

DEPARTMENT OF TRANSPORTATION
BUREAU OF URBAN AND PUBLIC TRANSPORTATION
COMPREHENSIVE TRANSPORTATION FUND

(By authority conferred on the department of transportation by sections 10b and 10g of Act No. 51 of the Public Acts of 1951, as amended, and section 63 of Act No. 306 of the Public Acts of 1969, as amended, being §§247.660b, 247.660g, and 24.263 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 247.4101 Definitions.

Rule 101. (1) As used in these rules:

(a) "Accessibility plan" means the vehicle accessibility plan that is required by the accessibility sections of the act.

(b) "Accessible vehicles" means lift or ramp equipped vehicles.

(c) "Act" means sections 10(1), 10b to 10e, 10g, 10h, 10j, 10n, 14(5), and 18b(4) of Act No. 51 of the Public Acts of 1951, as amended, being §§247.660(1), 247.660b to 247.660e, 247.660g, 247.660h, 247.660j, 247.660n, 247.664(5), and 247.668b(4) of the Michigan Compiled Laws.

(d) "Applicant" means any 1 of the following:

(i) A local public transportation provider, which is an eligible authority or eligible governmental agency as defined by the act.

(ii) An intercity passenger carrier, which is defined as a person, corporation, or other entity that is authorized by federal law or pursuant to Act No. 432 of the Public Acts of 1982, as amended, being §474.101 et seq. of the Michigan Compiled Laws, to transport passengers for hire and that may also transport other items.

(iii) A port authority as defined by Act No. 639 of the Public Acts of 1978, as amended, being §120.101 et seq. of the Michigan Compiled Laws.

(iv) An intercity freight carrier, which is defined as a person, corporation, or other entity identified in Act No. 295 of the Public Acts of 1976, as amended, being §474.51 et seq. of the Michigan Compiled Laws, that would establish, improve, or support facilities or services for intercity freight transportation purposes.

(v) Other eligible entities included in the general functions of the state transportation department section of the act.

(e) "Application instructions" means the document which is issued by the department to local public transportation and intercity passenger transportation applicants and which describes the information an applicant must submit to the department to participate in the state transportation program in the following state fiscal year

(f) "Commission" means the Michigan state transportation commission or its successor.

(g) "Department" means the Michigan department of transportation or its successor.

(h) "Director" means the director of the department or a person who is designated to act as the director.

(i) "Expand" means to provide for new facilities or new services.

(j) "FTA" means the United States department of transportation federal transit administration or its successor.

(k) "Improve" means to enhance existing facilities.

(l) "Local public transportation" means services, facilities, and equipment, including local bus service, water vehicle services, and local passenger rail services, and which are operated by an eligible authority or an eligible governmental agency as established in R 247.4103.

(m) "Persons who have disabilities" means an individual who has a physical or mental impairment that substantially limits one or more of the major life activities of such individual, a record of such an impairment, or being regarded as having such an impairment.

(n) "Port authority operating budget" means the expenses identified in Act No. 639 of the Public Acts of 1978, as amended.

(o) "Preserve" means to maintain the current status of existing facilities, excluding routine maintenance expenses.

(p) "Project" means an activity which is funded or to be funded from the comprehensive transportation fund or from the proceeds of bonds and which is budgeted and managed as a separate entity.

(q) "Public" means all persons, regardless of age, sex, color, race, creed, national origin, or persons who have disabilities.

(r) "Public notice" means an advertisement that is placed in at least 1 newspaper of general circulation which serves the area affected by the program.

(s) "Recipient" means an applicant as defined in subdivision (d) of this subrule.

(t) "Rehabilitation" means the labor, equipment, and materials that are necessary to repair or improve and extend the useful life of public transportation vehicles, equipment, or facilities for specified rehabilitation projects.

(2) The terms defined in the act have the same meanings when used in these rules.

History: 1998-2000 AACCS.

R 247.4102 Local public transportation and intercity passenger transportation financial assistance programs; submittal and approval process.

Rule 102. (1) The department shall make application instructions available to all prospective local public transportation and intercity passenger transportation applicants and other interested parties. The application instructions shall contain the items required by the act.

(2) The department shall update the application instructions each year. The department may issue amended application instructions based upon programmatic or funding changes.

(3) A local public transportation and intercity passenger transportation applicant shall file an application with the department. An application shall contain all of the information required in the application instructions.

(4) A local public transportation and intercity passenger transportation applicant shall give public notice of its intent to apply for comprehensive transportation funds according to the act. A local public transportation and intercity passenger transportation applicant shall transmit all comments it receives to the department. The public notice shall include all of the following information:

(a) The amount of funding requested.

(b) The operating and capital program that the local public transportation and intercity passenger transportation applicant proposes to undertake with the funds.

(c) The location where the application may be reviewed.

(5) The department shall review the applications and transmit comments to each local public transportation and intercity passenger transportation applicant.

(6) Each local public transportation and intercity passenger transportation applicant shall provide any additional information that is requested and responses that are related to subrule (5) of this rule.

(7) The department shall approve, modify, or reject all or any portion of an application by written notification to the local public transportation and intercity passenger transportation applicant setting forth its reasons for approval, modification, or rejection. The applicant may appeal any approval, modification or rejection of the application to an appeals officer as appointed by the director of the department. The department may modify or reject all or any portion of a local transportation or intercity passenger program if any 1 of the following situations occurs:

(a) A local public transportation and intercity passenger transportation applicant fails to submit an application as outlined by the application instructions provided under subrule (1) of this rule and application sections of the act or fails to comply with the requirements prescribed in the act.

(b) The total estimated revenues available for comprehensive transportation fund programs are exceeded by the sum of all funding that is requested in the applications received for the state fiscal year.

(c) The department determines that a proposed project requires further justification.

(d) The eligible authority or eligible governmental agency has failed to develop and implement plans, programs, and services, or use appropriate equipment, to provide public transportation for the elderly and persons who have disabilities as set forth in the provisions of R 247.4201 to R 247.4203.

(8) A local public transportation and intercity passenger transportation applicant shall notify the department of a proposed change in an initial or amendatory application for federal funds that would require an increase or decrease of the state financial commitment.

(9) A local public transportation and intercity passenger transportation applicant shall provide the department with a copy of any federal application for capital or operating assistance at the time an initial or amendatory application is filed with the federal government.

(10) The department may administratively fund the first 3 years of new services using the funding limits and provisions established in the operating grants to eligible authorities and eligible governmental agencies section of the act.

History: 1998-2000 AACS.

R 247.4103 Eligibility; documentation required.

Rule 103. To establish eligibility, an applicant shall submit documentation, as applicable, to the department as follows:

(a) A local public transportation applicant shall submit documentation under R 247.4104 and both of the following provisions:

(i) Documentation that the applicant or its designated service provider is legally furnishing, or has the legal capacity to furnish, public transportation services in the area.

(ii) Documentation that the applicant has been established according to state law.

(b) A local public transportation applicant that has previously submitted the materials in subdivision (a) of this rule shall certify annually, in the resolution of intent required by R 247.4104, that changes in eligibility documentation have not occurred during the past state fiscal year. Any change shall be submitted to the department as part of the application required under R 247.4102.

(c) An intercity passenger carrier applicant shall submit both of the following:

(i) Documentation that the applicant is legally furnishing, or has the legal capacity to furnish, public transportation services.

(ii) A company letter signed by an authorized company representative that names an official representative of the applicant for all public transportation matters who is authorized to provide information that is required by the commission or department for its administration of the act.

(d) An intercity freight carrier applicant shall submit the name of an official representative of the applicant who is authorized to provide information that is required by the commission or department for its administration of the act.

(e) A port authority applicant shall submit all of the following documentation and information:

(i) Documentation that the applicant has been created under Act No. 639 of the Public Acts of 1978, as amended, being §120.101 et seq. of the Michigan Compiled Laws.

(ii) Adopted bylaws and articles of incorporation that indicate the specific duties, functions, and powers of the applicant.

(iii) The name of an official representative of the applicant who is authorized to provide information that is required by the commission or department for its administration of the act.

History: 1998-2000 AACS.

R 247.4104 Resolution of intent.

Rule 104. A local public transportation applicant shall annually enact a resolution of intent as described in the application instructions to participate in the comprehensive transportation fund. The resolution shall provide for all of the following:

(a) Indicate that the budget for the local transportation program is balanced and specify the sources and amount of estimated revenues that support the proposed expenditures.

(b) Name an official representative of the applicant for all public transportation matters who is authorized to provide such information as deemed necessary by the commission or department for its administration of the act.

(c) Certify that changes in eligibility documentation have not occurred during the past state fiscal year.

History: 1998-2000 AACCS.

R 247.4105 Eligible and ineligible expenses for local public transportation and intercity passenger transportation; determination of distribution of comprehensive transportation funds to intercity passenger carriers.

Rule 105. (1) Eligible and ineligible expense and revenue definitions for local public transportation operating assistance or water vehicle operating assistance that are funded under the act shall be annually included in the annual application instructions provided by the department. The expense and revenue estimates submitted and agreed to in the approved annual application from the eligible authorities and eligible governmental agencies shall be in agreement with the annual application instructions.

(2) Eligible and ineligible expenses for intercity passenger transportation operating assistance that are funded under the act shall be as agreed upon in the executed contractual agreement.

(3) Eligible capital costs, defined as any unit that has a cost of more than \$300.00 and a useful life of more than 1 year, that are funded under the act and bond funds for local public transportation projects and for intercity passenger carrier projects include all of the following:

(a) Acquisition.

(b) Purchase.

(c) Lease or lease-purchase.

(d) Construction.

(e) Rehabilitation.

(f) Operating expenses allowed by the federal government in an executed federal capital contract

(4) All programs shall have project costs defined in the contractual agreement.

(5) An applicant may submit any operating or capital cost that is not specified in the application instructions to the department, in writing, for a determination as to eligibility. The department shall notify all recipients, in writing, upon the issuance of a determination of eligibility and specify the effective date.

(6) A determination of eligibility is not funding approval.

(7) In determining the distribution of comprehensive transportation funds to be made to intercity passenger carriers under the act, the department shall award operating assistance projects by a competitive or negotiated bid process and shall award capital projects by application.

History: 1998-2000 AACCS.

R 247.4106 Eligible and ineligible expenses for intercity freight projects and port authority operating budgets.

Rule 106. (1) Eligible capital costs for rail freight projects that are funded under the act and bond funds are as follows:

(a) Activities to preserve, improve, or expand state-owned facilities.

(b) Activities or loans to improve or expand privately owned freight facilities.

(c) Activities, loans, or grants to improve or expand freight facilities to better serve economic development within Michigan.

(2) Eligible costs for port authority operating budgets are as defined in R 247.4101(l).

(3) A determination of eligibility is not funding approval.

(4) An applicant may submit any operating or capital cost that is not specified in subrules (1) through (3) of this rule to the department, in writing, for a determination as to eligibility. The determination shall take effect upon receipt of notification by the recipients, unless the determination is appealed to the commission.

History: 1998-2000 AACCS.

R 247.4107 Local public transportation cost allocation plan.

Rule 107. (1) A recipient shall submit, to the department for its approval, a cost allocation plan for general and administrative overhead costs if both of the following conditions apply:

- (a) The local public transportation recipient receives funds for eligible operating expenses under the act.
- (b) One of the following conditions applies:
 - (i) A recipient has joint costs with a unit or units of government or has employees who simultaneously work for other governmental agencies.
 - (ii) A recipient has multiple funding sources that require separate accounting.
 - (iii) A recipient provides services to outside agencies, including transit agencies.
- (2) Specialized services agencies, as described in the act, are exempt from the provisions of this rule.
- (3) A recipient shall submit the cost allocation plan in narrative form. The cost allocation plan shall describe the methodology used.
- (4) A recipient shall submit an amended plan to the department within 60 days after any change in conditions as described in subrule (1)(b) of this rule.
- (5) A recipient's independent certified public accountant shall note in the recipient's annual financial and compliance audit whether the actual cost allocation is in compliance with the cost allocation plan that was submitted to the department.

History: 1998-2000 AACCS.

R 247.4108 Rescission.

Rule 108. R 247.801 to R 247.814 of the Michigan Administrative Code, appearing on pages 721 to 727 of the 1979 Michigan Administrative Code, are rescinded.

History: 1998-2000 AACCS.

PART 2. ACCESSIBILITY PLAN

R 247.4201 Accessibility plan; content; amendment.

Rule 201. (1) Each applicant seeking comprehensive transportation funds to purchase, lease, or rent demand-actuated vehicles shall prepare and submit an accessibility plan to the department as a part of its application.

- (2) An accessibility plan shall include all of the following information and items:
 - (a) The number of demand-actuated vehicles that are presently in service, including loaner vehicles, that were purchased with comprehensive transportation fund monies, and the number of demand-actuated accessible vehicles.
 - (b) The number of demand-actuated vehicles in the anticipated fleet, including the number of demand-actuated accessible vehicles.
 - (c) The current definitions of the elderly and persons who have disabilities that are used by the applicant, and the total number of the elderly and persons who have disabilities in the service area.
 - (d) The current fare structure that is in use for the elderly, persons who have disabilities, and the rest of the general public for both fixed schedule and fixed route service, if applicable, and for demand-actuated public transportation service.
 - (e) A narrative description of the process that the applicant used to develop the accessibility plan. The narrative shall include a description of the local advisory council involvement in the development and review of the accessibility plan.
 - (f) A map and narrative description of the service area, as of the plan submission date, for fixed schedule and fixed route service, if applicable, and for demand-actuated public transportation service.
 - (g) The current service schedule, including hours per day and days of the week, for both fixed schedule and fixed route service, if applicable, and for demand-actuated public transportation service.
 - (h) A narrative description of how the information required in subrule (2)(g) of this rule is made available in alternate formats to persons who have disabilities.
 - (i) Whether transit vehicles are available for use during hours or days other than regular service hours or days and confirmation that accessible transit vehicles are available for use by the elderly and persons who have disabilities to the same extent as the general public.

(j) Whether the elderly, persons who have disabilities, and the general public must make an advance request to obtain demand-actuated public transportation service and the advance request time period.

(k) A narrative description of constraints on capacity and restrictions on trip purpose.

(l) A narrative summarization for the number of demand-actuated vehicles requested and, within the total number requested, the number of accessible vehicles, including the applicant's reasons for the number of accessible vehicles.

(m) Comments of the local advisory council.

(n) The applicant's response to local advisory council comments.

(o) The official transmittal letter from the applicant to the department.

(3) Each applicant shall prepare and submit an amendment with their annual application for funding. An amendment is also required when proposed changes occur after the application has been submitted. These include material changes in the plan contents made under subrule (2) of this rule. Amendments shall be submitted on a form provided in the annual application instructions which includes the Americans with Disabilities Act of 1990 certification. An amendment is not necessary for changes regarding department loaned vehicles.

(4) All plan amendments shall include the documents that are required under subrule (2)(m) and (n) of this rule as well as a written description of the changes from a previously approved accessibility plan.

History: 1998-2000 AACS.

R 247.4202 Accessibility plan local advisory council composition.

Rule 202. (1) A local advisory council shall be composed and structured in such a manner so as to facilitate an independent objective assessment of the accessibility plan by persons in the service area.

(2) An applicant shall have a local advisory council established and appointed. The council shall consist of not less than 3 members.

(3) Local advisory council members shall not be employees of the applicant and shall not be members of the applicant's executive committee or governing board.

(4) Each applicant shall include, with the accessibility plan, a list of council members and their affiliations. The applicant shall identify the members who are persons who have disabilities, are 65 years of age or older, or are representatives of persons who have disabilities or are 65 years of age or older.

(5) Each applicant shall ensure that 50% of the membership will represent persons who are 65 years of age or older and persons who have disabilities within the service area and, jointly with the area agency on aging, shall approve at least 1 member, or the equivalent of 12% of the membership, of the local advisory council. The applicant shall ensure that the membership will include people who have diverse disabilities and the elderly who are users of public transportation.

History: 1998-2000 AACS.

R 247.4203 Accessibility plan review and approval process.

Rule 203. The department shall process an accessibility plan in accordance with both of the following procedures:

(a) The department shall, within 60 days after submission of the accessibility plan, do either of the following:

(i) Approve the accessibility plan as submitted or amended.

(ii) Reject the accessibility plan as submitted and make recommendations to the applicant for modifications.

(b) A plan that is not approved or rejected by the department within 60 days after submission is considered approved as submitted.

History: 1998-2000 AACS.

PART 3. REPORTING AND COMPLIANCE REQUIREMENTS

R 247.4301 Financial and compliance audits.

Rule 301. (1) A recipient of funds under the local public transportation operating grants section and the new services section of the act shall provide, to the department, an annual financial and compliance audit report and management letter within 120 calendar days from the end of the local fiscal year. The report shall include a response certified by an independent certified public accountant in accordance with the department's and the Michigan department of treasury's audit guide. The Department may grant an extension of up to 60 days upon receipt of a written request.

(2) Failure to comply with the audit section of the act may result in the withholding of local public transportation operating grants and new services grants under the act as required under the withholding section of the act and R 247.4303.

(3) The department shall audit a recipient of funds under sections other than the local public transportation operating grants and new services grants sections of the act in accordance with the contract entered into by the recipient and the department.

History: 1998-2000 AACCS.

R 247.4302 Local public transportation progress report.

Rule 302. (1) Not later than 40 calendar days after the end of each state fiscal year, a recipient of funds under the local public transportation operating grants and new services sections of the act shall file an annual local public transportation progress report to enable a preliminary closeout of the statutory distribution and the new services distribution after the third year.

(2) Not later than 40 days after the end of each fiscal quarter, a local public transportation recipient of operating grants and new services grants under the act shall file a quarterly local transportation progress report.

(3) Failure to comply with the quarterly report and the progress report sections of the act may result in the withholding of local public transportation operating grants and new services grants under the act.

History: 1998-2000 AACCS.

R 247.4303 Procedures for adjusting or withholding funds.

Rule 303. (1) The department may adjust or withhold project funds that are awarded under the act or may adjust project quantities or alter the project scope under any of the following circumstances:

(a) Federal funds that are necessary for the completion of the project are not awarded to the recipient by the end of the following fiscal year in which the project was approved.

(b) The actual comprehensive transportation fund revenues are below the estimated comprehensive transportation fund revenues on which a project award was made.

(c) The actual cost of the project varies from the estimated costs on which a project award was made.

(d) Revisions to the local transportation programs are requested by a recipient.

(e) The scope of the project is reduced.

(f) A recipient fails to comply with the act.

(g) A recipient fails to maintain project equipment pursuant to the contract.

(2) The department shall notify a recipient, by mail, of a department-initiated action to withhold funds for noncompliance. The notice shall clearly set forth the reasons for the proposed action. The recipient shall have 30 days from the date of issuance of the notice to respond or undertake corrective action. The department may grant an extension if the recipient files a written appeal with the department.

(3) If, within 30 days after the date that the notice of intent to withhold was issued, the recipient has not corrected the reason for the withholding and notified the department of that correction, has not been granted an extension, or has not appealed the action, in writing, to the department and been granted a waiver, then the department shall send the applicant, by certified mail, a notification that funds are being withheld. Withholding of funds shall occur automatically after the notice of withholding is mailed.

History: 1998-2000 AACS.

R 247.4304 Contractual agreements generally.

Rule 304. (1) A contractual agreement is required for authorized projects that are funded under the comprehensive transportation fund and bond fund sections of the act.

(2) A contractual agreement is not required for authorized local public transportation operating assistance grants under the act.

History: 1998-2000 AACS.

R 247.4305 Third-party contracts; applicability.

Rule 305. (1) A recipient who has not been certified under R 247.4306 and who receives comprehensive transportation funds for projects funded under the act or supplemental appropriations shall comply with the provisions of this rule.

(2) A recipient whose grant is either partially or 100% state-funded and who is certified under R 247.4306 is not required to comply with the provisions of this rule.

(3) Third-party contract processing shall be consistent with commission policy. Approval, when required by commission policy, shall take place before contract execution.

(4) Departmental contractual agreements shall require that a recipient submit any documentation which is related to third-party procurement to the department for information purposes at the request of the department.

History: 1998-2000 AACS.

R 247.4306 Third-party contracts; federal involvement.

Rule 306. (1) A recipient that is considered certified by FTA will be considered certified by the department. If a recipient is decertified by FTA, then the recipient shall immediately notify the department.

(2) The department is responsible for certifications for nonurbanized recipients who utilize department procedures.

(3) The department may request third-party contract documents that are prepared under subrule (1) or (2) of this rule for informational purposes.

(4) A recipient who is unable to, or who elects not to, comply with the provisions of subrule (1) or (2) of this rule and a recipient who has a contractual requirement of department approval shall comply with the provisions of R 247.4305.

History: 1998-2000 AACS.

R 247.4307 Declaratory rulings.

Rule 307. (1) The department, upon the written request of an interested person, may issue a declaratory ruling as to the applicability of the act or a rule to an actual statement of facts if the person submits a clear and concise statement of the actual statement of facts to the department. An interested person may submit a brief or other reference to legal authorities upon which the person relies for determining the applicability of the act or a rule to the statement of facts.

(2) If the department determines it will issue a declaratory ruling, then it shall furnish the person with a written statement to that effect and shall set forth the time in which it will issue the ruling.

(3) A ruling shall repeat the actual statement of facts and the legal authority on which the department relies for the ruling it makes. A ruling, once issued, is binding on the department, and the department shall not change the ruling retroactively, but may change a ruling prospectively.

History: 1998-2000 AACS.