Attachment 1

METROPOLITAN TRANSPORTATION COMMISSION
THIRD CYCLE NEW FREEDOM PROGRAM GUIDELINES

April 2009

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. STATUTORY AUTHORITY. The New Freedom Program is authorized under the provisions set forth in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, (SAFETEA–LU), enacted on August 10, 2005, as codified at 49 U.S.C. 5317. The Secretary may make grants to recipients for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 12101 et seq.), that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

2. PROGRAM GOAL. The New Freedom formula grant program aims to provide additional tools to overcome existing barriers facing Americans with disabilities seeking integration into the work force and full participation in society. Lack of adequate transportation is a primary barrier to work for individuals with disabilities. The 2000 Census showed that only 60 percent of people between the ages of 16 and 64 with disabilities are employed. The New Freedom formula grant program seeks to reduce barriers to transportation services and expand the transportation mobility options available to people with disabilities beyond the requirements of the ADA of 1990.

3. FUNDING APPORTIONMENT AND AVAILABILITY. New Freedom funds are first apportioned 60 percent to large urbanized areas[1] (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

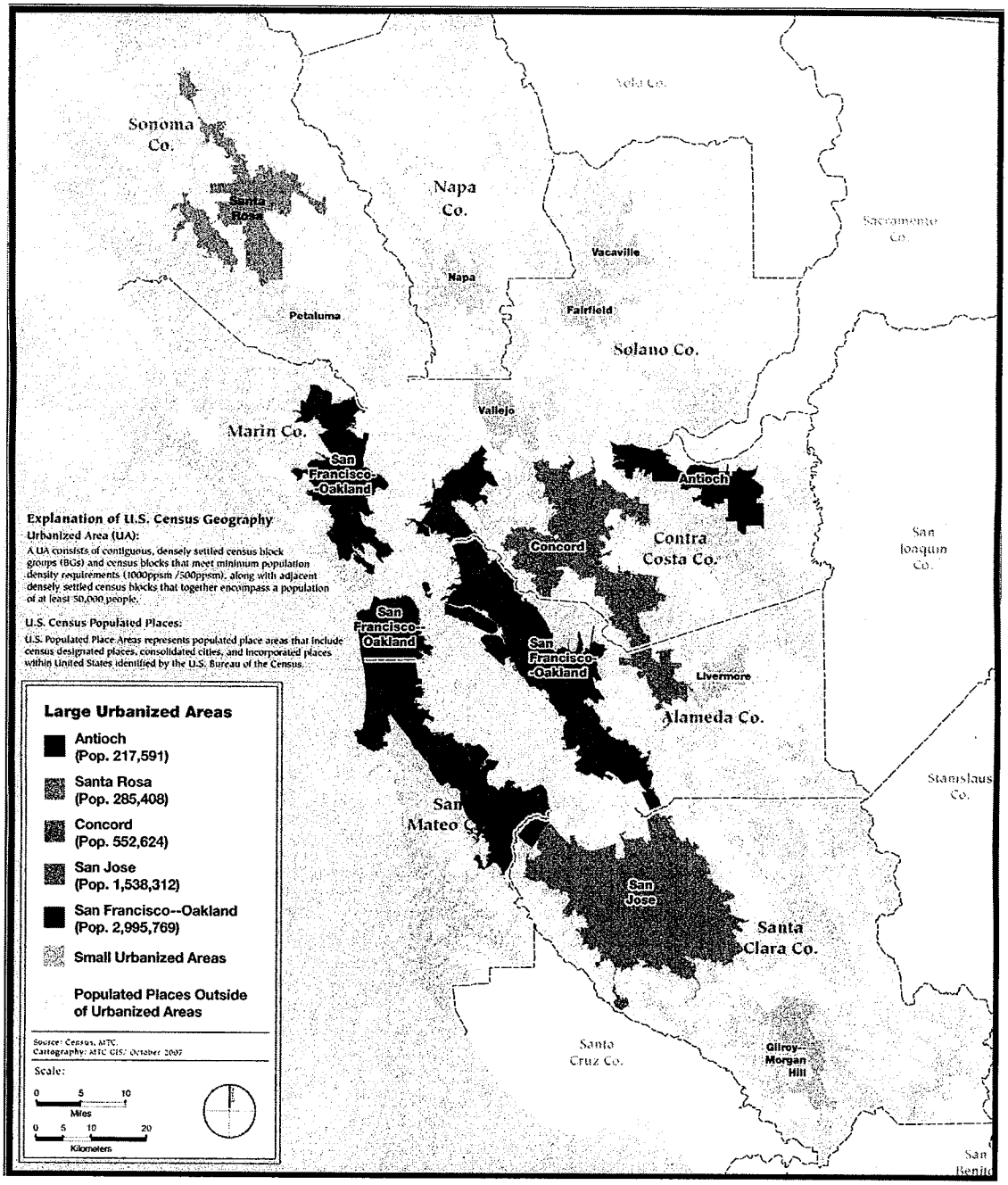

Table 1. New Freedom Program Apportionments

Area	Past Call for Projects		Current Call for Projects	
	Actual FY 2006	Actual FY 2007	Actual FY 2008	Estimated FY 2009[1]
Bay Area Large UA	$1,545,232	$1,612,117	$1,741,484	$1,741,484
Antioch	*$56,232*	*$60,601*	*$65,464*	*$65,464*
Concord	*$127,429*	*$121,779*	*$131,551*	*$131,551*
San Francisco-Oakland	*$885,254*	*$950,208*	*$1,026,459*	*$1,026,459*
San Jose	*$404,370*	*$399,440*	*$431,494*	*$431,494*
Santa Rosa	*$71,947*	*$80,089*	*$86,516*	*$86,516*

UA = Urbanized Area
= Subject of Current Call for Projects
[1] As of March 2009, FTA has only released a portion (43%) of the New Freedom FY09 apportionments (see Federal Register notice dated December 18, 2008).

4. 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; however, for the small UAs in the Bay Area, MTC conducted the competitive selection on behalf of Caltrans during the 2008 Call for Projects. 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.

5. 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. This call for projects is for large UAs only.

Large UA Programming Targets. The First Cycle programmed the FY 2006 apportionment, and the Second Cycle programmed the FY 2007 apportionment. **Table 2** shows the target programming amounts for the Third Cycle, which will program the FY 2008 and FY 2009 apportionments. There is no limitation on the amount of grant requests, except that applicants should not request more than the target amount for the large UAs in which their projects will provide services.

Small and Non-UA Programming Targets. In 2008, Caltrans conducted a call for projects for $3.2 million in small UA funds and $1.3 million in non-UA funds. This year, Caltrans is conducting a call for projects for $1.6 million in small UA funds and $0.7 million in non-UA funds. The small and non-UA call for projects is separate from this large UA call for projects, and has a different timeline, application form, and scoring criteria. Additional information

about the small and non-UA call for projects can be found on the Caltrans website: http://www.dot.ca.gov/hq/MassTrans/5317.html

Table 2. Programming Targets for New Freedom Program Third Cycle

Area	Third Cycle Targets
Bay Area Large UA	**$3,482,968**
Antioch	*$130,928*
Concord	*$263,102*
San Francisco-Oakland	*$2,052,918*
San Jose	*$862,988*
Santa Rosa	*$173,032*

UA = Urbanized Area

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

7. ELIGIBLE ACTIVITIES. New Freedom Program funds are available for capital and operating expenses that support new public transportation services beyond those required by the ADA and new public transportation alternatives beyond those required by the 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. In other words, if not for the New Freedom Program, the project would not have consideration for funding, and the proposed service enhancements would not be available for individuals with disabilities. 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

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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

Refer to Appendix A for 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).

FTA is considering a policy change that would expand the type of projects that are eligible for funding under the New Freedom program. Should this policy change take effect during this funding cycle, MTC will review and score all projects that are considered eligible by the FTA at the time of the competitive scoring and selection process.

8. 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 for other types of Federal funding is available at www.unitedweride.gov.

9. 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.

10. APPLICATION FORMS AND TECHNICAL ASSISTANCE. The application form is available at http://www.mtc.ca.gov/funding/new_freedom.htm. Interested agencies must submit eight (8) paper copies and an electronic copy on CD of their application, including attachments, by 5:00 p.m. on Friday, August 7, 2009 to the addressee below. *Incomplete and/or late applications will not be considered.*

    Kristen Mazur
    Metropolitan Transportation Commission
    Joseph P. Bort MetroCenter
    101 Eighth Street
    Oakland CA 94607-4700

    A workshop for prospective applicants will be held at 1:00 p.m. on Thursday, June 25, 2009 at the Fishbowl Conference Room on the 3rd floor of MTC's office. Attendance is not required but is encouraged. Beyond the workshop, MTC staff is available provide technical assistance throughout the program process.

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11. 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 will be evaluated based on the following criteria:

Need and Benefits	(maximum 40 points)

Extent to which project addresses 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)

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)

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

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12. TIMELINE. The timeline for Third Cycle is as follows:

Release Call for Projects	End of May 2009
Outreach (Elderly and Disabled Advisory Committee, Transit Finance Working Group, County Paratransit Coordinating Councils, Partnership Accessibility Committee, web, etc.)	June 2009
Applicant Workshop at MTC	June 25, 2009
Project Applications Due to MTC	August 7, 2009
Project Selection	August to Sept. 2009
Present Recommended Program of Projects to Elderly and Disabled Advisory Committee, Transit Finance Working Group, Partnership Accessibility Committee, Partnership Technical Advisory Committee, etc.	October 2009
Present Recommended Program of Projects to MTC Programming & Allocations Committee	October 14, 2009
Commission Action: Program Adoption	October 28, 2009
Grants Processing by MTC and FTA	November to December 2009
Contract Negotiations between MTC and Subrecipients	

13. 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.

14. REPORTING REQUIREMENTS. Successful applicants for large UA funds 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.

Detailed reporting requirements will be included in the agreement.

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Appendix A
New Freedom Program – Eligible Activities

The following list of eligible activities, excerpted from Federal Transit Administration (FTA) Circular C 9045.1, the *New Freedom Program Guidance and Application Instructions,* is intended to be illustrative, not exhaustive. Applicants are encouraged to develop innovative solutions to meet the needs of individuals with disabilities in their communities, considering the transportation needs, solutions, and strategies for enhanced coordination in the Bay Area's Coordinated Public Transit-Human Services Transportation Plan (see Section 8 of MTC's New Freedom Program Guidelines).

New Public Transportation Services Beyond the ADA*	
Enhancing paratransit beyond minimum requirements of the ADA	ADA complementary paratransit services can be eligible under New Freedom in several ways as long as the services provided meet the definition of "new:" ▪ Expansion of paratransit service parameters beyond the three-fourths mile required by the ADA; ▪ Expansion of current hours of operation for ADA paratransit services that are beyond those provided on fixed-route services; ▪ Incremental cost of providing same day service; ▪ Incremental cost of making door-to-door service available to all eligible ADA paratransit riders, but not as a reasonable modification for individual riders in an otherwise curb-to-curb system; ▪ Enhancement of the level of service by providing escorts or assisting riders through the door of their destination; ▪ Acquisition of vehicles and equipment designed to accommodate mobility aids that exceed the dimensions and weight ratings established for common wheelchairs under the ADA and labor costs of aides to help drivers assist passengers with over-sized wheelchairs. This would permit the acquisition of lifts with a larger capacity, as well as modifications to lifts with a 600 lb design load, and the acquisition of heavier-duty vehicles for paratransit and/or demand-response service; and ▪ Installation of additional securement locations in public buses beyond what is required by the ADA.
Feeder services	New "feeder" service (transit service that provides access) to commuter rail, commuter bus, intercity rail, and intercity bus stations, for which complementary paratransit service is not required under the ADA.

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New Public Transportation Services Beyond the ADA* (continued)	
Making accessibility improvements to transit and intermodal stations not designated as key stations	Improvements for accessibility at existing transportation facilities that are not designated as key stations established 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, so long as the projects are clearly intended to remove barriers that would otherwise have remained. New Freedom funds are eligible to be used for new accessibility enhancements that remove barriers to individuals with disabilities so they may access greater portions of public transportation systems, such as fixed-route bus service, commuter rail, light rail and rapid rail. This may include: ▪ Building an accessible path to a bus stop that is currently inaccessible, including curbcuts, sidewalks, accessible pedestrian signals or other accessible features, ▪ Adding an elevator or ramps, detectable warnings, or other accessibility improvements to a non-key station that are not otherwise required under the ADA, ▪ Improving signage, or wayfinding technology, or ▪ Implementation of other technology improvements that enhance accessibility for people with disabilities including Intelligent Transportation Systems (ITS).
Travel training	New training programs for individual users on awareness, knowledge, and skills of public and alternative transportation options available in their communities. This includes travel instruction and travel training services.

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New Public Transportation Alternatives Beyond the ADA*	
Purchasing vehicles to support new accessible taxi, ride sharing, and/or vanpooling programs.	New Freedom funds can be used to purchase and operate accessible vehicles for use in taxi, ridesharing and/or van pool programs provided that the vehicle has the capacity to accommodate a passenger who uses a "common wheelchair" as defined under 49 CFR 37.3, at a minimum, while remaining in his/her personal mobility device inside the vehicle, and meeting the same requirements for lifts, ramps and securement systems specified in 49 CFR part 38, subpart B.
Supporting the administration and expenses related to new voucher programs for transportation services offered by human service providers.	This activity is intended to support and supplement existing transportation services by expanding the number of providers available or the number of passengers receiving transportation services. Only new voucher programs or expansion of existing programs are eligible under the New Freedom Program. Vouchers can be used as an administrative mechanism for payment of alternative transportation services to supplement available public transportation. The New Freedom Program can provide vouchers to individuals with disabilities to purchase rides, including: (a) mileage reimbursement as part of a volunteer driver program; (b) a taxi trip; or (c) trips provided by a human service agency. Providers of transportation can then submit the voucher for reimbursement to the recipient for payment based on pre-determined rates or contractual arrangements. Transit passes for use on existing fixed route or ADA complementary paratransit service are not eligible. Vouchers are an operational expense which requires a 50/50 (Federal/local) match.
Supporting new volunteer driver and aide programs.	New volunteer driver programs are eligible and include support for costs associated with the administration, management of driver recruitment, safety, background checks, scheduling, coordination with passengers, and other related support functions, mileage reimbursement, and insurance associated with volunteer driver programs. The costs of new enhancements to increase capacity of existing volunteer driver programs are also eligible. FTA notes that any volunteer program supported by New Freedom must meet the requirements of both "new" and "beyond the ADA." FTA encourages communities to offer consideration for utilizing all available funding resources as an integrated part of the design and delivery of any volunteer driver/aide program.

New Public Transportation Alternatives Beyond the ADA* (continued)	
Supporting new mobility management and coordination programs among public transportation providers and other human service agencies providing transportation.	Mobility management is an eligible capital cost. Mobility management techniques may enhance transportation access for populations beyond those served by one agency or organization within a community. For example, a non-profit agency could receive New Freedom funding to support the administrative costs of sharing services it provides to its own clientele with other individuals with disabilities and coordinate usage of vehicles with other non-profits, but not the operating costs of the service. Mobility management is intended to build coordination among existing public transportation providers and other transportation service providers with the result of expanding the availability of service. Mobility management activities may include: ▪ The promotion, enhancement, and facilitation of access to transportation services, including the integration and coordination of services for individuals with disabilities, older adults, and low-income individuals; ▪ Support for short term management activities to plan and implement coordinated services; ▪ The support of State and local coordination policy bodies and councils; ▪ The operation of transportation brokerages to coordinate providers, funding agencies and customers; ▪ The provision of coordination services, including employer-oriented Transportation Management Organizations' and Human Service Organizations' customer-oriented travel navigator systems and neighborhood travel coordination activities such as coordinating individualized travel training and trip planning activities for customers; ▪ The development and operation of one-stop transportation traveler call centers to coordinate transportation information on all travel modes and to manage eligibility requirements and arrangements for customers among supporting programs; and ▪ Operational planning for the acquisition of intelligent transportation technologies to help plan and operate coordinated systems inclusive of Geographic Information Systems (GIS) mapping, Global Positioning System Technology, coordinated vehicle scheduling, dispatching and monitoring technologies as well as technologies to track costs and billing in a coordinated system and single smart customer payment systems (acquisition of technology is also eligible as a stand alone capital expense).

* "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 State TIP. In other words, the project would not have consideration for funding and the proposed service enhancement would not be available for individuals with disabilities if not for the New Freedom Program. 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.

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