

Date: May 28, 2008
W.I.: 1512
Referred by: PAC

ABSTRACT
Resolution No. 3877

This resolution adopts the program guidelines for the second funding cycle of the Federal Transit Administration's New Freedom Program for the large urbanized areas of the San Francisco Bay Area.

The following attachment is provided with the resolution:

Attachment A Second Cycle New Freedom Program Guidelines

Further discussion of this action is contained in the Programming and Allocations Committee Summary dated May 14, 2008 and the MTC "Executive Director's Memorandum" dated May 28, 2008.

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Re: Guidelines for Second Cycle of Federal Transit Administration's New Freedom Program

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION No. 3877

WHEREAS, Title 49 United States Code (U.S.C.) Section 5317 (49 U.S.C. 5317) authorizes and sets forth the provisions for the New Freedom Program, which makes grants to recipients for addressing the transportation needs of disabled persons through the provision of new services and facility improvements that go beyond those required by the Americans with Disabilities Act; and

WHEREAS, 49 U.S.C. §5317(c) apportions New Freedom funds by formula to large urbanized areas, small urbanized areas, and non-urbanized areas; and

WHEREAS, pursuant to California Government Code Section 66500 et seq., the Metropolitan Transportation Commission ("MTC") is the regional transportation planning agency for the San Francisco Bay Area; and

WHEREAS, MTC is the designated metropolitan planning organization (MPO) for the nine-county San Francisco Bay Area; and

WHEREAS, consistent with 49 U.S.C. §5307(a)(2), MTC is the designated recipient of the Federal Transit Administration's (FTA's) New Freedom Program funding apportionments for large urbanized areas in the nine-county San Francisco Bay Area; and

WHEREAS, as the designated recipient, MTC is responsible for administering the program, including: conducting a competitive selection process; certifying a fair and equitable distribution of funds resulting from the competitive selection process; certifying that each project was derived from a locally developed, coordinated public transit-human services transportation plan, and certifying that the plan was developed through a process that included representatives of public, private, and non-profit transportation and human services providers and participation by the public; managing all aspects of grant distribution and oversight for subrecipients receiving funding under the program; and submitting reports as required by FTA; and

WHEREAS, MTC has developed program guidelines for the second funding cycle of the New Freedom Program, attached hereto as Attachment A, and incorporated herein as though set forth at length; now, therefore, be it

RESOLVED, that MTC adopts the Second Cycle New Freedom Program Guidelines as provided in Attachment A; and be it further

RESOLVED, that MTC will use these guidelines to conduct the competitive selection process for the Second Cycle New Freedom Program.

METROPOLITAN TRANSPORTATION COMMISSION

Bill Dodd, Chair

The above resolution was entered into by the Metropolitan Transportation Commission at the regular meeting of the Commission held in Oakland, California, on May 28, 2008.

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Attachment A
MTC Resolution No. 3877
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METROPOLITAN TRANSPORTATION COMMISSION SECOND CYCLE NEW FREEDOM PROGRAM GUIDELINES

The following guidelines are excerpted from Federal Transit Administration (FTA) Circular C 9045.1, the *New Freedom Program Guidance and Application Instructions*, except where modified to meet the region's needs or where additional clarification is provided. The FTA Circular is available at www.fta.dot.gov/laws/circulars/leg_reg_6624.html.

1. **FUNDING APPORTIONMENT AND AVAILABILITY**. New Freedom funds are first apportioned 60 percent to large urbanized areas¹ (UAs), 20 percent to small UAs, and 20 percent to non-UAs. Funds are then apportioned to all designated recipients for an area type by the ratio of the number of disabled individuals in the designated recipient's area to the total number of disabled individuals for that area type. Figure 1 shows the Bay Area's five large UAs and seven small UAs. (Note that the names given to the urbanized areas correspond to the most populated city/cities within the area, and that the urbanized areas themselves are larger than the cities for which they are named.) Table 1 shows actual apportionments for FYs 2006, 2007, and 2008 and the estimated apportionment for FY 2009. Funds are available during the fiscal year of apportionment plus two additional years.

¹ An urbanized area is an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an "urbanized area" by the Secretary of Commerce. Large urbanized areas as used in the context of FTA formula grant programs are urbanized areas with a population of greater than 200,000, and small urbanized areas are those with a population of at least 50,000 but less than 200,000.

Figure 1. Map of Urbanized Areas

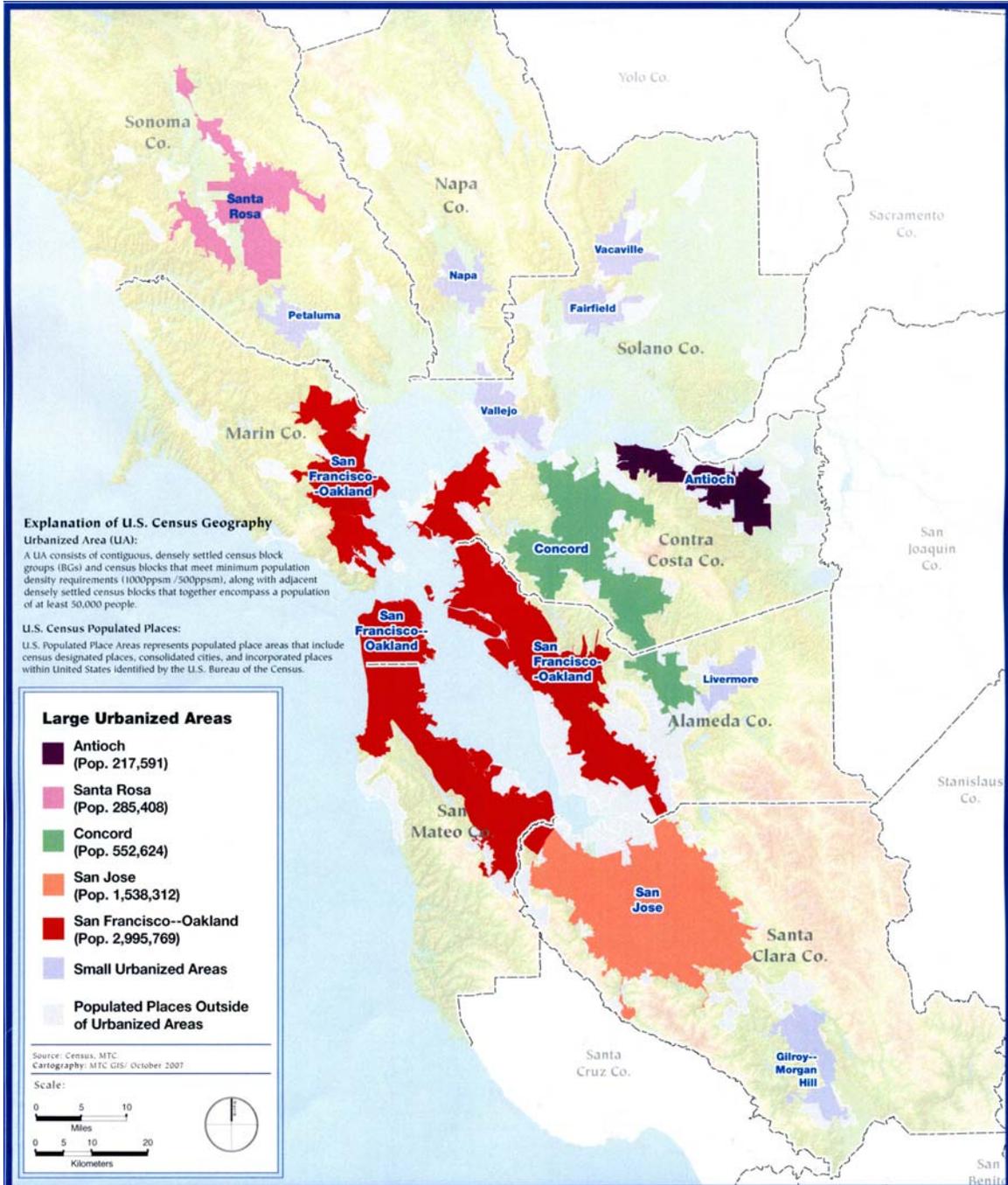


Table 1. New Freedom Program Apportionments

Area	Actual FY 2006	Actual FY 2007	Actual FY 2008	Estimated FY 2009
Bay Area Large UA	\$1,545,232	\$1,612,117	\$1,741,484	\$1,840,999
Antioch	\$56,232	\$60,601	\$65,464	\$69,205
Concord	\$127,429	\$121,779	\$131,551	\$139,069
San Francisco-Oakland	\$885,254	\$950,208	\$1,026,459	\$1,085,114
San Jose	\$404,370	\$399,440	\$431,494	\$456,151
Santa Rosa	\$71,947	\$80,089	\$86,516	\$91,460
California	\$2,369,770	\$2,339,499	\$2,527,237	\$2,671,650
Small UA	\$1,676,861	\$1,658,388	\$1,791,470	\$1,893,838
Non-UA	\$692,909	\$681,111	\$735,768	\$777,812

UA = Urbanized Area

2. **ROLE OF THE DESIGNATED RECIPIENTS.** MTC is the designated recipient for the Bay Area’s large UA funding apportionment, and Caltrans is the designated recipient for California’s small and non-UA funding apportionments. The designated recipient is responsible for conducting the competitive selection process to determine which projects should receive funding. For the large UA apportionment, the competitive selection is conducted on a region-wide basis. For the small and non-UA apportionment, the competitive selection is conducted on a statewide basis. Once projects are selected, the designated recipient is responsible for requesting the grant amounts from FTA on behalf of the subrecipients. The designated recipient is also responsible for monitoring the subrecipients’ compliance with all federal requirements during the conduct of the project. Hence, subrecipients of large UA funds will be required to enter into agreements with MTC, while subrecipients for small and non-UA funds will be required to enter into agreements with Caltrans.
3. **FUNDING DISTRIBUTION.** Projects may compete for funding that is appropriated to the UA in which the project will provide services. Projects that will provide services in multiple UAs may compete for funding from all of the affected UAs.

Large UA Programming Targets. Cycle I involved the FY 2006 apportionment. Table 2 shows the target programming amounts for Cycle II, which includes the FY 2007 apportionment. The remaining apportionments for FY 2008 and FY 2009 will be encumbered under a future funding cycle, Cycle III.

Small and Non-UA Programming Targets. For the FY 2006 apportionment, Caltrans conducted a separate call for projects. For the FY 2007 through FY 2009 small UA apportionments, MTC will conduct, as part of the Cycle II funding cycle, the competitive selection process for the Bay Area’s small UAs on behalf of Caltrans. Table 2 shows the target programming amounts for the Bay Area’s small UAs, which includes all of the funding available under SAFETEA. For the non-UA apportionments, Caltrans will be issuing a separate call for projects.

Table 2. Programming Targets for New Freedom Program Cycle II

Area	Cycle II Targets	Future Cycle III
Bay Area Large UA	\$1,612,117	\$3,582,482
Antioch	\$60,601	\$134,669
Concord	\$121,779	\$270,620
San Francisco-Oakland	\$950,208	\$2,111,573
San Jose	\$399,440	\$887,645
Santa Rosa	\$80,089	\$177,976
Bay Area Small UA	\$991,014	\$0
Fairfield	\$166,539	\$0
Gilroy-Morgan Hill	\$84,825	\$0
Livermore	\$98,750	\$0
Napa	\$123,621	\$0
Petaluma	\$73,957	\$0
Vacaville	\$128,969	\$0
Vallejo	\$314,353	\$0

UA = Urbanized Area

Cycle II Large UA Target = FY 2007 apportionment

Cycle II Small UA Target = FY 2007 + FY 2008 + FY 2009 apportionments

4. **ELIGIBLE SUBRECIPIENTS.** There are three categories of eligible subrecipients of New Freedom funds: a) private non-profit organizations; b) state or local governmental authority; and c) operators of public transportation services, including private operators of public transportation services.

5. **ELIGIBLE ACTIVITIES.** New Freedom Program funds are available for capital and operating expenses that support new public transportation services beyond those required by ADA and new public transportation alternatives beyond those required by ADA designed to assist individuals with disabilities with accessing transportation services, including transportation to and from jobs and employment support services. “New” service is any service or activity that was not operational on August 10, 2005, and did not have an identified funding source as of August 10, 2005, as evidenced by inclusion in the Transportation Improvement Plan (TIP) or the STIP. Recipients or subrecipients may not terminate ADA paratransit enhancements or other services funded as of August 10, 2005, in an effort to reintroduce the services as “new” and then receive New Freedom funds for those services.

Both new public transportation services and new public transportation alternatives are required to go beyond the requirements of the ADA and must (1) be targeted toward individuals with disabilities; and (2) meet the intent of the program by removing barriers to transportation and assisting persons with disabilities with transportation, including transportation to and from jobs and employment services.

Following is an illustrative list of activities that are eligible for funding under New Freedom:

New Public Transportation Services Beyond the ADA

- Enhancing paratransit beyond minimum requirements of the ADA
- Feeder services

- Making accessibility improvements to transit and intermodal stations not designated as key stations under 49 CFR 37.47, 37.51, or 37.53, and that are not required under 49 CFR 37.43 as part of an alteration or renovation to an existing station
- Travel training

New Public Transportation Alternatives Beyond the ADA

- Purchasing vehicles to support new accessible taxi, ride sharing, and/or vanpooling programs
- Supporting the administration and expenses related to new voucher programs for transportation services offered by human service providers
- Supporting new volunteer driver and aide programs
- Supporting new mobility management and coordination programs among public transportation providers and other human service agencies providing transportation

The FTA Circular contains additional requirements pertaining to the above examples. The list is not intended to be exhaustive. Applicants are encouraged to develop innovative solutions to meet the needs of individuals with disabilities in their communities, considering the transportation needs, proposed solutions, and enhanced coordination strategies identified in the Bay Area's Coordinated Public-Transit-Human Services Transportation Plan (see Section 9 below).

6. FEDERAL/LOCAL MATCHING REQUIREMENTS.

- a. General. New Freedom funds may be used to finance capital and operating expenses. The Federal share of eligible capital and planning costs may not exceed 80 percent of the net cost of the activity. The federal share of the eligible operating costs may not exceed 50 percent of the net operating costs of the activity.

The local share of eligible capital costs shall be no less than 20 percent of the net cost of the activity, and the local share for eligible operating costs shall be no less than 50 percent of the net operating costs. All of the local share must be provided from sources other than federal Department of Transportation (DOT) funds. Some examples of sources of local match which may be used for any or all of the local share include: state or local appropriations; other non-DOT Federal funds; dedicated tax revenues; private donations; revenue from human service contracts; toll revenue credits; and net income generated from advertising and concessions. Non-cash share such as donations, volunteer services, or in-kind contributions is eligible to be counted toward the local match as long as the value of each is documented and supported, represents a cost which would otherwise be eligible under the program, and is included in the net project costs in the project budget.

Income from contracts to provide human service transportation may be used either to reduce the net project cost (treated as revenue) or to provide local match for New Freedom operating assistance. In either case, the cost of providing the contract service is included in the total project cost. No FTA program funds can be used as a source of local match for other FTA programs, even when used to contract for service.

- b. Exceptions. The Federal share is 90 percent for vehicle-related equipment and facilities required by the Clean Air Act (CAA) or the Americans with Disabilities Act (ADA). It is only the incremental cost of the equipment or facility required by the CAA or ADA that may be funded at 90 percent, not the entire cost of the vehicle or facility, even if the vehicle or facility is purchased for use in service required by the ADA or CAA. *Applicants wishing to apply for assistance at the higher match ratio should inform MTC before submitting an application, as MTC would need to consult the FTA regional office for further guidance regarding methods of computing the incremental cost.*
- c. Use of Other Federal Funds. Local match may be derived from other federal programs that are eligible to be expended for transportation, other than funds from DOT programs. Examples of types of programs that are potential sources of local match include: employment, training, aging, medical, community services, and rehabilitation services. To be eligible for local match for FTA funds, the other federal funds must be used for activities included in the total net project costs of the FTA grant. Expenditure of other federal funds for transportation outside of the scope of the project cannot be applied as a credit for local match in the FTA grant. Specific program information for other types of Federal funding is available at www.unitedweride.gov.
7. COORDINATED PLANNING. SAFETEA requires that projects selected for funding under the Elderly Individuals and Individuals with Disabilities (Section 5310), Job Access and Reverse Commute (JARC), and New Freedom programs be “derived from a locally developed, coordinated public transit-human services transportation plan”, and that the plan be “developed through a process that includes representatives of public, private, and non-profit transportation and human services providers and participation by members of the public.” A locally developed, coordinated, public transit-human services transportation plan (“coordinated plan”) identifies the transportation needs of individuals with disabilities, older adults, and people with low incomes, and provides strategies for meeting those local needs. The Bay Area’s Coordinated Plan is available at <http://www.mtc.ca.gov/planning/pths/>. The plan includes a low-income component and an elderly and disabled component, the latter being more germane to the New Freedom Program.

Agencies and organizations interested in applying for New Freedom funds must consider the transportation needs, proposed solutions, and enhanced coordination strategies presented in the Coordinated Plan in developing their project proposals. Applicants will be asked to demonstrate their proposed project’s consistency with the Coordinated Plan. Following is a summary of the solutions and strategies that are identified in Chapters 7 and 8, respectively, of the plan.

Solutions to Gaps

- Additions or improvements to ADA paratransit
- Additions or improvements to demand-responsive services other than ADA paratransit
- Additions or improvements to transit services
- Improved access to transit services
- Information and assistance

Strategies to Enhance Coordination of Service Delivery

- Enhance land use and transportation coordination.
- Promote enhanced pedestrian access to public transit and alternative modes of travel.
- Promote coordinated advocacy and improve efforts to coordinate funding with human service agencies.
- Improve interjurisdictional and intermodal travel.
- Develop and implement mobility management approaches.

8. APPLICATION FORMS AND TECHNICAL ASSISTANCE. Application forms for Cycle II large UA and small UA funds will be posted on MTC's web site. A workshop for prospective applicants will also be held prior to the application due date. Beyond the workshop, MTC staff will provide technical assistance throughout the program process.
9. APPLICATION EVALUATION. Following an initial eligibility screening by MTC staff, eligible projects will be evaluated by a panel consisting of Bay Area representatives of disabled population interests and MTC staff. Applications for large UA funds will be evaluated based on the criteria listed below. Applications for small UA funds will be evaluated using criteria adopted by Caltrans, which are available on the Caltrans and MTC websites.

Need and Benefits	(maximum 40 points)
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Extent to which project address critical needs for disabled individuals as identified in the Coordinated Plan

Effectiveness at mitigating or eliminating transportation barriers for disabled individuals

Extent to which project promotes integration of disabled individuals into the work force and their full participation in society

Extent to which project could only be funded by New Freedom Program or federal human service grant programs

Extent to which project provides additional benefits

Coordination, Partnership, & Outreach	(maximum 30 points)
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Extent of coordination with other affected transportation systems, providers, and services, and with related social service programs

Extent to which project advances the development and implementation of coordinated transportation services

Extent of community support

Thoroughness of plan for marketing the project to beneficiaries

Project Readiness	(maximum 30 points)
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Reasonableness and completeness of funding plan

Project sustainability beyond the grant period

Thoroughness of implementation plan and reasonableness of project schedule

Ability to use New Freedom grant to leverage additional resources

Sponsor's experience in managing services for disabled individuals

How project fits into a larger program with well-defined goals, objectives, and performance standards

Sponsor's institutional capacity to manage the project

Sponsor's history of managing federal transportation funds

10. **TIMELINE.** The timeline for Cycle II is as follows:

Release Combined Call for Projects for Large and Small UAs	mid-May 2008
Outreach (Elderly and Disabled Advisory Committee, Transit Finance Working Group, County Paratransit Coordinating Councils, Partnership Accessibility Committee, web, etc.)	
Project Applications Due to MTC	July 31, 2008
Project Selection	August 2008
Present Recommended Program of Projects to MTC Programming & Allocations Committee	September 10, 2008
Commission Action: Program Adoption	September 24, 2008
Submit Small UA Program of Projects to Caltrans	September 25, 2008
Grants Processing by MTC and FTA	October to December 2008
Contract Negotiations between MTC and Subrecipients	

11. **COMPLIANCE WITH FEDERAL REQUIREMENTS.** As required by the FTA, successful applicants will be required to enter into an agreement with MTC. Applicants should be prepared to abide by all applicable federal requirements as specified in 49 U.S.C. Section 5317, FTA Circular C 9045.1, the most current FTA Master Agreement MA(13), and Section 20 of the most current Certifications and Assurances for FTA Assistance Programs, as conferred by MTC upon the applicant as a subrecipient of New Freedom funds.

12. **REPORTING REQUIREMENTS.** Successful applicants will be required to submit quarterly reports to MTC on the following:

- a. Budget or schedule changes, if any
- b. Progress toward meeting milestones
- c. Quantitative or qualitative information, as available, on the following measures:

- (1) Services provided that impact availability of transportation services for individuals with disabilities as a result of the project for the reporting period;
 - (2) Additions or changes to environmental infrastructure, technology, vehicles that impact availability of transportation services as a result of the project for the reporting period;
 - (3) Actual or estimated rides (as measured by one-way trips) provided for individuals with disabilities as a result of the project for the reporting period
- d. Financial status report
- e. For projects awarded a New Freedom grant exceeding \$250,000, Disadvantaged Business Enterprise (DBE) participation.