projects (replacement or expansion):*

For replacement requests, applicants must provide information on the age, condition, and performance of the vehicles to be replaced by the proposed project. Vehicles to be replaced must have met their minimum useful life at the time of project completion. For service expansion requests, applicants must provide information on the proposed service expansion and the benefits for transit riders and the community from the new service. For all vehicle projects, the proposal must address whether the project conforms to FTA's spare ratio guidelines. Vehicles funded under these programs are not exempt from FTA's standard spare ratio requirements, which apply to and are calculated based on the agency's entire fleet. Applicants that are introducing zero-emission vehicles into their fleet may consider including vehicles that have already met their minimum useful life in a contingency fleet, which is not included in the spare ratio calculation. Additionally, applicants who may need to exceed the spare ratio for a temporary period are encouraged to work with their FTA Regional Office to determine what flexibilities may be afforded to them and include reference to that in their application.

##### *For bus facility and equipment projects (replacement, rehabilitation, or expansion):*

For replacement requests, applicants must provide information on the age

and condition of the asset to be rehabilitated or replaced relative to its minimum useful life. For expansion requests, applicants must provide information on the proposed expansion and the reason that transit riders and the community need the expansion.

#### b. Demonstration of Benefits

##### i. Low or No Emissions Program

Applicants to the Low-No Program must demonstrate how the proposed project will support the statutory requirements of the Low-No Program (See 49 U.S.C. 5339(c)(5)(A)). In particular, FTA will consider the quality and extent to which applications demonstrate how the proposed project will: (1) Reduce Energy Consumption; (2) Reduce Harmful Emissions; and (3) Reduce Direct Carbon Emissions.

##### *Reduce Energy Consumption:*

Applicants must describe how the proposed project will reduce energy consumption. FTA will evaluate applications based on the degree to which the proposed technology reduces energy consumption as compared to comparable standard vehicle propulsion technologies.

##### *Reduce Harmful Emissions:*

Applicants must demonstrate how the proposed vehicles or facility will reduce the emission of particulates that create local air pollution, which leads to local environmental health concerns, smog, and unhealthy ozone concentrations. FTA will evaluate the rate of particulate emissions by the proposed vehicles or vehicles to be supported by the proposed facility, compared to the emissions from the vehicles that will be replaced or moved to the contingency fleet as a result of the proposed project, as well as comparable standard buses.

##### *Reduce Direct Carbon Emissions:*

Applicants should demonstrate how the proposed vehicles or facility will reduce emissions of greenhouse gases from transit vehicle operations. FTA will evaluate the rate of direct carbon emissions by the proposed vehicles or vehicles to be supported by the proposed facility, compared to the emissions from the vehicles that will be replaced or moved to the contingency fleet as a result of the proposed project, as well as comparable standard buses.

##### ii. Grants for Buses and Bus Facilities Program

Applicants to the Buses and Bus Facilities Program will be evaluated based on how well they describe how the proposed project will improve the condition of, or otherwise modernize, the transit system; improve the reliability of transit service for its riders;



enhance access and mobility within the service area, particularly for low-income or underserved communities; and expand accessibility for people with disabilities.

**Safety:** FTA will evaluate the potential for projects to provide positive safety benefits for all users, while not negatively impacting safety for all users. Applicants may describe how the project will reduce the frequency of safety events and/or improve the outcomes of safety events.

**System Condition:** FTA will evaluate the potential for replacement projects to improve the condition of the transit system by rehabilitating or replacing assets that are in poor condition or have surpassed their minimum or intended useful life benchmarks. Applicants may describe the benefits of reducing breakdowns and service interruptions; increasing service performance; and/or reducing the cost of maintaining outdated vehicles, facilities and equipment.

**Enhanced Access and Mobility:** FTA will evaluate the potential for expansion projects to improve access and mobility for the transit riding public, particularly for low-income and underserved communities, including improved headways, creation of new transportation choices, or eliminating gaps in the current route network. Proposed benefits should be based on documented ridership demand, based on indicators like area population density, employment served, and existing and planned affordable housing in the corridor, and be well-described or documented through a study or route planning proposal.

Applicants that intend to apply to both programs must submit information that addresses the requirements of both programs as described above.

#### c. Planning and Local or Regional Prioritization

Applicants must demonstrate how the proposed project is consistent with local and regional long-range planning documents and local government priorities. FTA will evaluate applications based on the quality and extent to which the project is consistent with the transit priorities identified in the long-range plan for all proposals; contingency or illustrative projects included in that plan; or the locally developed human services public transportation coordinated plan. Applicants may submit copies of the relevant pages of such plans to support their application. FTA will consider how the project will support regional goals and applicants may submit support letters from local and regional

planning organizations attesting to the consistency of the proposed project with these plans. Applicants are encouraged to also consult DOT's Promising Practices for Meaningful Public Involvement in Transportation Decision-Making at <https://www.transportation.gov/priorities/equity/promising-practices-meaningful-public-involvement-transportation-decision-making>.

Evidence of additional local or regional prioritization may include letters of support for the project from local government officials, public agencies, and non-profit or private sector supporters.

Applicants may also address how the proposed project will impact overall system performance, asset management performance, or specific performance measures tracked and monitored by the applying entity to demonstrate how the proposed project will address local and regional planning priorities.

For applications related to zero-emission vehicles (including vehicles, facilities, equipment, etc.) under either the Low-No or Buses and Bus Facilities programs, applicants are required by law (49 U.S.C. 5339(c)(3)(D)) to submit a Zero-Emission Fleet Transition Plan. This plan must be a separate document from other local or regional planning documents and must: (1) demonstrate a long-term fleet management plan with a strategy for how the applicant intends to use the current application and future acquisitions; (2) address the availability of current and future resources to meet costs for the transition and implementation; (3) consider policy and legislation impacting relevant technologies; (4) include an evaluation of existing and future facilities and their relationship to the technology transition; (5) describe the partnership of the applicant with the utility or alternative fuel provider; and (6) examine the impact of the transition on the applicant's current workforce by identifying skill gaps, training needs, and retraining needs of the existing workers of the applicant to operate and maintain zero-emission vehicles and related infrastructure and avoid the displacement of the existing workforce. FTA has developed resources for applicants regarding the development of this plan which can be found at <https://www.transit.dot.gov/funding/grants/zero-emission-fleet-transition-plan>. For agencies with smaller fleets, a fleet transition plan need not be complex and should be tailored as applicable, but it still must address all six elements. For applications from State departments of transportation, the state may either provide a fleet transition plan that

covers some or all of the subrecipients, attach individual plans developed by the subrecipients, or a combination of both.

#### d. Local Financial Commitment

Applicants must identify the source of the local cost share and describe whether such funds are currently available for the project or will need to be secured if the project is selected for funding. FTA will consider the availability of the local cost share as evidence of local financial commitment to the project. Applicants should submit evidence of the availability of funds for the project; for example, by including a board resolution, letter of support from the State, a budget document highlighting the line item or section committing funds to the proposed project, or other documentation of the source of local funds. FTA will favorably view an applicant that proposes to use grant funds only for the incremental cost of new technologies over the cost of replacing vehicles with standard ~~or proposed technologies~~ **or proposed technologies** on Strategy

FTA will rate projects higher if grant funds can be obligated within 12 months of selection and the project can be implemented within a reasonable time frame. In assessing when funds can be obligated, FTA will consider whether the project qualifies for a Categorical Exclusion (CE), or whether the required environmental work has been initiated or completed for projects that require an Environmental Assessment (EA) or Environmental Impact Statement (EIS) under the National Environmental Policy Act of 1969 (NEPA). As such, applicants should submit information describing the project's anticipated path and timeline through the environmental review process for all proposals, including those that may qualify for a CE. The proposal must state when grant funds can be obligated and indicate the timeframe under which the Metropolitan Transportation Improvement Program (TIP) and Statewide Transportation Improvement Program (STIP) can be amended to include the proposed project.

In assessing whether the proposed implementation plans are reasonable and complete, FTA will review the proposed project implementation plan, including all necessary project milestones and the overall project timeline. For projects that will require formal coordination, approvals, or permits from other agencies or project partners, the applicant must demonstrate coordination with these organizations and their support for the

project, such as through letters of support.

Applicants that have identified a cooperative procurement strategy listed in Section 3019 of the Fixing America's Surface Transportation Act (Pub. L. 114–94; 49 U.S.C. 5325, note) are encouraged to describe the method chosen as part of their implementation plans and how such a cooperative procurement will reduce costs.

For proposals that involve a partnership with a manufacturer, vendor, consultant, or other third party, applicants must identify by name any project partners, including, but not limited to, other transit agencies, bus manufacturers, owners or operators of related facilities, or any expert consultants. Such partnerships are permitted under Federal public transportation law (49 U.S.C. 5339(b)(10), (c)(8)) only for applicants proposing a low or no emission project under both the Buses and Bus Facilities Program and the Low-No Program, or for applicants proposing only a low or no emission project under the Low-No program. FTA will evaluate the experience and capacity of the named project partners to successfully implement the proposed project based on the partners' experience and qualifications. Applicants are advised to submit information on the partners' qualifications and experience as a part of the application. Entities to be involved in the project that are not named in the application must be selected through ordinary procurement processes.

#### f. Technical, Legal, and Financial Capacity

Applicants must demonstrate that they have the technical, legal, and financial capacity to undertake the project.

FTA will review relevant oversight assessments and records to determine whether there are any outstanding legal, technical, or financial issues with the applicant that would affect the outcome of the proposed project. Applicants with outstanding legal, technical, or financial compliance issues from an FTA compliance review or Federal Transit grant-related Single Audit finding must explain how corrective actions taken will mitigate negative impacts on the proposed project.

#### 2. Review and Selection Process

A technical evaluation committee will evaluate proposals based on the published evaluation criteria. FTA may request additional information from applicants, if necessary. Based on the review of the technical evaluation

committee, the FTA Administrator will determine the final selection of projects for program funding. In determining the allocation of program funds, FTA may consider geographic diversity, diversity in the size of the transit systems receiving funding, whether an applicant is from a small urban or rural area or is a tribal government, and the applicant's receipt of other competitive awards. FTA may also consider capping the amount a single applicant may receive.

After applying the above criteria, to address climate change and improve sustainability, FTA will give priority consideration to applications that are expected to create significant community benefits relating to the environment, including those projects that incorporate low or no emission technology or specific elements to address greenhouse gas emissions and climate change impacts. Amongst vehicle applications that include at least twenty zero-emission 40-foot buses, FTA will give priority consideration to applications that identify greater emission reductions. To be considered for priority consideration, vehicle applications for at least twenty zero-emission 40-foot buses must use the FTA FY 2023 Bus and Low-No Emission Reduction Calculator which can be found at <https://www.transit.dot.gov/funding/grants/fy-2023-bus-and-low-no-emission-reduction-calculator>, attach the file, and include the amount of reductions per vehicle in the supplemental form.

FTA will also prioritize a zero-emission project higher than other zero-emission projects if the applicant is able to demonstrate how the proposed project and fleet transition plan support the conversion of the agency's overall fleet to zero emissions.

FTA will also provide priority consideration for applicants that describe how their projects support workforce development, job quality, and wealth creation as follows:

Applicants for facility projects should identify whether they will commit to registered apprenticeship positions and use apprentices on the funded project, sometimes called an apprenticeship utilization requirement (e.g., requiring that a certain percent of all labor hours will be performed by registered apprentices); AND detail partnerships with high-quality workforce development programs with supportive services<sup>1</sup> to help train, place, and retain

<sup>1</sup> Supportive services are critical to help women and people facing systemic barriers to employment be able to participate and thrive in training and employment. Supportive services include childcare, tools, work clothing, application fees and other costs of apprenticeship or required pre-employment

underrepresented communities in jobs and registered apprenticeships on the project; and, for facility projects over \$35 million in total project cost, whether the project will use a Project Labor/Community Workforce Agreement and, for facility projects over \$35 million, whether the recipient commits to participate in the U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) Mega Construction Project Program if selected by OFCCP (see F.2.e. *Federal Contract Compliance*).

To support efficient and cost-effective vehicle procurements, FTA will provide priority consideration to applicants that identify their intent to use a procurement method that reduces customization, such as a joint procurement or procurement using an existing schedule. The applicant should identify the proposed approach, other partners if applicable, and how the procurement approach reduces vehicle customization. FTA will evaluate each project on its own merits and selection of one participant indicating their intent to pursue a joint procurement will be independent of selection of other potential participants. If after selection, the proposed procurement method is no longer feasible due to other selections made, the applicant may proceed with a different methodology.

Among zero-emission applications, FTA will give priority consideration to zero-emission applicants that are able to demonstrate that they have consulted with workforce representatives on all aspects of the workforce section of the fleet transition plan; AND include steps to provide or connect workers to supportive services (such as childcare and transportation assistance); AND identify the use of at least one of the following in their plan (1) use of labor-management partnerships for training; (2) use of registered apprenticeship training to support skilling of incumbent and entry-level workers with focus on using registered apprenticeship to advance Black, Hispanic, Asian American, Native Hawaiian and Pacific Islanders, tribal, women, and other groups facing systemic barriers to employment that may be underrepresented in the current workforce, especially in higher-paying jobs.

FTA will also give priority consideration to projects that support the Justice40 initiative. In support of Executive Order 14008, DOT has been

training, transportation and travel to training and work sites, and services aimed at helping to retain underrepresented groups such as mentoring, support groups, and peer networking.



developing a geographic definition of Historically Disadvantaged Communities as part of its implementation of the Justice40 Initiative. Consistent with OMB's Interim Guidance for the Justice40 Initiative, Historically Disadvantaged Communities include (a) certain qualifying census tracts, (b) any Tribal land, or (c) any territory or possession of the United States. Applicants may use DOT's Transportation Disadvantaged Census Tracts ([arcgis.com](https://arcgis.com)) tool to identify whether the project impact area encompasses disadvantaged communities: <https://usdot.maps.arcgis.com/apps/dashboards/d6f90dfcc8b44525b04c7ce748a3674a>. Use of this map tool is optional; applicants may provide an image of the map tool outputs, or alternatively, consistent with OMB's Interim Guidance, applicants can supply quantitative, demographic data of their ridership demonstrating the percentage of their ridership that meets the criteria described in Executive Order 14008 for disadvantage. Examples of Historically Disadvantaged Communities that an applicant could address using geographic or demographic information include low income, high and/or persistent poverty, high unemployment and underemployment, racial and ethnic residential segregation, linguistic isolation, or high housing cost burden and substandard housing. Additionally, in support of the Justice40 Initiative, the applicant also should identify how they considered the benefits and potential burdens a project may create, who would experience them and how they may be measured over time, with a specific focus on how the benefits and potential burdens will impact underserved/disadvantaged communities; and, identify how the applicant utilized a meaningful public involvement process, inclusive of disadvantaged populations, throughout the lifecycle of a project. For technical assistance using the mapping tool, please contact [GMO@dot.gov](mailto:GMO@dot.gov).

Due to funding limitations, projects that are selected for funding may receive less than the amount originally requested, even if an application did not present a scaled project option. In those cases, applicants must be able to demonstrate that the proposed projects are still viable and can be completed with the amount awarded.

### 3. Integrity and Performance Review

Prior to making an award with a total amount of Federal share greater than the simplified acquisition threshold (currently \$10,000), FTA is required to

review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information Systems (FAPIIS) accessible through SAM. An applicant may review and comment on information about itself that a Federal awarding agency previously entered. FTA will consider any comments by the applicant, in addition to the other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 2 CFR 200.206.

## F. Federal Award Administration Information

### 1. Federal Award Notices

FTA will announce the final project selections on the FTA website. Selectees should contact their FTA Regional Offices for additional information regarding allocations for projects. At the time the project selections are announced, FTA will extend pre-award authority for the selected projects (see Section D.5 of this notice for more information). There is no blanket pre-award authority for these projects before announcement.

### 2. Administrative and National Policy Requirements

#### a. Grant Requirements

If selected, awardees will apply for a grant through FTA's Transit Award Management System (TrAMS). Recipients of funding in urban areas according to the 2010 Census are subject to the grant requirements of the Urbanized Area Formula Grants program (49 U.S.C. 5307), including those of FTA Circular "Urbanized Area Formula Program: Program Guidance and Application Instructions" (FTA.C.9030.1E). Recipients of funding in rural areas according to the 2010 Census are subject to the grant requirements of the Formula Grants for Rural Areas Program (49 U.S.C. 5311), including those of FTA Circular "Formula Grants for Rural Areas: Program Guidance and Application Instructions" (FTA.C.9040.1G). All recipients must accept the FTA Master Agreement and follow FTA Circular "Award Management Requirements" (FTA.C.5010.1E) and the labor protections required by Federal public transportation law (49 U.S.C. 5333(b)). Technical assistance regarding these requirements is available from each FTA regional office.

By submitting a grant application, the applicant assures that it will comply with all applicable Federal statutes,

regulations, executive orders, directives, FTA circulars and other Federal administrative requirements in carrying out any project supported by the FTA grant, including the Davis-Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). Further, the applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with FTA. The applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and may affect the implementation of the project. The applicant agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise. The applicant must submit the Certifications and Assurances before receiving a grant if it does not have current certifications on file.

Applicants for the Buses and Bus Facilities Program are encouraged to utilize the innovative procurement practices found in Section 3019 of the Fixing America's Surface Transportation Act (49 U.S.C. 5325, note). Please see details at <https://www.transit.dot.gov/funding/grants/innovative-procurement-leasing-fact-sheet-section-3019>. If selected for funding, any project that purchases fewer than five buses through a standalone procurement must provide a written explanation why the tools authorized under Section 3019 were not utilized.

As authorized by Section 25019 of the BIL, applicants are encouraged to implement a local or other geographical or economic hiring preference relating to the use of labor for construction of a project funded by the grant, including pre-hire agreements, subject to any applicable State and local laws, policies, and procedures.

#### b. Buy America and Domestic Preferences for Infrastructure Projects

As expressed in Executive Order 14005, 'Ensuring the Future Is Made in All of America by All of America's Workers' (86 FR 7475), the Executive Branch should maximize, consistent with law, the use of goods, products, and materials produced in, and services offered in, the United States. Therefore, all capital procurements must comply with FTA's Buy America requirements (49 U.S.C. 5323(j)), which require that all iron, steel, and manufactured products be produced in the United States. In addition, any award must

comply with the Build America, Buy America Act (BABA) (Pub. L. 117–58, sections 70901–27). BABA provides that none of the funds provided under an award made pursuant to this notice may be used for a project unless all iron, steel, manufactured products, and construction materials are produced in the United States. FTA's Buy America requirements are consistent with BABA requirements for iron, steel, and manufactured products.

Any proposal that will require a waiver of any domestic preference standard must identify the items for which a waiver will be sought in the application. Applicants should not proceed with the expectation that waivers will be granted.

#### c. Civil Rights Requirements

As a condition of a grant award, grant recipients should demonstrate that the recipient has a plan for compliance with civil rights obligations and nondiscrimination laws, including Title VI of the Civil Rights Act of 1964 and implementing regulations (49 CFR part 21), the Americans with Disabilities Act of 1990 (ADA), and Section 504 of the Rehabilitation Act, all other civil rights requirements, and accompanying regulations. This should include a current Title VI plan, completed Community Participation Plan (alternatively called a Public Participation Plan and often part of the overall Title VI program plan), if applicable. DOT's and the applicable Operating Administrations' Office of Civil Rights may work with awarded grant recipients to ensure full compliance with Federal civil rights requirements.

#### d. Disadvantaged Business Enterprise

Recipients of planning, capital, or operating assistance that will award prime contracts (excluding transit vehicle purchases), the cumulative total of which exceeds \$250,000 in FTA funds in a Federal fiscal year, must comply with the Disadvantaged Business Enterprise (DBE) program regulations (49 CFR part 26).

To be eligible to bid on any FTA-assisted vehicle procurement, entities that manufacture transit vehicles or perform post-production alterations or retrofitting must be certified Transit Vehicle Manufacturers (TVM). If a vehicle remanufacturer is responding to a solicitation for new or remanufactured vehicles with a vehicle to which the remanufacturer has provided post-production alterations or retrofitting (e.g., replacing major components such as engine to provide a "like new"

vehicle), the vehicle remanufacturer must be a certified TVM.

The TVM rule requires that, prior to bidding on any FTA-assisted vehicle procurement, manufacturers of transit vehicles submit a DBE Program plan and annual goal methodology to FTA. FTA then will issue a TVM concurrence and certification letter. Grant recipients must verify each manufacturer's TVM status before accepting its bid. A list of compliant, certified TVMs is posted on FTA's website at <https://www.transit.dot.gov/TVM>. Recipients should contact FTA before accepting a bid from a manufacturer not on this list. In lieu of using a certified TVM, a recipient may establish project-specific DBE goals for its vehicle procurement. FTA will provide additional guidance as grants are awarded. For more information on DBE requirements, please contact Monica McCallum, FTA Office of Civil Rights, 206–220–7519, [Monica.McCallum@dot.gov](mailto:Monica.McCallum@dot.gov).

#### e. Federal Contract Compliance

As a condition of grant award and consistent with E.O. 11246, Equal Employment Opportunity (30 FR 12319, and as amended), all Federally-assisted construction contractors are required to make good faith efforts to meet the goals of 6.9 percent of construction project hours being performed by women, in addition to goals that vary based on geography for construction work hours and for work being performed by people of color. Under Section 503 of the Rehabilitation Act and its implementing regulations, affirmative action obligations for certain contractors include an aspirational employment goal of 7 percent workers with disabilities.

The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) is charged with enforcing Executive Order 11246, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974. OFCCP has a Mega Construction Project Program through which it engages with project sponsors as early as the design phase to help promote compliance with non-discrimination and affirmative action obligations. OFCCP may identify construction projects that receive an award under this notice that have a project cost above \$35 million to participate in OFCCP's Mega Construction Project Program. If selected and the applicant agrees to participate, OFCCP will ask selected project sponsors to make clear to prime contractors in the pre-bid phase that award terms may require their participation in the Mega Construction

Project Program. Additional information on how OFCCP makes their selections for participation in the Mega Construction Project Program is outlined under "Scheduling" on the Department of Labor website: <https://www.dol.gov/agencies/ofccp/faqs/construction-compliance>.

#### f. Planning

FTA encourages applicants to notify the appropriate State Departments of Transportation and Metropolitan Planning Organizations (MPOs) in areas likely to be served by the project funds made available under this program. Selected projects must be incorporated into the long-range plans and transportation improvement programs of States and metropolitan areas before they are eligible for FTA funding.

#### 3. Reporting

Post-award reporting requirements include the electronic submission of Federal Financial Reports and Milestone Progress Reports in FTA's electronic grants management system. Recipients of funds made available through this NOFO are also required to regularly submit data to the National Transit Database. Recipients should include any goals, targets, and indicators referenced in their applications in the Executive Summary of the TrAMS application.

FTA is committed to making evidence-based decisions guided by the best available science and data. In accordance with the Foundations for Evidence-based Policymaking Act of 2018 (Evidence Act), FTA may use information submitted in discretionary funding applications; information in FTA's Transit Award Management System (TrAMS), including grant applications, Milestone Progress Reports (MPRs), Federal Financial Reports (FFRs); transit service, ridership and operational data submitted in FTA's National Transit Database; documentation and results of FTA oversight reviews, including triennial and state management reviews; and other publicly available sources of data to build evidence to support policy, budget, operational, regulatory, and management processes and decisions affecting FTA's grant programs.

As part of completing the annual certifications and assurances required of FTA grant recipients, a successful applicant must report on the suspension or debarment status of itself and its principals. If the award recipient's active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of an

award made pursuant to this Notice, the recipient must comply with the Recipient Integrity and Performance Matters reporting requirements described in Appendix XII to 2 CFR part 200.

### G. Federal Awarding Agency Contacts

For further information concerning this notice, please email [FTALowNoBusNOFO@dot.gov](mailto:FTALowNoBusNOFO@dot.gov), or call Margaretta Veltri, FTA Office of Program Management, at 202–366–5094. A TDD is available for individuals who are deaf or hard of hearing at 800–877–8339. In addition, FTA will post answers to questions and requests for clarifications on FTA's website at <https://www.transit.dot.gov/lowno>. To ensure applicants receive accurate information about eligibility or the program, applicants are encouraged to contact FTA with questions directly, rather than through intermediaries or third parties.

For issues with *GRANTS.GOV*, please contact *GRANTS.GOV* by phone at 1–800–518–4726 or by email at [support@grants.gov](mailto:support@grants.gov). Contact information for FTA's regional offices can be found on FTA's website at <https://www.transit.dot.gov/about/regional-offices/regional-offices>.

### H. Other Information

User-friendly information and resources regarding DOT's discretionary grant programs relevant to rural applicants can be found on the Rural Opportunities to Use Transportation for Economic Success (ROUTES) website at <https://www.transportation.gov/rural>.

This program is not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs."

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If an applicant submits information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant must provide that information in a separate document, which the applicant may reference from the application narrative or other portions of the application. For the separate document containing confidential information, the applicant must do the following: (1) state on the cover of that document that it "Contains Confidential Business Information (CBI);" (2) mark each page that contains confidential information with "CBI;" (3) highlight or otherwise denote the confidential content on each page; and

(4) at the end of the document, explain how disclosure of the confidential information would cause substantial competitive harm. FTA will protect confidential information complying with these requirements to the extent required under applicable law. If FTA receives a Freedom of Information Act (FOIA) request for the information that the applicant has marked in accordance with this section, FTA will follow the procedures described in DOT's FOIA regulations at 49 CFR 7.29. Only information that is in the separate document, marked in accordance with this section, and ultimately determined to be confidential will be exempt from disclosure under FOIA.

**Nuria I. Fernandez,**

*Administrator.*

[FR Doc. 2023–01654 Filed 1–26–23; 8:45 am]

**BILLING CODE 4910–57–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### Petition for Exemption From the Federal Motor Vehicle Theft Prevention Standard; Ford Motor Company

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Grant of petition for exemption.

**SUMMARY:** This document grants in full the Ford Motor Company (Ford) petition for exemption from the Federal Motor Vehicle Theft Prevention Standard (theft prevention standard) for its Mustang Mach-E vehicle line beginning in model year (MY) 2024. The petition is granted because the agency has determined that the antitheft device to be placed on the line as standard equipment is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the theft prevention standard. Ford also requested confidential treatment for specific information in its petition. Therefore, no confidential information provided for purposes of this notice has been disclosed.

**DATES:** The exemption granted by this notice is effective beginning with the 2024 model year.

**FOR FURTHER INFORMATION CONTACT:** Carlita Ballard, Office of International Policy, Fuel Economy, and Consumer Programs, NHTSA, West Building, W43–439, NRM–310, 1200 New Jersey Avenue SE, Washington, DC 20590. Ms. Ballard's phone number is (202) 366–5222. Her fax number is (202) 493–2990.

**SUPPLEMENTARY INFORMATION:** Under 49 U.S.C. chapter 331, the Secretary of Transportation (and the National Highway Traffic Safety Administration (NHTSA) by delegation) is required to promulgate a theft prevention standard to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft. NHTSA promulgated regulations at 49 CFR part 541 (theft prevention standard) to require parts-marking for specified passenger motor vehicles and light trucks. Pursuant to 49 U.S.C. 33106, manufacturers that are subject to the parts-marking requirements may petition the Secretary of Transportation for an exemption for a line of passenger motor vehicles equipped with an antitheft device as standard equipment that the Secretary decides is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements. In accordance with this statute, NHTSA promulgated 49 CFR part 543, which establishes the process through which manufacturers may seek an exemption from the theft prevention standard.

49 CFR 543.5 provides general submission requirements for petitions and states that each manufacturer may petition NHTSA for an exemption of one vehicle line per model year. Among other requirements, manufacturers must identify whether the exemption is sought under section 543.6 or section 543.7. Under section 543.6, a manufacturer may request an exemption by providing specific information about the antitheft device, its capabilities, and the reasons the petitioner believes the device to be as effective at reducing and deterring theft as compliance with the parts-marking requirements. Section 543.7 permits a manufacturer to request an exemption under a more streamlined process if the vehicle line is equipped with an antitheft device (an "immobilizer") as standard equipment that complies with one of the standards specified in that section.<sup>1</sup>

<sup>1</sup> 49 CFR 543.7 specifies that the manufacturer must include a statement that their entire vehicle line is equipped with an immobilizer that meets one of the following standards:

(1) The performance criteria (subsection 8 through 21) of C.R.C. c. 1038.114, Theft Protection and Rollaway Prevention (in effect March 30, 2011), as excerpted in appendix A of [part 543];

(2) National Standard of Canada CAN/ULC–S338–98, Automobile Theft Deterrent Equipment and Systems: Electronic Immobilization (May 1998);

(3) United Nations Economic Commission for Europe (UN/ECE) Regulation No. 97 (ECE R97), Uniform Provisions Concerning Approval of Vehicle Alarm System (VAS) and Motor Vehicles with Regard to Their Alarm System (AS) in effect August 8, 2007; or