

CHAPTER 80**SECTION 16(b)(2) CAPITAL ASSISTANCE PROGRAM****Authority**

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

Source and Effective Date

R.1993 d.527, effective October 5, 1993.
See: 25 N.J.R. 3142(a), 25 N.J.R. 4918(b).

Executive Order No. 66(1978) Expiration Date

Chapter 80, Section 16(b)(2) Capital Assistance Program, expires on October 5, 1998.

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 was readopted as R.1993 d.527. See: Source and Effective Date. See, also, section annotations for specific rulemaking activity.

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SUBCHAPTER 1. GENERAL PROVISIONS**16:80-1.1 Purpose**

(a) Section 16(b)(2) of the Federal Transit Act, 49 U.S.C. § 1601 et seq., as amended, authorizes the Secretary of

Transportation to make grants and loans to private non-profit corporations and associations, public bodies approved by the State to coordinate services and/or public bodies which certify that no non-profit 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 and loans are subject to such terms, conditions, requirements, and provisions as the Secretary of Transportation may deem necessary or appropriate.

(b) The Section 16(b)(2) 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 program is with the Governor through the New Jersey Transit Corporation (NJ TRANSIT), the designated State agency which acts as grantee for all Section 16(b)(2) funds within the State of New Jersey. NJ TRANSIT is responsible for:

1. Notifying organizations 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; and
7. Overseeing project audit and closeout.

(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 non-profit organization or certified public body which applies for financial assistance under the Section 16(b)(2) Capital Assistance Program.

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

"Non-profit 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(2) or § 101, or one which has been determined under State law to be non-profit, and for which NJ TRANSIT has received documentation certifying the status of the non-profit 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.

"Recipient" means an applicant which has been awarded financial assistance under the Section 16(b)(2) 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. ALLOCATION

16:80-2.1 General

Section 16(b)(2) funds are allocated 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 16 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 reappportioned 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 requirement for New Jersey's Section 16(b)(2) 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 16(b)(2) 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 16(b)(2) 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 applicants

Private non-profit organizations and designated public bodies are eligible to apply to NJ TRANSIT for funding under the Section 16(b)(2) program.

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

16:80-3.2 Eligible capital expenses

(a) Funds for the Section 16(b)(2) 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. Spare parts with a unit cost over \$300.00 and a useful life of more than one year;
9. Initial installation costs;
10. Vehicle procurement, testing, inspection, and acceptance costs;
11. Lease of equipment when lease is more cost effective than purchase; and
12. 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 16(b)(2) 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).

16:80-3.4 Private enterprise coordination requirements

(a) To the maximum extent feasible, NJ TRANSIT shall ensure that private-for-profit mass transportation operators have been given a fair and timely opportunity to participate in the local planning for the project, and have been afforded every feasible opportunity to provide the proposed special service for elderly and persons with disabilities. To ensure that all private-for-profit and public transit operators have been notified of the non-profit organization's intention to provide special services, and that they have had adequate opportunity to comment, two options are available:

1. The applicant should have 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 should invite any interested public or 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; or

2. The applicant should request individual sign-offs from public or 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).

SUBCHAPTER 4. APPLICATION PROCESS

16:80-4.1 Program advertisement

NJ TRANSIT shall advertise the program early enough to allow sufficient time for any interested applicant to obtain, complete, and return the preliminary application before an established deadline. The program shall be advertised by means of a local notice in three or more newspapers of general circulation published in New Jersey.

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 Preliminary application

(a) The preliminary application must be obtained from and submitted to:

The Section 16(b)(2) Program
NJ TRANSIT
c/o Office of Special Services
One Penn Plaza East
Newark, NJ 07105-2246

(b) The applicant shall submit the following information in the completion of the preliminary 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 and managerial capability;
5. Vehicle inventory;

6. Project evaluation questionnaire; and
7. Operating plan.

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 County coordinating committee review

(a) If a county has not been designated by NJ TRANSIT as a public body eligible to apply, then the county will be given an opportunity to review all applications received from within that particular county.

(b) NJ TRANSIT packages all completed preliminary applications by county and forwards them to the appropriate county coordinating committees for review and evaluation.

(c) To assist in the review, NJ TRANSIT provides each county coordinating committee with project evaluation criteria. Upon completion of the review, the applications are returned to NJ TRANSIT where a final review and selection is accomplished.

(d) If a county wants to apply and has been designated by NJ TRANSIT as an eligible applicant, then the county forfeits the opportunity to participate in the review process. In such cases, applications will be reviewed directly by NJ TRANSIT.

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 Final application

If a preliminary application has been selected for inclusion in the State application to the Federal government, a final application is mailed to the applicants for completion. The final application consists of information regarding procedural requirements, minimum eligibility requirements, provisions for the protection of private industry, and the use of vehicles leased under the Section 16(b)(2) program. Additionally, the final application consists of various certifications and notifications required under the Federal program guidelines.

16:80-4.5 Selection of final applications

(a) NJ TRANSIT evaluates and selects the final applications to be used based on the following criteria approved by the Federal Transit Administration:

1. The applicant's ability to provide designated service as determined by information from the applicant's operating statement;
2. The experience of the applicant organization in providing transportation to its clientele group;
3. The degree of coordination among applicant organizations submitting a proposal in attempting to provide transportation services to elderly and/or persons with disabilities; and

4. The compatibility and relevance of proposed service with other government programs and policies.

(b) NJ TRANSIT will submit a final program of projects listing the names of agencies completing applications to the capital assistance branch of the Federal Transit Administration.

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

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 Notification of grant award

NJ TRANSIT will notify the governing body of each county once it receives notification from the Federal Transit Administration of the grant award.

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

SUBCHAPTER 5. AGREEMENTS

16:80-5.1 Lease agreements

(a) After program approval and purchase of vehicle equipment, NJ TRANSIT will enter into a lease 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 will be owned and title retained by NJ TRANSIT and may not be sub-leased during its useful life without prior written approval of NJ TRANSIT.

(d) Disposal of the equipment during the project period will require NJ TRANSIT's approval.

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

16:80-5.2 Reporting requirements

The recipient will be required to submit quarterly reports regarding the utilization of the capital items. Such reports will include the number of people benefitting from transportation services, trip purposes for which service is used, and the cost of providing service. Reporting forms will be attached to the contract which the recipient and NJ TRANSIT will enter into prior to the delivery of any vehicle.