

CHAPTER 80

SECTION 5310 CAPITAL ASSISTANCE PROGRAM

Authority

N.J.S.A. 27:25-5(e), (g) and (h).

Source and Effective Date

R.1999 d.33, effective January 19, 1999.
See: 30 N.J.R. 3160(a), 31 N.J.R. 137(a).

Executive Order No. 66(1978) Expiration Date

Chapter 80, Section 5310 Capital Assistance Program, expires on January 19, 2003.

Chapter Historical Note

Chapter 80, Section 16(b)(2) Capital Assistance Program, was adopted as R.1988 d.515, effective November 7, 1988. See: 20 N.J.R. 2044(b), 20 N.J.R. 2791(a).

Pursuant to Executive Order No. 66(1978), Chapter 80, Section 16(b)(2) Capital Assistance Program, was readopted as R.1993 d.527, effective October 5, 1993. See: 25 N.J.R. 3142(a), 25 N.J.R. 4918(b). Pursuant to Executive Order No. 66(1978), Chapter 80 expired on October 5, 1998.

Chapter 80, Section 5310 Capital Assistance Program, was adopted as new rules by R.1999 d.33, effective January 19, 1999. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

16:80-1.1 Purpose

(a) Section 5310 of the Federal Transit Act, 49 U.S.C. §§ 1601 et seq., as amended, authorizes the Secretary of Transportation to make grants to each state for allocation to private nonprofit corporations and associations, public bodies approved by the State to coordinate services and/or public bodies which certify that no nonprofit corporations or associations are readily available in an area for the specific purpose of assisting them in providing transportation services in meeting the special needs of elderly and persons with disabilities for whom mass transportation services are unavailable, insufficient, or inappropriate. Such grants are subject to such terms, conditions, requirements, and provisions as the Secretary of transportation may deem necessary or appropriate.

(b) The Section 5310 program is designed to supplement other capital assistance programs by funding transportation projects for the elderly and persons with disabilities in all areas—urbanized, small urban, and rural. Although recipients are often organizations which have specific clientele, transportation services funded under this program may be open to all elderly and persons with disabilities once the immediate transportation needs of the recipients are satisfied.

(c) The principal responsibility and authority for administering the Section 5310 program is with the Governor through the New Jersey Transit Corporation (NJ TRANSIT), the designated State agency which acts as grantee for all Section 5310 funds with the State of New Jersey. NJ TRANSIT is responsible for:

1. Notifying local entities of the availability of the program;
2. Applying to the Federal Transit Administration for these funds on behalf of private non-profit agencies and public bodies within the State;
3. Developing project selection criteria;
4. Determining applicant eligibility;
5. Selecting projects for funding;
6. Monitoring local projects;
7. Overseeing project audit and closeout; and
8. Ensuring that all subrecipients comply with Federal requirements.

(d) Each eligible organization shall apply directly to NJ TRANSIT for assistance under the program.

Amended by R.1993 d.527, effective November 1, 1993.
See: 25 N.J.R. 3142(a), 25 N.J.R. 4918(b).

16:80-1.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings:

“Applicant” means any private nonprofit organization or certified public body which applies for financial assistance under the Section 5310 Capital Assistance Program.

“Elderly person” means any individual who is 60 years of age or older.

“Nonprofit organization” means a corporation or association determined by the Secretary of the Treasury to be an organization described by 26 U.S.C. § 501(c) which is exempt from taxation under 26 U.S.C. § 501(a) or § 101, or one which has been determined under State law to be nonprofit, and for which NJ TRANSIT has received documentation certifying the status of the nonprofit organization.

“Person with disability” means any individual who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including any person who uses a wheelchair or has semi-ambulatory capabilities, is unable without special facilities to utilize public transportation facilities and services effectively.

“Private” means non-public bodies which are not municipalities or other political subdivisions of the State; are not Indian tribes (except private non-profit corporations formed by Indian tribes); are not public corporations, boards, or commissions established under State law; or are not subject to control by public authority, State or municipal.

“Public body” means a county, municipality or other public organization or association which has been approved by the State to coordinate services for elderly persons and persons with disabilities or has itself certified that non-profit corporation or association is not readily available in a service area.

“Subrecipient” means an applicant which has been awarded financial assistance under the Section 5310 Capital Assistance Program.

Amended by R.1993 d.527, effective November 1, 1993.
See: 25 N.J.R. 3142(a), 25 N.J.R. 4918(b).

SUBCHAPTER 2. APPORTIONMENT

16:80-2.1 General

Section 5310 funds are apportioned among the states by an administrative formula which is based on the percentage of elderly and persons with disabilities population in each state. The annual fiscal year funding level for each state is published in the Federal Register following the enactment of the annual United States Department of Transportation Appropriations Act. Notification of the fiscal year allocations are made on or about October 1. Section 5310 funds are available to the states only for the fiscal year in which they are apportioned. Any funds remaining unobligated at the end of the fiscal year are reapportioned with the next year's apportionment to all states.

Amended by R.1993 d.527, effective November 1, 1993.
See: 25 N.J.R. 3142(a), 25 N.J.R. 4918(b).

16:80-2.2 Formula

(a) The Federal share of eligible capital and program administrative costs is not to exceed 80 percent of the net cost of the program. The local match of eligible capital and administrative costs shall be no less than 20 percent of the net cost of the program. Subject to the availability of funds, NJ TRANSIT provides the 20 percent match requirements for New Jersey's Section 5310 Program.

(b) All of the local share must be provided from sources other than Federal funds. The only exceptions are Federal revenue sharing funds, Appalachian Regional Commission funds, and Housing and Urban Development (HUD), Community Development Block Grant funds, which may be treated as local funds.

(c) Up to \$25,000 or 10 percent of the State's total fiscal year 5310 allocation, whichever is greater, may be used as the Federal share of program administrative costs.

(d) The Federal share can be 90 percent for vehicle related equipment required by the Clean Air Act Amendments of 1990 or the Americans with Disabilities Act of 1990. It is only the incremental cost of the equipment required that may be funded at 90 percent, not the entire cost of the vehicle.

Amended by R.1993 d.527, effective November 1, 1993.
See: 25 N.J.R. 3142(a), 25 N.J.R. 4918(b).

16:80-2.3 Fund availability

Section 5310 funds are available to the states only for the fiscal year in which they were allocated. Any funds remaining unobligated at the end of the fiscal year will be redistributed to the states by formula in the succeeding fiscal year.

SUBCHAPTER 3. ELIGIBILITY

16:80-3.1 Eligible subrecipients

Private nonprofit organizations, public bodies that certify that no nonprofit corporation or association is readily available and public bodies approved by NJ TRANSIT to coordinate services are eligible to apply to NJ TRANSIT for funding under the Section 5310 program. A public body will be approved by NJ TRANSIT to coordinate services if the public body has been designated by resolution of the County Board of Freeholders as the lead agency providing transportation for the elderly and persons with disabilities or named by a designated lead agency as a public body that is part of a coordinated network of providers.

Amended by R.1993 d.527, effective November 1, 1993.
See: 25 N.J.R. 3142(a), 25 N.J.R. 4918(b).

16:80-3.2 Eligible capital expenses

(a) Funds for the Section 5310 program are available for capital expenses to support the provision of transportation services to meet the special needs of elderly and persons with disabilities. Examples of capital expenses include, but are not limited to, the following:

1. Buses;
2. Vans or other paratransit vehicles;
3. Radios and communication equipment;
4. Vehicle shelters;
5. Wheelchair lifts and restraints;
6. Vehicle rehabilitation;
7. Microcomputer hardware and software;
8. Vehicle overhaul (which may be calculated as up to 20 percent of the agency's annual vehicle maintenance costs incurred after April 1, 1996);
9. Associated capital maintenance cost of tires, tubes and replacement parts which exceed 0.5 percent of the depreciated value for which they are used;
10. Initial component installation costs;
11. Vehicle procurement, testing, inspection, and acceptance costs;
12. Lease of equipment when lease is more cost effective than purchase; and
13. Acquisition of transportation services under contract, lease, or other arrangement. The State, as recipient, has the option to decide whether to provide funding for such acquired services.

Amended by R.1993 d.527, effective November 1, 1993.
See: 25 N.J.R. 3142(a), 25 N.J.R. 4918(b).

16:80-3.3 Eligible NJ TRANSIT administrative expenses

(a) Eligible program administration costs consist of those costs incurred in implementing and managing the entire Section 5310 program, including previously funded projects, if necessary.

(b) Eligible program administration costs include, but are not limited to:

1. General, administrative, and overhead costs such as salaries of the program director, manager, secretary and bookkeeper;
2. Office supplies; and
3. Development of specifications for vehicles and equipment.

Amended by R.1993 d.527, effective November 1, 1993.
See: 25 N.J.R. 3142(a), 25 N.J.R. 4918(b).

SUBCHAPTER 4. APPLICATION PROCESS**16:80-4.1 Program notification**

NJ TRANSIT has developed from a variety of sources over the years a mailing list of private nonprofit agencies. This list is comprised of organizations who have ever received assistance under this program, all organizations that have applied for but been denied assistance and all organizations that have made an inquiry or requested information on the Section 5310 program but have never applied for assistance. Annually, when applications become available, NJ TRANSIT automatically shall send a letter to organizations on this mailing list notifying them of application availability. In order to minimize the efforts of applicants, all applications received shall be kept active and on file for a two-year cycle although an applicant may revise or submit a new application during that period. At least once every two years, but usually on an annual basis, NJ TRANSIT shall publish a public notice in newspapers serving minority groups in order to solicit additional names of organizations to which applications can be made available.

Amended by R.1993 d.527, effective November 1, 1993.
See: 25 N.J.R. 3142(a), 25 N.J.R. 4918(b).

16:80-4.2 Application

(a) An application shall be obtained from and submitted to:

The Section 5310 Program
NJ TRANSIT
c/o Office of Special Services/Local Program Support
One Penn Plaza East
Newark, NJ 07105-2246

(b) The applicant shall submit the following information in the completion of an application:

1. General information about the corporation or association;
2. Description of the transportation project;
3. Project justification;
4. Documentation of the corporation's or association's fiscal, legal and managerial capability;
5. Vehicle inventory;
6. Project evaluation questionnaire;
7. All Federal certifications and assurances required;
8. A description of coordination efforts;
9. A description of public involvement efforts; and
10. A description of civil rights activities, including a description of any lawsuits and complaints pertaining to discrimination in service delivery, and compliance reviews conducted.

Amended by R.1993 d.527, effective November 1, 1993.
See: 25 N.J.R. 3142(a), 25 N.J.R. 4918(b).

16:80-4.3 Application review process

(a) All applications shall be submitted for review to the State Review Committee established by NJ TRANSIT.

(b) The State Review Committee process shall consist of two parts; a regional review of applications and a full committee review. Applications received shall be divided into three regions: north, central and south. The applications for each region shall then be reviewed by NJ TRANSIT staff and at least one outside representative. Applications shall be reviewed and scored on a county basis.

(c) After the regional review has been completed, the full State Review Committee shall be convened to comment and make recommendations.

(d) If a county is not an applicant under the Section 5310 program, then an appropriate County Advisory Committee may review applications originating from organizations within that particular county.

(e) NJ TRANSIT reserves the right to reject the recommendations received from any established review committee.

Amended by R.1993 d.527, effective November 1, 1993.
See: 25 N.J.R. 3142(a), 25 N.J.R. 4918(b).

16:80-4.4 Selection of applications

(a) The designated Review Committee and NJ TRANSIT shall evaluate and select the final applications that shall become backup documentation to the grant submission prepared by NJ TRANSIT, based on the following criteria approved by the Federal Transit Administration:

1. Extent and urgency of need;
2. Vehicle utilization and appropriateness of service;
3. The degree of coordination among applicant organizations submitting a proposal in attempting to provide transportation services to the elderly and persons with disabilities;
4. The financial and management capabilities; and
5. The ability of the applicant to maintain and operate the vehicle in a safe manner.

(b) The applicants with the highest score in each county shall be selected for inclusion in the program of projects which becomes the basis for a grant unless NJ TRANSIT determines the applicant to be ineligible or to have a recent history of noncompliance or misfeasance.

(c) NJ TRANSIT shall notify each county, agency or organization whose application has been selected to be included in the grant application NJ TRANSIT submits to the Federal Transit Administration.

16:80-4.5 Final application

If an application has been selected for inclusion in the State program of projects to the Federal government, a final application shall be mailed to the selected applicants for completion. The final application consists of information regarding Federal procedural requirements, minimum eligibility requirements, provisions for the protection of private industry and the use of vehicles leased under the Section 5310 program. In addition, in order to meet the Federal requirement that projects include to the maximum extent feasible the participation of private industry, NJ TRANSIT requires each selected applicant to comply with the requirements of N.J.A.C. 16:80-4.6.

Amended by R.1993 d.527, effective November 1, 1993.
See: 25 N.J.R. 3142(a), 25 N.J.R. 4918(b).

16:80-4.6 Private enterprise coordination requirements

(a) To ensure that all private-for-profit transit operators have been notified of an organization's intention to provide transportation services, and that they have had adequate opportunity to comment, an applicant shall undertake both of the following:

1. The applicant shall publish a public notice describing the services it intends to offer to meet the special needs of elderly and persons with disabilities within a stated service area. The notice shall invite any interested private-for-profit transit or paratransit operators within the stated service area to comment on the proposed service by sending a written notice to NJ TRANSIT and/or the local applicant. A minimum of 15 days response time shall be provided; and
2. The applicant shall request individual sign-offs from private-for-profit transit and paratransit operators in the service area stating that the services that the private-for-profit operator is providing or is prepared to provide are not designed to meet the special needs of elderly and persons with disabilities within the service area.

Amended by R.1993 d.527, effective November 1, 1993.
See: 25 N.J.R. 3142(a), 25 N.J.R. 4918(b).

16:80-4.7 Notification of grant award

NJ TRANSIT shall notify the governing body of each county once it receives notification from the Federal Transit Administration of the grant award. In addition, NJ TRANSIT shall notify each applicant as to whether it was included in the Federal grant submission.

SUBCHAPTER 5. AGREEMENTS

16:80-5.1 Contractual agreements

(a) After program approval and purchase of vehicle equipment, NJ TRANSIT shall enter into a contractual agreement with the selected recipients for the purposes of leasing vehicles.

(b) Each recipient will be required to enter into a contract with NJ TRANSIT which governs the leasing and use of the capital items during the useful life of the items. The contract will specify requirements for reporting, coordination, and other items regarding the use of the equipment.

(c) The vehicle shall either be owned and title retained by the grant subrecipient with NJ TRANSIT listed as the first lienholder or by NJ TRANSIT and shall not be subleased during its useful life without prior written approval of NJ TRANSIT.

(d) Disposal of the equipment during the project period shall require NJ TRANSIT's approval. All equipment pur-

chased shall meet useful life criteria established by NJ TRANSIT. The useful life varies depending upon the type of equipment purchased but ranges between four years or 100,000 miles and seven years or 150,000 miles. If NJ TRANSIT determines that the useful life criteria has not been met, the subrecipient can continue to operate the equipment in accordance with its application, return the vehicle in good working order to NJ TRANSIT for reassignment, or keep the vehicle, but reimburse NJ TRANSIT the fair market value of the vehicle.

Amended by R.1993 d.527, effective November 1, 1993.
See: 25 N.J.R. 3142(a), 25 N.J.R. 4918(b).