

**CAMPO
 Job Access Reverse Commute/ New Freedom Grants
 Answers to Pre-Application Workshop Questions
 Pre-Application Workshops Held January 20, 2012**

Q: What is the estimated amount of funding available for these programs?

Funding Available to Austin Urbanized Area¹

	FY 2010	FY 2011	FY 2012 (Est.)	Total
Job Access Reverse Commute	\$425,914	\$467,663	467,663	\$1,361,241
New Freedom	--	\$138,385	\$219,822	\$358,207
Total	\$425,914	\$606,048	\$687,486	\$1,719,448

Q: What are the reporting and other grant management requirements for these programs through Capital Metro?

Capital Metro has developed a Program Management Plan which describes the major reporting and grant management requirements. Reporting and highlights of other requirements can be found on page 13-20:

<http://www.capitalareartcc.org/Capital%20Metro%20JARC-NF%20PMP.pdf>

Note: Capital Metro is in the process of updating the Program Management Plan.

Q: Can subrecipients use HGAC Buy for procurements under the programs?

No. In order to be eligible for Federal funding, procurements must meet all FTA requirements which include a requirement for a competitive bid process, as well as additional third party contracting requirements. FTA has indicated in a recent related FAQ on the topic that they view procurement through HGAC Buy and similar cooperative programs as a sole source procurement which would not typically be allowed. Based on FTA's guidance on the topic, Capital Metro has indicated that they will not allow the use of HGAC Buy in relation to subrecipient purchases where requirements for a "full and open competition" apply. See attached information posted by FTA for more information.

¹ All figures reflect Federal funding available after 10% is deducted for grant administration. FY 2010 and 2011 figures reflect deduction for previously committed funding. FY 2012 is an estimate and assumes FY 2012 apportionment equals FY 2011 apportionment. FY 2010 funding must be obligated by October 1, 2012.

Attachment: Related FTA Guidance on Cooperative Purchase

Source: http://fta.dot.gov/printer_friendly/13057_13723.html

Q. The Tennessee Department of Transportation is applying for a \$600,000 Section 5309 grant on behalf of The Great Smokey Mountains Heritage Foundation (Cades Cove) for the purchase of four 12 Passenger/2 Wheelchair Hybrid buses. We were exploring the possibility of piggy-backing from another state contract, but were unsuccessful in our attempts of locating a state that had this particular vehicle available. After some research, we located the Houston-Galveston Area Council. Their website states that their public competitive procurement process is compliant with state statutes; however it does not mention Federal procurement requirements. I've spoken with a representative of HGCA and he assured me they are compliant with all FTA requirements. When I mentioned piggy-backing, he indicated the contract would not be piggy-backing, because HGAC was considered a cooperative. At your earliest convenience, will you please provide me with some insight, guidance and/or advice on this matter?

A. Recipients of FTA financial assistance are required by both 49 U.S.C. § 5325(a) and the common grant rule (49 C.F.R. § 18.36(c)) to use full and open competition when making purchases. Usually a grantee fulfills this requirement by one of three procurement methods: 1) conducting a standalone procurement for a finite number of vehicles, 2) jointly procuring a finite number of vehicles with one or more grantees, or 3) accepting the assignment of another grantee's contractual right to purchase a finite number of vehicles (aka "piggybacking"). One common requirement in all three methods is that the number of vehicles to be purchased is based on the grantee's actual needs and is advertised with the solicitation. Thus, all respondents to the solicitation can provide a bid price based on the number of vehicles to be purchased as well as other salient factors contained in the solicitation. When the contract is formed, the grantee commits to purchasing vehicles at the agreed upon price and the vendor commits to furnishing the vehicles at that price.

Unfortunately, in the case of the Houston-Galveston Area Council (HGAC) agreement, HGAC did not advertise for a finite number of vehicles. Indeed, the HGAC does not actually purchase any vehicles, as it does not operate a transit system. Thus, the vendors' pricing is not a response to actual grantee needs for vehicles, but appears to be based on an indefinite quantity of vehicles.

While the HGAC agreement does not result in a binding contract to purchase vehicles, it does result in a list of vendor products and prices, similar to catalogs of prices and services that are normally advertised by individual vendors. Under the HGAC agreement, the actual purchase of vehicles is accomplished by HGAC members negotiating with participating vendors and placing purchase orders based on the prices listed in the HGAC agreement. However, given the requirements for full and open competition, FTA grantees are not free to simply place an order with a preferred vendor on a sole source basis based on a vendor's catalog price. This would be a sole source procurement on the part of the grantee rather than a procurement using full and open competition. **(Posted: June, 2011)**

Q. Your posting dated June 2011 regarding cooperative purchasing seems to indicate the purchase of service lifts through state contracts such those in Ohio, Pennsylvania, and New

York, and possibly others, as well as the Western States Contracting Alliance contract does not comply with FTA regulations when the purchase is funded in whole or in part by the FTA. What are the penalties for past transgressions, and how can they be prevented in the future?

A. FTA may require the repayment of any funds spent in violation of the requirements of FTA Circular 4220.1F, but that decision would be made on a case by case basis. As far as avoiding future problems, grantees may not use cooperative purchasing organizations that award open - ended contracts without minimum and maximum quantities, and without federal clauses and certifications. Grantees may, however, use their State GSA type contracts and add federal clauses to those contracts with the first purchase order issued by the grantee. Grantees may also use joint procurements with other grantees where the advertised and contracted quantities represent the needs of the grantee organizations involved, and the contracts otherwise comply with FTA Circular 4220.1F. **(Posted: January, 2012)**