

CHAPTER 81**NON-URBANIZED AREA FORMULA
ASSISTANCE PROGRAM****Authority**

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

Source and Effective Date

R.1999 d.34, effective January 19, 1999.
See: 30 N.J.R. 3163(a), 31 N.J.R. 139(a).

Executive Order No. 66(1978) Expiration Date

Chapter 81, Non-urbanized Area Formula Assistance Program, expires on January 19, 2003.

Chapter Historical Note

Chapter 81, Small Urban and Rural Area Public Transportation Program, was adopted as R.1988 d.514, effective November 7, 1988. See: 20 N.J.R. 2046(a), 20 N.J.R. 2793(a).

Pursuant to Executive Order No. 66(1978), Chapter 81, Small Urban and Rural Area Public Transportation Program, was readopted as R.1993 d.528, effective October 5, 1993. See: 25 N.J.R. 3144(a), 25 N.J.R. 4920(a). Subchapter 7, Rural Transit Assistance Program (RTAP), was adopted by R.1993 d.528, effective November 1, 1993. See: 25 N.J.R. 3144(a), 25 N.J.R. 4920(a). Pursuant to Executive Order No. 66(1978), Chapter 81 expired on October 5, 1998.

Chapter 81, Non-urbanized Area Formula Assistance Program, was adopted as new rules by R.1999 d.34, effective January 19, 1999. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL OVERVIEW**16:81-1.1 Purpose**

(a) The non-urbanized area formula assistance program for public transportation authorized by 49 U.S.C. § 5311 authorizes the Secretary of Transportation to apportion funds to the Governor of each State for public transportation projects in non-urbanized areas.

(b) The funds, appropriated annually, are made available on non-urbanized population-based formulas and may be used for all projects included in the Section 5311 Statewide program of projects submitted annually for approval to the Federal Transit Administration by NJ TRANSIT.

(c) The program of projects shall provide for fair and equitable distribution of funds within the State, including Indian reservations, and shall provide for maximum feasible coordination with transportation services assisted by other Federal sources.

(d) Section 5311 program funds may be used for planning, capital, operating, and administrative assistance to State agencies, local public bodies, nonprofit organizations, Indian tribes and groups, and operators of public transit services.

(e) The principal responsibility and authority for administering the program is with NJ TRANSIT, the State agency designated as the grantee for all Section 5311 funds within the State of New Jersey. NJ TRANSIT is responsible for:

1. Notifying eligible local applicants of the availability of the program;
2. Developing project selection criteria;
3. Soliciting and reviewing applications;
4. Certifying eligibility of applicants and project activities;
5. Submitting a Statewide program of projects to the Federal Transit Administration for approval;
6. Ensuring a fair and equitable distribution of program funds;

7. Ensuring the maximum feasible coordination of public transportation resources at both the State and local level;

8. Ensuring a process whereby private transit and para-transit operators are provided an opportunity to participate in the program to the maximum extent feasible;

9. Ensuring compliance with Federal requirements and program guidelines;

10. Monitoring local projects; and

11. Overseeing project audit and closeout.

Amended by R.1993 d.528, effective November 1, 1993.
See: 25 N.J.R. 3144(a), 25 N.J.R. 4920(a).

16:81-1.2 Definitions

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

“Applicant” means any State agency, local public body, nonprofit organization, Indian tribe and group, and operator of public transportation services that applies for financial assistance under the Section 5311 Non-urbanized Area Formula Assistance Program.

“Non-urbanized area” and “small urban and rural area” are used synonymously to mean any area outside an urbanized area, as designated by the Bureau of the Census. An urbanized area consists of a core area and the surrounding density populated area with a population of 50,000 or more, with boundaries fixed by the Census Bureau or extended by State and local officials.

“Public transportation” means mass transportation by bus, rail, or other conveyance, either publicly or privately owned, which provides the public general or special service on a regular and continuing basis (not including charter or sight-seeing or exclusive school bus).

“Subrecipient” means an applicant which has been awarded financial assistance under the Section 5311 Non-urbanized Area Formula Assistance Program.

SUBCHAPTER 2. APPORTIONMENT

16:81-2.1 General

Formal notification of the fiscal year apportionment to each state will be made through publication in the Federal Register after the enactment of the annual Department of Transportation Appropriation Act or a continuing resolution.

16:81-2.2 Formula

Section 5311 funds are apportioned to the state by a legislatively mandated formula based on the ratio of the non-urbanized population of each state to the non-urbanized population of all the states, according to the latest U.S. Census.

16:81-2.3 Fund availability

Section 5311 funds are available for obligation for three years, the fiscal year apportioned plus two additional years. Funds unobligated at the end of the three-year period will lapse to the State unless they are obligated for Section 5311 projects or transferred to the Section 5307 program to be obligated that year in areas having a population of between 50,000 and 200,000. Unobligated funds which have lapsed will be reapportioned among the states according to formula.

Amended by R.1993 d.528, effective November 1, 1993.
See: 25 N.J.R. 3144(a), 25 N.J.R. 4920(a).

SUBCHAPTER 3. ELIGIBILITY

16:81-3.1 Local subrecipients

Eligible subrecipients include local public bodies and agencies thereof, private nonprofit organizations, Indian tribes and groups, and operators of public transportation services. Private, for-profit operators of transit or paratransit services, may participate in the program through contracts with eligible recipients. NJ TRANSIT may further define recipient eligibility requirements in order to comply with State laws or to further program goals.

Amended by R.1993 d.528, effective November 1, 1993.
See: 25 N.J.R. 3144(a), 25 N.J.R. 4920(a).

16:81-3.2 Eligible services and areas

(a) Section 5311 funds are available for expenditures for public transportation projects in areas other than urbanized areas.

(b) Section 5311 projects may include the transportation of non-urbanized area residents to and from urbanized areas. If Section 5311 funds are used in a joint urbanized/non-urbanized project, Section 5311 funds shall be used primarily to assist the non-urbanized portion. The criteria for such joint projects, are as follows:

1. The subrecipient must submit and have approved by NJ TRANSIT a formula that reasonably allocates operating and capital costs between the two funding sources which is related to the service provided. In addition, in the interest of flexibility and coordination, vehicles purchased under either program may be used in any part of a combined urbanized and non-urbanized area.

Amended by R.1993 d.528, effective November 1, 1993.
See: 25 N.J.R. 3144(a), 25 N.J.R. 4920(a).

SUBCHAPTER 4. ELIGIBLE ASSISTANCE CATEGORIES

16:81-4.1 State administration, planning, and technical assistance

(a) NJ TRANSIT may apply for an amount not to exceed 15 percent of its apportioned funds to administer the program and to provide technical assistance to local recipients. Such technical assistance may include the following:

1. Project planning;
2. Grant preparation;
3. Program development;
4. Development of policies and procedures;
5. Development of vehicle and equipment specifications;
6. Management development;
7. Coordination of public transportation programs (public and private); and
8. Such research as NJ TRANSIT deems appropriate to promote the effective means of delivering public transportation service in non-urbanized areas. These expenses are funded at a 100 percent Federal share. NJ TRANSIT may pass any portion of the funds on to local recipients for the same purpose, and may impose a local share requirement.

16:81-4.2 Capital expenses

(a) Capital expenses include the acquisition, construction and improvement of public transit facilities and equipment needed for an efficient and coordinated public transportation system. Where the Federal Transit Administration allows certain costs to be capitalized or treated as operating expenses, NJ TRANSIT shall determine which costs it shall allow subrecipients to capitalize. NJ TRANSIT shall allow as capital vehicle overhaul costs which do not exceed 20 percent of a subrecipient's annual vehicle maintenance costs. In addition, associated capital maintenance including the costs of tires, tubes and replacement parts which exceed .5 percent of the depreciated value of the vehicle for which they are used may be capitalized upon prior approval of NJ TRANSIT. The Federal share of eligible facilities and equipment shall not exceed 80 percent of the net capital cost. Examples of eligible capital expenditures include, but are not limited to, the following:

1. Buses;
2. Vans or other paratransit vehicles;

3. Radios and communications equipment;
4. Passenger shelters;
5. Wheelchair lifts and restraints;
6. Vehicle rehabilitation;
7. Operational support such as computer hardware/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. Construction or rehabilitation of transit facilities including design, engineering and land acquisition;
12. Facilities to provide access for bicycles to mass transit facilities or equipment for transporting bicycles on vehicles; and
13. Lease of equipment/facilities when more cost effective as well as the capital cost of contracting.

Amended by R.1993 d.528, effective November 1, 1993.
See: 25 N.J.R. 3144(a), 25 N.J.R. 4920(a).

16:81-4.3 Operating expenses

(a) Operating expenses are considered those costs directly related to system operations. As defined for the Section 5311 program, eligible expenses may be limited, at the option of NJ TRANSIT, to include only the following:

1. Salaries and fringe benefits (drivers, mechanics, dispatchers, etc.);
2. Contract services;
3. Maintenance and repairs;
4. Driver uniforms and supplies;
5. Replacement parts (which do not meet criteria for capital items);
6. Drivers' and mechanics' salaries;
7. Office supplies;
8. Materials consumed (fuel, oil); and
9. Licenses.

(b) Net operating expenses are those expenses that remain after operating revenues are subtracted from eligible operating expense. At a minimum, operating revenues include farebox revenues. Farebox revenues include fares paid by riders who are later reimbursed by a human service agency or other user-side subsidy arrangements but do not include payments made directly to the transit provider by human service agencies. The Federal share of net operating expenses may not exceed 50 percent.

(c) NJ TRANSIT provides one half the local match or 25 percent of the total operating expense. The local recipient provides the other 25 percent match for operating expenses.

16:81-4.4 Project administrative expenses

(a) Under the Section 5311 program, project administrative expenses incurred by a local subrecipient are viewed as a separate cost category from either capital or operating expenses. NJ TRANSIT has determined such expenses to be administrative.

(b) Eligible project administrative costs may include, but are not limited to, general, administrative and overhead costs such as:

1. Salaries and fringe benefits (Director, Secretary, etc.);
2. Facilities and equipment rental;
3. Insurance;
4. Drug and alcohol testing;
5. Marketing;
6. Office supplies;
7. Audit and legal expenses;
8. Standard overhead (indirect costs); and
9. Training and travel.

(c) Administrative costs for promoting and coordinating ridesharing may be eligible if the activity is part of a coordinated public transportation program.

(d) Interest on short-term loans for operating assistance may be an eligible administrative expense if approved by NJ TRANSIT.

(e) The Federal share of project administrative expenses may not exceed 80 percent. NJ TRANSIT provides the 10 percent match of the administrative expenses, and the local recipient provides the remaining 10 percent match.

Amended by R.1993 d.528, effective November 1, 1993.
See: 25 N.J.R. 3144(a), 25 N.J.R. 4920(a).

16:81-4.5 Intercity bus service

States are required to spend a portion of their Section 5311 apportionment to carry out a program for the development and support of intercity bus transportation. The percentage required by the statute is not less than 15 percent. The requirement is effective unless the Governor certifies that the intercity bus service needs of the State are being adequately met.

New Rule, R.1993 d.528, effective November 1, 1993.
See: 25 N.J.R. 3144(a), 25 N.J.R. 4920(a).

SUBCHAPTER 5. APPLICATION PROCESS

16:81-5.1 Application process

(a) The application package for Section 5311 eligible subrecipients shall be obtained from, and returned to:

The Section 5311 Program
NJ TRANSIT
c/o Office of Special Services/Local Program Support
One Penn Plaza East
Newark, NJ 07105-2246

(b) Each subrecipient of Section 5311 funds shall submit the application to NJ TRANSIT for funds apportioned to the State of New Jersey during the current fiscal year. The application shall be complete and have authorizing signatures where appropriate.

(c) The following information shall be included in the application:

1. A project description;
2. A project coordination statement;
3. Public involvement description;
4. Private enterprise involvement documentation;
5. A labor special warranty;
6. Civil rights assurances;
7. Application resolutions;
8. Certification and assurances; and
9. An Appendix A, a list of statutes, regulations, executive orders and administrative requirements applicable to the Section 5311 program.

Amended by R.1993 d.528, effective November 1, 1993.
See: 25 N.J.R. 3144(a), 25 N.J.R. 4920(a).

SUBCHAPTER 6. NOTIFICATION PROCESS

16:81-6.1 Notification process

(a) NJ TRANSIT shall notify applicants of the selection of their projects to be included in the application to be submitted to the Federal Transit Administration once the NJ TRANSIT Board of Directors has reviewed and approved the Section 5311 program of projects.

(b) NJ TRANSIT shall also notify applicants of the Section 5311 grant award.

Amended by R.1993 d.528, effective November 1, 1993.
See: 25 N.J.R. 3144(a), 25 N.J.R. 4920(a).

SUBCHAPTER 7. RURAL TRANSIT ASSISTANCE PROGRAM (RTAP)

16:81-7.1 Purpose

(a) Section 5311(h) of the Federal Transit Act, as amended, authorizes the Secretary to make grants and enter into direct contracts for transit research, technical assistance, training and related support services in non-urbanized areas. The Rural Transit Assistance Program (RTAP) provides a source of funding to assist in the design and implementation of training and technical assistance projects and other support services tailored to meet the specific needs of transit operators in non-urbanized areas. The program has two components. The State program provides an annual allocation to each State to develop and implement training and technical assistance programs in conjunction with the State's administration of the Section 5311 formula assistance program. The national program provides for the development of information and materials for use by local operators and State administering agencies and supports research and technical assistance projects of national interest.

(b) The objectives of the Rural Transit Assistance Program are:

1. To promote the safe and effective delivery of public transportation in non-urbanized areas and to make more efficient use of public and private resources;
2. To foster the development of State and local capacity for addressing the training and technical assistance needs of rural/small urban transportation community;
3. To improve the quality of information and technical assistance available through the development of training and technical assistance resource materials;
4. To facilitate peer-to-peer self help through the development of local networks of transit professionals;

5. To support the coordination of public, private, specialized, and human service transportation services; and

6. To build a national data base on the non-urbanized segment of the public transportation industry.

16:81-7.2 Authorization

Funding for RTAP is authorized at the level of five percent of the three percent of Federal Transit Administration's formula and discretionary funds which are set aside for planning, programming, and research. This provides a stable funding source proportionate to other Federal Transit Administration program.

16:81-7.3 RTAP formula

Federal Transit Administration allocates RTAP funds to the states based on an administrative formula. A base level of funds is allocated first (\$50,000 for each of the states and Puerto Rico, and \$10,000 for the Insular Areas of Guam, American Samoa, Northern Marianas, and the Virgin Islands). The remaining funds are distributed according to the non-urbanized population based formula used for the apportionment of Section 5311 funds. Allocations are announced in the Federal Register along with the annual Section 5311 apportionments. The RTAP national program is funded from other Federal Transit Administration sources.

16:81-7.4 Funds availability

RTAP funds have the same period of availability as the Section 5311 formula funds. That is, RTAP funds are available to the State for obligation during the fiscal year in which they are allocated plus two additional fiscal years. If not obligated during this period, they are reallocated among all the States with the following fiscal year's allocation. There is no Federal requirement for a local match for the RTAP funds.