

# RULES AND REGULATIONS

## Title 67—TRANSPORTATION

### DEPARTMENT OF TRANSPORTATION

#### [ 67 PA. CODE CH. 427 ]

#### Public Transportation—Sustainable Mobility

The Department of Transportation, Bureau of Public Transportation (Department), under the authority contained in 74 Pa.C.S. § 1505 (relating to regulations), is amending 67 Pa.Code by establishing Chapter 427 (relating to public transportation—sustainable mobility).

#### *Purpose of this Chapter*

The purpose of this chapter is to implement the provisions of 74 Pa.C.S. Chapter 15 (relating to sustainable mobility options) (Act 44) as required under section 1505 of the act. Section 1505 of the act directs the Department to promulgate temporary regulation, by July 18, 2009. Temporary regulations will expire 4 years from the effective date of the legislation, on July 18, 2011. The Department intends to use the 2 year period during which the temporary regulations are effective to test and refine the regulations to assure compliance in carrying out the purposes for which the act provides financial assistance for public transportation services and infrastructure in this Commonwealth.

The act requires the Department to promulgate regulations regarding the following topics:

1. Application for, and awarding of, financial assistance (section 1507(b)).
2. Restriction on use of funds—waiver requirements to permit a public transportation provider to use funds awarded under Act 44 for activities and purposes other than those for which the funds were originally awarded (section 1507(c)).
3. Establishment of minimum system performance criteria (section 1513(f)).
4. Description of the impact on both the amount of, and future eligibility for, financial assistance under act based upon the degree to which the local transportation organization complies with recommendations in the Department conducted performance review.

Other provisions of the proposed temporary regulations provide clarification of legislative language.

#### *Summary of Significant Provisions*

Section 427.3 (relating to application procedure) provides that an application for State funding from the Public Transportation Trust Fund must be submitted through the Department's electronic grants management system.

Section 427.4 (relating to local matching funds) addresses local matching requirements including eligible sources of funds, documentation of availability of funds, deadlines for receipt of local matching funds and the consequences of insufficient local matching funds. These regulations do not address the calculation of the minimum local match because the legislation clearly identifies the required local match for each authorized public transportation program.

Section 427.5 (relating to procurement) provides procurement requirements and establishes consequences associated with noncompliance.

Act 44 also provides for discrete funding programs for operating and capital assistance. Grantees must use Public Transportation Trust Fund grants for the purpose set forth in the financial assistance agreement unless the Department approves a waiver allowing the funds to be used for a different purpose. Section 427.6 (relating to restriction on use of funds) describes the circumstances that would justify a waiver and the grantee's responsibilities associated with a waiver.

Section 427.7 (relating to audits) provides that the Department may audit the administration of the grant funds and identifies financial reporting and auditing requirements for all entities receiving state Public Transportation Trust Fund grants.

Under section 1513 of Act 44 (relating to operating program), operating assistance grants are determined in part based on four data factors—total number of passengers, number of senior passengers, number of revenue vehicle hours and number of revenue vehicle miles. The accuracy of these factors is essential to the correct distribution of operating assistance funds to 38 public transportation authorities. Section 427.11 (relating to data submission and verification) sets forth a procedure for submitting the data, confirming accuracy of data and the consequences of submitting or verifying inaccurate data.

Section 427.12 (relating to performance reviews) addresses public transportation system performance. It describes the performance review process, and the impact on the amount and eligibility for future financial assistance based on public transportation system compliance with performance review recommendations. It also sets forth the methodology for establishing minimum system performance criteria used in the performance review.

The Public Transportation Trust Fund permits funding for demonstration projects; however, demonstration projects require the commitment of considerable local support. Section 427.13 (relating to demonstration projects) provides the elements required for the Department to consider an application for operating assistance for a demonstration project as well as requirements for an approved demonstration project.

Section 427.21 (relating to application requirements for new initiatives) establishes criteria for the New Initiatives Program established under section 1515 of Act 44 (relating to new initiatives program).

#### *Persons and Entities Affected*

These regulations affect various private and public entities involved the provision of public transportation services through this Commonwealth.

The Department is affected as the administrator of the funding provided under the act.

#### *Fiscal Impact*

The final-form regulations will require some expenditure funds by the affected entities and well a by the Commonwealth.

The Department would have various program administration and oversight duties.

#### *Regulatory Review*

Under section 1505 of Act 44, these regulations are exempt from sections 201—204 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201—1204), known as

the Commonwealth Documents Law and from the Regulatory Review Act (71 P. S. §§ 745.1—745.12).

*Sunset Date*

Section 1505 of the act provides that the authority of the Department to promulgate temporary regulations shall expire on July 17, 2009; regulations promulgated thereafter shall be promulgated as provided by statute.

*Contact Person*

The contact person for this chapter is Laverne Collins, Director, Bureau of Local and Public Transportation, Pennsylvania Department of Transportation, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0064, (717) 787-1214.

ALLEN D. BIEHLER, P.E.  
*Secretary*

*(Editor's Note: Title 67 of the Pennsylvania Code is amended by adding §§ 427.1—427.7, 427.11—427.13, 427.21 and 427.22 to read as set forth in Annex A.)*

**Fiscal Note:** 18-416. (1) General Fund; (2) Implementing Year 2008-09 is N/A; 1st Succeeding Year 2009-10 is \$800,000; 2nd Succeeding Year 2010-11 is \$800,000; 3rd Succeeding Year 2011-12 is \$800,000; 4th Succeeding Year 2012-13 is \$800,000; 5th Succeeding Year 2013-14 is \$800,000; (3) 3-year history program cost: New program; (7) State Public Transportation Assistance Program; (8) recommends adoption.

**Annex A**

**TITLE 67. TRANSPORTATION**

**PART I. DEPARTMENT OF TRANSPORTATION**

**Subpart B. NONVEHICLE CODE PROVISIONS**

**ARTICLE II. MASS TRANSIT**

**CHAPTER 427. PUBLIC TRANSPORTATION—SUSTAINABLE MOBILITY**

**TEMPORARY RULEMAKING**

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**NEW INITIATIVES**

427.21.	Application requirements for new initiatives.
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**GENERAL REQUIREMENTS**

**§ 427.1. Definitions.**

(a) The terms and definitions in 74 Pa.C.S. § 1503 (relating to definitions) are adopted herein as if fully set forth.

(b) In addition, the following words and terms, when used in this chapter, the following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—74 Pa.C.S. Chapter 15 (relating to sustainable mobility options).

*Department*—The Department of Transportation of the Commonwealth.

*Route guarantee*—A conditional commitment by a private or public entity to a local transportation organization to provide financial compensation in return for the provision of public transportation service to a designated area or destination which would not be served without the financial compensation.

**§ 427.2. Purpose.**

The purpose of this chapter is to implement the act which requires the Department to initiate and maintain a program of financial and performance review and oversight for all programs receiving financial assistance under the act.

**§ 427.3. Application procedure.**

(a) Local transportation organizations shall apply for funding under this chapter using the Department's electronic grants management system.

(b) Local transportation organizations shall supply the information and documentation requested by the Department.

**§ 427.4. Local matching funds.**

(a) *Eligible sources for required annual local matching funds.*

(1) For a private transportation company, eligible annual local matching funds shall only consist of contributed cash income that was generated by the transportation company from its nonsubsidized activities.

(2) Except for those local transportation organizations using private sources of local matching funds prior to the enactment of act, eligible sources of local matching funds for a local transportation organization shall be cash contributions provided by one or more municipalities.

(3) Advertising revenue may be considered an eligible source of local matching funds for section 1513 of the act (relating to operating program) operating assistance grants, if the municipalities responsible for providing all the local matching funds annually pass a resolution which does the following:

(i) Acknowledge their responsibility for providing the local matching funds.

(ii) Agree to offset any shortfall in advertising revenue received during the fiscal year which results in insufficient local matching funds.

(4) If a municipality fails to offset any shortfall in advertising revenue, the following apply:

(i) Advertising revenue will no longer be considered an eligible source of local matching funds for the affected local transportation organization in future fiscal years.

(ii) The State funding for the fiscal year in which the shortfall occurs will be prorated in accordance with subsection (e)(4).

(5) All categories of local transportation organization operating revenue, including passenger fares; public or private payments provided in lieu of fares including route guarantees; charter or school bus revenue; and interest income or other miscellaneous sources of revenue do not constitute eligible sources of local matching funds.

(6) Local bonds issued by local transportation organizations and guaranteed in whole or in part by State funding sources, including interest arbitrage instruments such as "swaptions," do not constitute eligible sources of local matching funds for State grants.

(7) Income generated from the subsidized public passenger transportation service is not eligible to be used as a source of local matching funds.

(8) For a local transportation organization using private sources of local matching funds prior to the enactment of the act, the following apply:

(i) Local matching funds equal to the local matching funds provided in State Fiscal Year 2009-10 may continue to come from private sources provided the following requirements are met. The private source of local matching funds must:

- (A) Segregate finances for all business entities
- (B) Maintain separate accounting records for each business entity.
- (C) Submit an independently prepared audit for each business entity. The audit must clearly identify revenue sources used for local matching funds.

(ii) Local matching funds in excess of the local matching funds provided in State Fiscal Year 2009-10 must be provided in accordance with paragraph (1). Private sources are not eligible for this portion of the local matching funds.

(iii) If the amount of local matching funds provided through private sources is ever decreased to an amount less than the local matching funds provided in State Fiscal Year 2009-10, the lower amount will become the maximum amount of local matching funds which can be provided by private sources. All local matching funds in excess of the lower amount must be provided in accordance with paragraph (1). Private sources are not eligible for this portion of the local matching funds.

(b) *Documentation of availability and schedule for payment of local matching funds.*

(1) For a private transportation provider, the private transportation provider must submit to the Department a certification, signed by the company's chief operating officer, assuring that the amount of required eligible local matching funds will be provided by the end of the State Fiscal Year for which a grant is made.

(2) For local transportation organizations:

(i) Each local transportation organization shall submit a resolution, approved by its governing body, certifying that the required amount of eligible local matching funds will be secured no later than the end of the State Fiscal Year for which a grant is made. The local transportation organization shall submit the resolution to the Department as part of its state grant application.

(ii) The local municipalities responsible for providing the required local matching funds shall submit to the local transportation provider an approved/adopted resolution or budget certifying that it will provide the local transportation organization the required amount of local matching funds no later than the end of the State Fiscal Year and a schedule indicating dates and amounts of payments of eligible local matching funds. The local transportation organization shall submit all resolutions or budgets to the Department as part of its state grant application.

(3) For a local transportation organization receiving local matching funds through a private source, the private source of local matching funds shall provide the following:

(i) Documentation of the amount of local matching funds to be provided.

(ii) Documentation of segregation of finances and accounting records.

(iii) Documentation of agreement to provide an audit for every business.

(4) The audit referred to in paragraph (3)(iii) must include schedules as required by the Department.

(5) If the availability of funds is not certified, the Department may not execute a grant agreement.

(6) If less than the full amount of local matching funds is certified, the Department will prorate the State grant amount on a proportional basis to the local amount that is certified.

(c) *Required recordkeeping.*

(1) For both local transportation organizations and private transportation companies, the local funding provided to meet local matching funds requirements must be deposited and retained in a separate interest bearing account until used for eligible expenses.

(2) Interest earned on these funds must only be used for public transportation purposes.

(3) Interest earned and expended shall be reported at a minimum in the annual audit report on schedules as required by the Department.

(d) *Required minimum local matching funds.* The minimum local matching funds shall be as stated in sections 1513—1516 of the act.

(e) *Insufficient local matching funds.*

(1) If the required minimum local matching funds are not provided by the end of the project period, the following fiscal year's allocation will be reduced to reflect a proration of the prior year's grant based on the amount of local funds provided and the established local matching funds percentage.

(2) If the amount of local matching funds in arrears from the previous fiscal year is provided within a grace period of 90 days after the beginning of the fiscal year, the full State allocation will be restored.

(3) A grant recipient is eligible for a grace period for receipt of local matching funds no more frequently than once every 3 years.

(4) Prorates shall be calculated as follows:

(i) Calculate the State funding supplied for every dollar of local matching funds.

(ii) Multiply the local matching funds shortfall times the State funding supplied for every dollar of local matching funds.

(iii) Reduce funding in the subsequent fiscal year equal to the result of the calculation in subparagraph (ii).

#### § 427.5. Procurement.

(a) Grantees receiving capital funding under this chapter shall follow the most stringent of any applicable Federal, State and local procurement procedures.

(b) Failure to comply with any applicable procurement requirement may result in the ineligibility of the grantee to receive future State transit capital funds until the following conditions are met:

(1) The Department, or its representative, has conducted an audit of the grantee's compliance with procurement requirements.

(2) The grantee has resolved any findings in the audit to the satisfaction of the Department.

(c) The grantee shall be responsible for paying for the cost of any audit required under subsection (b). The Department may require the grantee to pay for the audit cost directly, or may deduct the cost of the audit from any future State grant.

(d) Failure to comply with applicable procurement requirements may also result in a requirement that the grantee repay State grant funds used for the procurement.

(e) The Department may establish a procurement probationary period for a grantee who has conducted a procurement which did not comply with applicable procurement requirements.

(1) During the probationary period, for all procurements involving State funds, the grantee must submit all procurement related documents to the Department for review and written concurrence prior to award in order to be eligible to receive State funds for that procurement.

(2) The grantee will be responsible for all costs associated with the Department's review of procurement related documents.

(f) If a grantee is required to repay Federal funds due to noncompliance with procurement requirements, the grantee must also repay State matching funds related to that procurement.

**§ 427.6. Restriction on use of funds.**

(a) With the approval of the Department, operating assistance funds may be used for capital assistance under the following circumstances:

(1) The need for the alternative use of these funds is limited to 1 year.

(2) The proposed use of operating funds for capital assistance will not result in any of the following:

- (i) A reduction in service
- (ii) An increase in fare levels
- (iii) An unbalanced operating budget in the year of the transfer and for 3 succeeding fiscal years.

(3) The request for approval of the use of operating funds for capital assistance must be supported by written justification documenting that the required level of funds transferred is needed to fund a capital project that cannot be funded from any other available source of State capital assistance including current or carryover PTAF, Act 3, Section 1514 Bond or Section 1517 Capital Improvement assistance.

(4) The justification must demonstrate that the proposed capital project, for which the required operating funds will be used, cannot be deferred until a later year without incurring a significant identified hardship.

(b) With the approval of the Department, capital assistance funds may be used for operating assistance under the following circumstances:

(1) The need for the alternative use of these funds is limited to 1 year.

(2) The proposed use of capital funds for operating assistance is needed to support one or more of the following:

- (i) To prevent a reduction in service.
- (ii) To prevent an unreasonable fare increase.
- (iii) To prevent a projected one-time unbalanced operating budget that is not expected to reoccur in the following and subsequent years.

(3) Written justification to support that the proposed one-time use of capital funds for operating assistance will not result in the deferral of any important capital project that could have been funded if the funds were not transferred.

(c) Operating funds may not be used to fund depreciation costs associated with capital assets procured using public funds.

**§ 427.7. Audits.**

(a) The Department will determine the frequency, content and format of reporting requirements, and may include requirements for audit testing procedures, for any entity receiving funding under this chapter.

(1) As an element of the application process, each applicant shall provide the name, address and contact information for the certified public accounting firm engaged for the financial audit.

(i) The applicant shall certify that the certified public accounting firm is aware of the Department's reporting requirements and deadlines.

(ii) The information shall be submitted to the Department by May 31 of the fiscal year preceding the year for which funds are requested.

(2) Within 90 days after the close of each fiscal year, each grant recipient shall transmit to the Department for confirmation an accounting of funds received from the Department during the preceding fiscal year in a format as required by the Department.

(3) The Department will confirm directly with the certified public accounting firm (with a copy to the grant recipient) the amount of funds paid to each grant recipient. The confirmed amounts shall become part of the financial audit report.

(4) Within 180 days after the close of a fiscal year, each grant recipient shall transmit to the Department an annual financial audit report prepared by the certified public accounting firm identified in paragraph (1).

(i) The audit shall be conducted in accordance with auditing standards generally accepted in the United States. Those standards require the audit firm to plan and perform the audit to obtain reasonable assurance about whether financial statements are free of material misstatement. The audit must include examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements.

(ii) The audit must meet all Department required reporting and formatting standards for presentation of information with regard to grant payments and uses.

(iii) The certified public accounting firm shall prepare all supplemental schedules as required by the Department.

(iv) Management letters and all schedules of findings based on the audit work shall become part of the annual financial audit report.

(v) If a single audit has been conducted, a copy of the single audit report shall also be submitted to the Department.

(5) The Department will review the audit report and notify the grant recipient of any variances between Department records and the audit report.

(i) The grant recipient will have 45 calendar days to prepare and submit a written response to the Director of

the Bureau of Public Transportation on each finding identified in the financial audit report and with regard to variances identified.

(ii) The written response will include a corrective action plan for each finding.

(iii) If the grant recipient cannot produce a written response for each finding within 45 calendar days, the grant recipient shall request a time extension in writing to the Director of the Bureau of Public Transportation with justification

(6) The Department will review the audit report and notify the grant recipient of any variances between Department records and the audit report.

(i) The grant recipient will have 45 calendar days to prepare and submit a written response to the Director of the Bureau of Public Transportation on each finding identified in the financial audit report and with regard to variances identified.

(ii) The written response will include a corrective action plan for each finding.

(iii) If the grant recipient cannot produce a written response for each finding within 45 calendar days, the grant recipient shall request a time extension in writing to the Director of the Bureau of Public Transportation with justification for the request. The Bureau Director will respond in writing, accepting or rejecting the request for a time extension.

(b) Failure to comply with reporting requirements may result in delay or withholding of payments at the discretion of the Department.

### OPERATIONS

#### § 427.11. Data submission and verification.

(a) *Factors.* The factors used to calculate the distribution of section 1513 operating assistance funds in excess of the base operating allocation are:

- (1) The total number of passengers.
- (2) The number of senior citizen passengers.
- (3) The number of revenue vehicle hours.
- (4) The number of revenue vehicle miles for the most recently completed fiscal year, as defined in the act.

(b) *Submission.* Each local transportation organization receiving section 1513 operating assistance funds shall verify and submit to the Department the data set forth in subsection (a) by December 31 of the calendar year following the end of the preceding fiscal year.

(c) *Certification.* The chief operating officer of each local transportation organization must certify the accuracy of the data factors submitted under this section.

(d) *Inaccurate data.* The following apply, if the data used to calculate section 1513 operating assistance grants is determined to be inaccurate:

(1) When the inaccurate data is greater than accurate data, resulting in receipt of a grant award greater than actually justified:

(i) The grant award for that grantee will be recalculated based on the accurate data.

(ii) The grant award for the following year will be reduced by 125% of the difference between the grant awarded in the previous fiscal year and the recalculated grant award for that year.

(2) When the inaccurate data is less than the accurate data, resulting in receipt of a grant award smaller than actually justified, there will be no recalculation and no change in the grant award.

#### § 427.12. Performance reviews.

(a) Local transportation organizations receiving section 1513 operating assistance funding for fixed route or fixed guideway transit service will be subject to this section. Demand response services, including ADA paratransit, other paratransit and shared ride modes, are not subject to these requirements.

(b) Performance reviews will be undertaken for each local transportation organization on regular intervals at least every 5 years.

(1) A performance review will include, but is not limited to, a review of management, finance, operations, maintenance, capital projects and system performance.

(2) The Department will maintain on its website a performance review policy that will discuss the process for conducting a performance review.

(c) Minimum performance standards will be established for each grant recipient during a performance review in accordance with the process outlined in this section.

(d) Performance reviews will be conducted as follows:

(1) *Comparison to peers.*

(i) The Department will identify at least five prospective peer systems for each mode of the local transportation organization being reviewed. The Department will finalize the peer group selection after consultation with the local transportation organization.

(ii) The peer selection process will include, without limitation, the following data items:

- (A) Revenue vehicle hours (car hours for rail and fixed guideway).
- (B) Revenue vehicle miles (car miles for rail and fixed guideway).
- (C) Number of peak vehicles.
- (D) Service area population.

(iii) The Department will evaluate the local transportation organization based on the following performance criteria in accordance with the act:

- (A) Passengers per revenue vehicle hour.
- (B) Operating costs per revenue vehicle hour.
- (C) Operating revenue per revenue vehicle hour.
- (D) Operating costs per passenger.

(iv) The Department will:

(A) Calculate the average of each performance criteria by mode for the peer group (which includes the local transportation organization under review), using the single most recent year for which data is available.

(B) Calculate the standard deviation for each performance criteria by mode for the peer group and local transportation organization under review.

(v) The local transportation organization under review will be in compliance if the following conditions are met:

(A) Passengers per revenue vehicle hour is within plus or minus one standard deviation or exceeds plus one standard deviation.

(B) Operating revenue per revenue vehicle hour is within plus or minus one standard deviation or exceeds plus one standard deviation.

(C) Operating costs per revenue vehicle hour is within plus or minus one standard deviation or is below minus one standard deviation.

(D) Operating costs per passenger is within plus or minus one standard deviation or is below minus one standard deviation.

(vi) The local transportation organization will be determined at risk if one or more of the following apply:

(A) Passengers per revenue vehicle hour are below minus one standard deviation.

(B) Operating revenue per revenue vehicle hour are below minus one standard deviation.

(C) Operating costs per revenue vehicle hour exceed plus one standard deviation.

(D) Operating revenue per revenue vehicle hour exceed plus one standard deviation.

(2) *Trend analysis.*

(i) The Department will prepare a 5-year trend analysis for the local transportation organization under review and the peer systems by performance criteria and by mode.

(ii) If the 5-year trend for all performance criteria by mode is positive and consistent with the peer trend, the local transportation organization is in compliance.

(iii) If the 5-year trend for any performance criteria by mode is negative, but consistent with the peer trend, the local transportation organization may be in compliance based on Department determination.

(iv) If the 5-year trend for any performance criteria by mode is negative and not in keeping with peers, the local transportation organization will be determined to be at risk.

(3) *Minimum performance standard.*

(i) In consultation with the local transportation organization, the Department will establish minimum performance standards to be met within 5 years from the date the standards are established.

(ii) The local transportation organization shall develop and submit to the Department within 90 days of the final report of the performance review a strategic action plan focused on continually improving the system to achieve the established minimum performance standards. The Department will provide technical assistance upon request.

(iii) The local transportation organization shall submit the strategic action plan to its governing body.

(iv) The local transportation organization shall report to its governing body and to the Department on strategic action plan progress on at least a quarterly basis.

(v) A revised minimum performance standard for each performance criteria by mode will be established in each subsequent performance review.

(vi) Upon request by the local transportation organization and submission of proper justification, the Department may approve a revised minimum performance standards at times other than during a performance review.

(4) *Review and report.* Each year in the Pennsylvania Public Transportation Annual Performance Report, the local transportation organizations which have been re-

viewed during the preceding fiscal year will be identified. The report will include a summary of the reviews, the findings and the recommendations.

(e) *The application of funding reduction will be as follows.*

(1) Operating fund reductions in section 1513(g) of the act (relating to operating program) may be implemented for grantees subject to this section that are not satisfying the minimum performance standards, considering all other provisions of section 1513. A funding reduction may be assessed in cases when a local transportation organization fails to report progress or fails to implement the agreed upon strategic action plan, or both.

(2) Funding reductions may not exceed 5% of the total section 1513 of the act operating assistance allocation in any one fiscal year.

§ 427.13. **Demonstration projects.**

When a local transportation organization or an agency or instrumentality of the Commonwealth applies to the Department for reimbursement of operating costs related to demonstration program projects, the project must meet the following criteria:

(1) A feasibility study must be conducted and a report issued prior to application. The feasibility report must include annual estimates for the four performance criteria identified in section 1513(f) of the act (relating to operating program) for the determination of the success of the demonstration project.

(2) The Department must approve minimum performance standards for the demonstration project.

(3) The applicant shall provide documentation of local acceptance of the established minimum performance standards. The local acceptance document must indicate that the applicant and the local funding entity understand that:

(i) If the demonstration service meets the established minimum performance standards within the 3-year demonstration period, it may receive formula based operating assistance from section 1513 of the act funds if there is sufficient funding available in section 1513 of the act to fund both existing services and the demonstration project.

(ii) If the demonstration project fails to meet the minimum performance standards within the 3-year period, the service is ineligible for State section 1513 operating assistance.

(A) The applicant or the local funding entity may elect to continue the service and provide all required operating assistance.

(B) The applicant or the local funding entity, or both, may elect to discontinue the service and notify all affected parties of the decision and take responsibility for that decision.

(4) The applicant shall demonstrate the support of the local funding entity providing local matching funds for the demonstration project and accepting responsibility for decisions made with regard to continuation/discontinuation of service by issuing the following resolutions:

(i) A resolution certifying that sufficient local funds will be made available based on a 5 year annual projection of operating budgets and funding sources.

(ii) A resolution acknowledging that the applicant and the local funding entity are responsible for determining continuation of service prior to the end of the 3-year demonstration period.

(5) During the 3-year demonstration period, the local matching funds must equal at least 15% of the State demonstration grant.

(6) Within 30 days of the end of each quarter, the applicant shall submit quarterly reports providing financial information and operating statistics in a format determined by the Department within 30 days of the end of each quarter during the 3-year demonstration period to maintain eligibility for State funding.

#### NEW INITIATIVES

#### § 427.21. Application requirements for new initiatives.

(a) Applications for new initiatives must be received by the Department by 5 p.m. on the second Monday of January.

(b) Any project that has received a rating of medium, medium-high or high under 49 U.S.C. § 5309 (relating to capital investment) is considered to have satisfied the project evaluation requirements of this chapter but must provide supporting documentation to the Department.

(1) The project sponsor shall submit to the Department a copy of the application documentation as submitted to the US DOT/FTA that resulted in the rating.

(2) Updates to the project application documentation shall be provided to the Department as they are approved by the Federal Transit Administration.

(c) A project that has received a rating of medium-low or low under 49 U.S.C. § 5309 or that has elected not to apply for funding under 49 U.S.C. § 5309 shall provide documentation supporting the following project evaluation requirements:

(1) *Investment optimization.* The applicant shall demonstrate that investments in the existing service areas have been optimized.

(i) The applicant shall document the steps taken to optimize existing services and the impacts of those steps on current ridership, revenues and customer satisfaction.

(ii) The applicant shall show how the proposed project will coordinate with other transit in the region, as well as with other transportation options when appropriate, such as bicycle paths, high-occupancy vehicle (HOV) facilities, AMTRAK or other intercity rail.

(2) *Cost/benefit.* The applicant shall demonstrate that the investment in the project results in reasonable public benefits that are proportional to the investment.

(i) The applicant shall document likely impacts on total transit ridership, impacts on greenhouse gasses and overall air quality, travel time, user costs, accessibility to employment centers and service to historically under-represented populations.

(ii) The costs of the project over its design life must be calculated and include capital investments, operations and maintenance.

(iii) Project benefits and costs should be calculated to a net present value and a current dollar benefit/cost ratio must be calculated.

(iv) The project must demonstrate a benefit/cost ratio greater than 1.0 to satisfy the reasonable public benefit requirement.

(v) If requested, the applicant shall document how or if the project supports Statewide air quality and transportation policies.

(3) *Local funding commitments.* The applicant shall demonstrate that it has secured commitments for local share of funding.

(i) The applicant shall provide documentation showing what local funds are available for both the capital and operating funding needs of the project, any limitations on those funds and, when in a designated metropolitan planning organization (MPO) area, affirm that the project is included in a cost affordable long range transportation plan.

(ii) A signed letter of commitment from the agency responsible for collecting capital, operations and maintenance funding must be included that documents the sources of the funding, the expiration date of the funding and a plan for extending the funding source's revenue period should it expire before the design life of the project.

(iii) Estimates of fare box revenues/recovery shall also be provided along with actionable strategies to cover any unexpected fare box shortfalls during the design life of the project.

(4) *Technical capacity.* The applicant shall provide a management plan for construction and operation of the project during the design life of the project.

(i) The management plan must identify in-house and consultant resources necessary to manage the project.

(ii) Where in-house services are to be used, it will be necessary to demonstrate those resources have sufficient experience managing projects of similar scope and scale.

(iii) Where outside services are to be used, the applicant shall document the expected costs of those services and include a plan to manage the services.

(5) *Integrated land use policies.* The applicant shall document relevant elements of local land use plans and policies that support efficient use of the transportation system in the project corridor.

(i) To demonstrate the integration, the applicant should cite relevant plans (comprehensive plan and zoning) as well as policies relating to parking availability/cost, existing and allowable densities, mix of land use and affordable housing.

(ii) Documentation should include maps, tables, specific local policies and narrative that make the case that land use policies recognize the integral relationship between transportation and land use.

(iii) In areas where walk or bicycle access will be important to the overall demand for the project the applicant shall document how patrons of the project will safely access the system from nearby significant land uses.

(iv) If requested, the applicant shall provide signed letters from local governing bodies in municipalities where stations would be located documenting the level of commitment and actions undertaken to assure land use policies are supportive of the project.

(d) Applicants shall provide documentation sufficient to compare the benefits, costs, local policies, technical capacity and funding commitment of applicants so that findings can be succinctly summarized for the Pennsylvania Public Transportation Annual Performance Report.

(e) The Department may request additional supporting documentation from the applicant to complete the application.

(f) Applicants shall provide responses to or acknowledgement of requests for additional supporting documentation within 14 days of the request.

**§ 427.22. New initiative project evaluation.**

(a) The Department will provide a project summary in the Pennsylvania Public Transportation Annual Performance Report for each completed application.

mance Report for each completed application.

(1) The project summary will include comparisons with their current operations for key measures outlined in statute.

(2) The project summary will include comparisons with other similar systems for key measures outlined in statute.

(b) Funding for new initiatives under this section is subject to appropriation by the Pennsylvania General Assembly.

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