



Atlanta Regional Policy

Allocation and Programming of FTA Section 5339

Bus and Bus Facilities Funds

2019



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Statement of Fact

The Atlanta-region Transit Link Authority (ATL), as the Designated Recipient, in partnership with the Atlanta Regional Commission (ARC), the Metropolitan Planning Organization (MPO), administers the Federal Transit Administration (FTA) Bus and Bus Facilities (Section 5339) formula funds apportioned to the Atlanta Urbanized Area (UZA).

Section 5339 formula funds will be suballocated to eligible recipients in accordance with FTA guidelines, the Atlanta regional planning process, and the Transportation Improvement Program (TIP) development process. State government, local jurisdictions and private nonprofit organizations that operate fixed route bus services are eligible for Section 5339 formula funds. The Designated Recipient and Direct Recipients of both formula and discretionary grants may suballocate funds from Section 5339 to public agencies or private nonprofit organizations engaged in public transportation. The Designated Recipient has the principal administrative responsibility for preparing the Atlanta UZA suballocation schedule, notifying eligible recipients, delivering the schedule to the MPO, and providing the Section 5339 Split Letter to FTA. During the fiscal year, eligible projects within the limits of local allocations will be considered as additions to the Program of Projects (POP) through the regional transit planning process.

The following policy has been developed fairly and rationally through a process that is agreeable to the Designated Recipient and the MPO in accordance with FTA Circular 5100.1, Section IV.

Annual Apportionment Calculation

- (a) One hundred percent (100%) of the total annual apportionment of Section 5339 formula funds shall be allocated to the Designated Recipient. The Designated Recipient will then suballocate the funds to eligible recipients within the Atlanta UZA in accordance with FTA guidelines. Eligible recipients include public transportation authorities, state and local jurisdictions, and governmental entities that are eligible to receive direct grants or operate fixed route bus services under Section 5339.

- (b) In the event that FTA's national apportionment formula changes, the Designated Recipient and the MPO will undertake a re-evaluation of this policy to determine if appropriate changes to the current policy need to be made.

Suballocation Distribution Formula

- a) The suballocation for the Atlanta UZA is determined by applying FTA's national apportionment formula as defined by the Fixing America's Surface Transportation Act (FAST) Act. This formula considers:

- Bus Vehicle Revenue Miles
- Population (most recent Decennial Census)
- Population Density
- Ratio of Passenger Miles x Passenger Miles/Operating Cost

The suballocation will employ the most recent decennial U.S. Census population for the Urbanized Area and the FTA approved National Transit Database (NTD) service measures which were used to determine the national apportionments.

- b) Section 5339 formula funds in the Atlanta Urbanized Area will be sub-allocated to counties operating fixed route bus service directly and to counties with regional transit providers operating service within the county. If a county has both local and regional fixed route bus providers, the local providers shall receive the Section 5339 formula funds based on Population and Population Density. If a county has regional transit service and no local fixed route transit provider, the Section 5339 formula funds based on Population and Population Density will go to the regional transit provider. For the purpose of suballocating Section 5339 funds, a county will be considered as having regional fixed route bus service if a regional transit operator serves a park-and-ride facility and/or bus stops within that county.
- c) The portion of the funds suballocated based on Population and Population Density for Fulton, DeKalb and Clayton counties is suballocated directly to MARTA under existing contract terms. If, in the future, additional counties contract with another Direct Recipient to provide transit service, those counties will have their Population and Population Density funds suballocated according to the negotiated contract terms.
- d) The portion of the funds allocated based on NTD service statistics will be attributed to the entity which reports those statistics to the NTD. In the case of an agency that may contract for service and the contractor reports to the NTD, the funds allocated based on service statistics will be credited to the applicable agency/jurisdiction. If, in the future, additional counties contract with another Direct Recipient to provide transit service, those counties will have their suballocated funds based on NTD service statistics suballocated according to the negotiated contract terms.
- e) Eligible recipients may allocate a portion of their Section 5339 funds to private nonprofit organizations or a "third-party operator" that operates fixed-route bus service within the Atlanta UZA. Private nonprofit organizations and third-party operators must demonstrate the legal, financial and technical capacity to carry out the federal

requirements of the Section 5339 program. Additionally, the Atlanta UZA requires nonprofit organizations to have an eligible project, report transit service data to the NTD, and have been engaged in public transportation operation for at least three years.

- f) An eligible Section 5339 recipient that contracts for bus service must execute a MOA with the third-party operator when using Section 5339 funds for eligible projects. The MOA must establish that the third-party operator has the capability to meet all FTA conditions and requirements.

- g) The ATL's authority within a jurisdiction comprised of 13-counties in the Atlanta UZA includes the administration of Federal Transit Administration (FTA) formula funding, as well as oversight of all FTA discretionary funding for transit projects. The ATL, in accordance with the responsibilities established in HB 930, reserves the authority to, as necessary, review or audit any eligible recipient within its 13-county jurisdiction, if it is determined that an eligible recipient is out of conformity with the ATL adopted Regional Transit Plan. Based on the results of such review or audit, the ATL will work with eligible recipients to appropriately address any required corrective actions.

Suballocation Process

- (a) The Designated Recipient will run the distribution formula and provide the MPO with the annual Section 5339 Suballocation Schedule¹ within 30 calendar days of FTA's publication of Section 5339 Apportionments in the Federal Register. The annual suballocation of each jurisdiction and transit system reporting service data to the NTD, collectively referred to hereinafter as "eligible recipients", is included in the aforementioned schedule.

In the event that Congress authorizes a partial year apportionment of annual funding under a Continuing Resolution (CR) and FTA publishes a Federal Register Notice with partial year funding, the Designated Recipient and the MPO, together, may elect to either run the distribution formula with partial funding or defer and run the distribution formula as additional funding is authorized and appropriated by Congress and published in the Federal Register by FTA.

- (b) The Designated Recipient will notify each eligible recipient within the Atlanta UZA in writing of its fiscal year suballocation amount along with the corresponding Section 5339 Balance Sheet within 30 calendar days of receipt by the MPO of the Section 5339 UZA Suballocation Schedule from the Designated Recipient. The MPO will receive a copy of each notification to eligible recipients.
- (c) Each eligible recipient of Section 5339 funds will be required to respond in writing to the Designated Recipient (with copy to the MPO) regarding its intention to use the funds for an eligible project, bank the funds, transfer the funds to another eligible recipient, or return the funds to the Atlanta UZA. Such notification (via email or letter correspondence) must be received by the Designated Recipient within 45 calendar days of being notified of its suballocation. Failure to respond within the 45 calendar day period will result in the Designated Recipient returning the funds to the Atlanta UZA.
- (d) An eligible recipient may elect to initially bank the Section 5339 suballocated funds. If the county/jurisdiction determines that conditions/situations have changed that will prevent the timely use of funds (i.e. within the period of availability) they will transfer their Section 5339 funds to an eligible Section 5339 recipient or return the funds to the Atlanta UZA no later than nine months prior to the federally allowed period of eligibility. This process ensures that Section 5339 apportionment funds remain in the Atlanta UZA.

¹ Suballocation Schedule is a list of eligible county/jurisdictions Fiscal Year total suballocation and the federal and local program funding participation.

- (e) When an eligible recipient elects to transfer its suballocation, the amount transferred will be credited to the receiving county/jurisdiction and updated on the corresponding suballocation Section 5339 Balance Sheets produced by the Designated Recipient. Upon a completed transfer of suballocation funding, the Designated Recipient will provide an updated suballocation letter and balance sheet to each eligible recipient involved detailing the changes.
- (f) An eligible recipient may return their suballocated Section 5339 funds to the region (Atlanta UZA); these returned funds are termed “residual.” Residual funds are reallocated per the process below to ensure that Section 5339 apportionment funds remain in the Atlanta UZA. When residual funds are returned by an operator, that operator will be excluded from the reallocation process for the residual funds.
 - 1. The Designated Recipient and the MPO, together, may elect to set-aside/reserve all or a portion of the residual funds for a specific regional purpose eligible under Section 5339 program guidelines. The terms of the set-aside are to be stated in a written agreement from the authorized representatives of the Designated Recipient and MPO and will outline the agency/entities responsible for the coordination and/or implementation of the projects.
 - 2. If the Designated Recipient and the MPO do not elect to set-aside/reserve residual funds, the Designated Recipient will then run an abbreviated distribution formula that includes the suballocation calculation based on service statistics as reported to NTD by operators. The NTD statistics utilized are those reported for the Federal fiscal year applicable to the Federal fiscal year of the residual funds.
- (g) In the event that some portion of the regional allocation does not get programmed in the POP in the year of allocation, those funds will be programmed during the next update or amendment of the POP.

Program of Projects (POP) Development

- (a) The development of the Section 5339 POP for the Atlanta Urbanized Area will be accomplished via the procedures set forth in this policy.
- (b) Pursuant to FTA's Circular 8100.1C and Circular 9030.1E, the Designated Recipient will provide the lead role in the development of the Program of Projects² (POP) .
- (c) The Designated Recipient will conduct public participation activities for the proposed POP, consistent with Circular 9030.1E, as part of an annual public participation process. Specific public participation activities and schedule will be dependent on the schedule for grant application activity during the upcoming Federal fiscal year provided by FTA Region IV.
- (d) The final POP will be made available to the public and will represent projects that are set to be executed in an FTA grant application.
- (e) If an eligible recipient has not submitted projects to be programmed in the POP by the POP submission deadline for suballocated funds in the last year of the federally allowed period of eligibility, the suballocated funds can be transferred to another eligible recipient or returned to the region and reallocated as part of the residual distribution policy set forth in this document. This will allow sufficient time for eligible recipients to submit a POP and grant application.
- (f) If an existing project(s) programmed in the POP with funding that is in the last year of the federally allowed period of availability is not submitted as part of a grant application within nine months of lapsing, the funds associated with that project will be either transferred or reallocated as part of the residual distribution policy set forth in this document.

² Program of Projects (POP) is a list of projects proposed by a Designated Recipient in cooperation with a metropolitan planning organization to be funded from the urbanized area's Section 5339 apportionment. The POP includes a brief description of the projects, including any sub-allocation among public transportation providers, total project costs, and federal share for each project.

POP Approval and Adoption Process

Overview:

- (a) Pursuant to FTA’s Circular 8100.1C and Circular 9030.1E, the Designated Recipient will develop, review, and approve the proposed projects submitted by the eligible recipients in the Atlanta UZA. For eligible recipients within the ATL’s 13-county jurisdiction, projects submitted to the (POP) will be reviewed to verify that they are in conformity with the ATL adopted Regional Transit Plan.
- (b) Annually, the FTA Region IV Office provides recipients with a schedule for grant application activity during the upcoming Federal fiscal year. The annual POP update schedule will be published by the Designated Recipient upon receipt of FTA Region IV’s schedule for grant application activity during the upcoming Federal fiscal year.
- (c) Should FTA Region IV not announce a schedule for grant application activity for a given Federal fiscal year, the Designated Recipient will provide a schedule for the Annual POP Update Process to all recipients in the region that is fair and reasonable.

Annual POP Update Process:

- (a) In order to align the Atlanta Region’s POP process with FTA Region IV’s grant making processes, the Designated Recipient will annually publish a Program of POP update schedule upon receipt of FTA Region IV’s schedule for grant application activity during the upcoming Federal fiscal year.
- (b) Following the POP submission deadline, the Designated Recipient will then review the POP submissions. For eligible recipients within the ATL’s 13-county jurisdiction, projects that are determined to be out of conformity with the ATL adopted Regional Transit Plan will be returned to the requestor for further discussion/resolution prior to submittal and inclusion in the (POP).
- (c) Following the Designated Recipient’s review, the POP will be published for public comment no more than 21 days after the POP submission deadline. Public comment will last for 30 days, follow the ATL’s adopted Public Involvement/Participation Plan³, and include the following outreach elements:

³ The Atlanta-region Transit Link Authority’s Public Involvement/Participation Plan is public posted online at: <https://atltransit.ga.gov/accessibility-and-civil-rights/>

- Full advance notification of the proposed changes, via appropriate communication channels, to all agencies and the interested public concerning affected projects. Those channels will include announcements in ATL's monthly newsletter, at ATL Transit Operator Working Group meetings, on ATL's website pages, and through other media as appropriate.
 - Formal Notification of the annual POP update will be published in the Fulton County Daily Report. The ATL will also publish participation opportunities through newspaper publications serving the populations of its most prominent Limited English Proficiency audiences.
 - Notification of the proposed POP will include at a minimum: outline of project(s) and project activities, funding to be obligated in an FTA grant and corresponding local match source, Federal fiscal year obligation of suballocated funding.
 - A public hearing will be provided to allow for in-person public comment on the proposed POP.
 - All comments received on the proposed POP will be addressed with the project sponsor and other interested parties and reported to the public as well as the ATL board as to content and resolution.
- (d) At the end of the comment period, stakeholder agencies and other interested parties will take into consideration opposing views on a case by case basis.
- (e) Once the public comment period is completed, the Designated Recipient's designee will approve the POP, and transmit to the MPO for publication as an appendix to the Atlanta region's Transportation Improvement Program (TIP). The updated POP will be posted publicly for reference in the FTA grant application submission process.

POP Administrative Modifications Process:

- (a) The administrative modification schedule for the federal fiscal year will be published by the Designated Recipient upon receipt of FTA Region IV's schedule for application activity during the upcoming Federal fiscal year.
- (b) Any changes to projects included in the final POP that need to occur during the remainder of the federal fiscal year will be considered administrative modifications and will not require a formal comment process. Types of changes included in an administrative modification will include:
- Additions to funding for an existing project
 - Addition of a new project activity to an existing project
 - Changes to funding between existing projects or existing project activities
 - Reduction of funding for an existing project activity
 - Addition of residual reallocation of funding to an existing project

- (c) New projects that were not considered in the annual POP update will be considered for adoption in the POP if the public comment process is fully conducted by the operator or local jurisdiction submitting that project. Once those projects have completed the public comment process and are submitted to the Designated Recipient, the project(s) will be reviewed by the Designated Recipient for inclusion in the POP.
- (d) The public comment process for administrative modifications to the POP will include the following elements:
- A list of the proposed changes will be published to the Designated Recipient's website for 14 days.
 - Notification of the proposed POP will include at a minimum: outline of changes to project(s) and project activities, changes in funding to be obligated in an FTA grant, and changes to the corresponding local match source.
 - All comments received on the proposed administrative modifications to the Program of Projects will be addressed with the project sponsor and other interested parties.
- (e) Should a POP administrative modification generate significant negative comments after it has been processed, the Designated Recipient reserves the right to revoke the administrative modification status and require a full public comment process for the proposed changes to the POP.
- (f) At the end of the comment period stakeholder agencies and other interested parties will take into consideration opposing views on a case by case basis.
- (g) Once the public comment period is completed, the Designated Recipient's designee will approve the POP, and transmit to the MPO for publication as an appendix to the Atlanta region's Transportation Improvement Program (TIP). The updated POP will be posted publicly for reference in the FTA grant application submission process.

Figure 1: 2010 Atlanta Urbanized Area

