

Register

Monday
January 19, 1981

Part XXXVIII

Department of Transportation

Urban Mass Transportation
Administration

Urban Initiatives Program; Final Rules

DEPARTMENT OF TRANSPORTATION**Urban Mass Transportation Administration****49 CFR Part 642****Urban Initiatives Program**

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Final rule.

SUMMARY: The Urban Mass Transportation Administration (UMTA) is issuing regulations governing its Urban Initiatives Program. The Urban Initiatives Program provides funding for mass transportation projects that enhance urban development. The regulations codify and clarify existing requirements and guidelines concerning the program.

DATES: The regulations are effective on February 18, 1981.

FOR FURTHER INFORMATION CONTACT: Casimir Bonkowski, Office of Grants Assistance (202) 472-7037.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published on October 23, 1980 (45 FR 70412). Interested persons were given until December 8, 1980 to submit comments. Approximately 40 written comments were received. The Administrator has determined that this regulation is not a significant regulation under the criteria in the DOT Order for Improving Government Regulations (44 FR 11042, February 26, 1979).

Under the DOT Order, a full evaluation is not warranted because the expected economic impact of the regulation is minimal. The proposed regulation is a codification and clarification of existing requirements.

The provisions of OMB Circular A-95 apply to this Final Rule. It covers the following program as listed in the Catalog of Federal Domestic Assistance (CFDA): 20:500 Urban Mass Transportation Capital Grants.

The NPRM set out the requirements as Part 654 of Title 49 of the Code of Federal Regulations. The Final Rule establishes a new Part 642, which is only an editorial revision. The only other major changes are discussed below.

Discussion

The requirement for development of an employment plan was most often mentioned by commenters. Most felt that the requirement made it difficult to secure private investor participation, and that procedures for development of the plan were unnecessarily proscriptive. After consideration we

have decided to retain the requirement intact. An employment plan is only required when a project creates new permanent employment. This will affect only a portion of the Urban Initiatives projects. Second, the number and type of employment opportunities created will dictate the level of information to be required. UMTA and Department of Labor (DOL) personnel will assist the project sponsor and private developers in the preparation of the plan, identifying DOL resources available to assist in the recruiting and training of new job holders. Third, agreements similar to the DOT agreement with DOL were also signed by the Department of Housing and Urban Development (HUD) and the Economic Development Administration (EDA) thereby providing a uniform mechanism for linking employment opportunities for the long term unemployed.

UMTA's position not to fund parking not directly associated with a mass transit project also elicited comment. Comments both favorable and negative to the policy decision were received. While acknowledging that parking plays an integral role in the commuting habits of the public, and cognizant of the fact that the provision of parking is required for the success of many development activities, we continue to maintain the position that the national mass transportation program is not the appropriate source to finance parking facilities *which are not directly related to the provision of mass transportation services*. Local and other Federal agencies have resources available to them to finance parking components. If, as part of a comprehensive development project, the creation of parking is demonstrated to significantly enhance local mass transportation usage, UMTA will consider funding of the *transit* aspects of such multi-faceted projects on a case-by-case basis.

In regard to comments that UMTA should finance transit malls which provide a roadway for private automobiles as well as public transportation vehicles, we feel that in order to ensure the economic enhancement and provide the operating efficiency and visibility that the Urban Initiatives Program attempts to achieve, transit malls funded under the Urban Initiatives Program must be transit exclusive. In areas where roadways are extraordinarily wide, expansion of pedestrian spaces, creation of bike paths and the incorporation of public and private people-oriented activity centers which generate transit and retail patronage should be considered.

In response to requests to consider funding of the construction of revenue-producing space, this activity is beyond UMTA's statutory authority. UMTA's financial support of private investment is restricted to activities detailed in § 642.29.

In response to comments that the existence of special considerations, as identified in Subpart D, penalized some applicants, we emphasize that these elements are taken into consideration after the project eligibility has been established and are utilized to establish priorities when projects are relatively equal. The regulations identify the factors which are being considered and invite the project sponsor to elaborate on project features or circumstances which warrant additional consideration. The inclusion of a request for information as to proposal features which the community feels are a special or unique opportunity to meet local priority needs is intentional and an attempt to encourage flexibility within the program and innovation on the part of the applicant.

In response to comments that applicants would prefer to submit one complete application, the two phase preapplication and final application process will continue because it succeeds in reducing paperwork for applicants. Once a project is selected, applicants need only provide supplementary information.

They need not duplicate existing material. Unsuccessful candidates will have been spared the expenditure of time and resources required to assemble material not essential to making a selection.

In response to a comment that the Urban Initiatives Program should finance acquisition of vehicles, it has been determined that there are insufficient funds available to finance the acquisition of vehicles within the Urban Initiatives Program budget. Where appropriate, UMTA will work with the applicant to provide funding under other programs.

In refining the review process, UMTA has reduced the time necessary to establish if it will participate in a project. Therefore, the request that an option for a Letter of No Prejudice be retained since the length of the review process presents a hardship was not considered valid. Prior to the actual selection of projects, when a number of worthwhile proposals are under consideration, it would be inappropriate to bias the selection process by authorizing a Letter of No Prejudice. Such requests will continue to be turned away during the preapplication phase.

Once a fund reservation is made, no prejudice requests can be considered.

In response to other comments that the regulation specify UMTA's requirements on consideration of traffic disruption and air quality prior to grant approval UMTA's requirements pertaining to environmental assessment provide for extensive analysis of these issues and therefore they are not separately addressed here.

A commentator noted that new capital projects often resulted in increased deficits and that these features of a project should also be considered in making a funding decision. This area had been assumed to be considered within the section requesting that the burdens the central city would assume as a result of the project be documented. A clarifying reference to the transit provider and the potential negative impact on operating budgets has been added.

In response to a comment that the joint development program guidelines appeared to be biased towards industrial projects and another that they were biased against housing, facts do not substantiate either interpretation. There have been no industrial projects funded to date and a number of grants awarded for projects with a housing component.

There were a number of references to the \$5 million limit on UMTA participation in Urban Initiatives projects. It is important to note that the focus on smaller budgeted projects does not preclude the consideration of proposals from larger cities. The goal is to encourage a wider range of projects with multiple funding sources thereby enabling a broader impact within the program's budget. Projects requiring a Federal share larger than \$5 million have been considered. It is expected however, that there is a commensurate increase in benefits if they are selected for funding. The emphasis of the program is also not on projects in larger rail oriented cities as some have commented. Innovative proposals by small urban areas and medium size cities have enabled Urban Initiatives funds to be awarded to a substantial number of areas with emerging bus transit systems. The consensus is that projects from cities of various population sizes appear to be competitive without further constraints or incentives placed on their participation. For these reasons, and because of the limited financial resources available to the program, creation of a separate pool of funds for projects from large and small cities was not considered to be appropriate at this time.

In consideration of the foregoing, a new Part 642 be added to Title 49 of the Code of Federal Regulations to read as follows:

PART 642—URBAN INITIATIVES PROGRAM

Subpart A—General

Sec.

- 642.1 Eligible Recipients.
- 642.3 Funding.
- 642.5 Project Scope and Feasibility.

Subpart B—Eligible Project Categories

- 642.11 General Requirements.

Intermodal Transfer Facilities

- 642.13 Types of Facilities.
- 642.15 Requirements: Intermodal Transfer Facilities.
- 642.17 Eligible Projects Costs: Intermodal Transfer Facilities.

Transit Malls

- 642.19 Types of Malls.
- 642.21 Requirements: Transit Malls.
- 642.23 Eligible Projects Costs: Transit Malls.

Joint Development Projects

- 642.25 Types of Projects.
- 642.27 Requirements: Joint Development Projects.
- 642.29 Eligible Project Costs: Joint Development.
- 642.31 Participation in Proceeds Derived from UMTA Investment.

Subpart C—Criteria for Meeting Policy Objectives

- 642.41 General.
- 642.43 Transit.
- 642.45 Socio-Economic: Employment.
- 642.47 Socio-Economic: Involvement of Neighborhood Organizations and Voluntary Associations.
- 642.49 Development: Urban Economic Development/Private Sector Investment.
- 642.51 Development: Business Opportunities for Small and Minority Business.
- 642.53 Development: Enhancement of the Immediate Physical Environment Around the Project.
- 642.55 Development: Coordination.

Subpart D—Special Considerations

- 642.61 Establishing Priorities.

Subpart E—Application Procedures

- 642.71 Preapplication Procedures.
- 642.73 Application Procedures.
- 642.75 Post Grant Activities.
- Appendix A Policy Objectives.
- Appendix B DOT-DOL Memorandum of Understanding.
- Appendix C Timing and Degree of Public and Private Commitments for Joint Development Projects.
- Appendix D Project Application Review and Selection Process.

Authority: 49 U.S.C. 1602(a)(1)(D) and 1603(c)(1)(B); 49 CFR 1.51.

Subpart A—General

§ 642.1 Eligible recipients.

(a) A public agency which is eligible for UMTA capital assistance is eligible for Urban Initiatives grants. These public agencies include transit authorities, local governments, States, agencies of States, and quasi-public development corporations.

(b) Eligible public bodies may pass through funds to a quasi-public development corporation to manage projects.

(c) Applicants other than transit authorities or State and local governments must provide evidence of their financial and managerial ability to ensure continued operation of the transportation components of an Urban Initiatives project over the life of the project in order to be an eligible recipient.

§ 642.3 Funding.

(a) In reviewing funding sources for potential Urban Initiatives projects, every effort should be made to match each available funding source with the most appropriate project elements, based on various eligible cost requirements and restrictions.

(b) Project components such as traffic diverters and barriers, pedestrian malls, sidewalks and walkways, bicycle paths, and street landscaping and furniture independent of a transit mall or terminal, should be funded from DOT's Federal Highway Administration Federal Aid Urban Systems funds to the maximum extent feasible rather than as Urban Initiatives project components.

(c) The applicant shall develop a project implementation schedule for financial participation.

§ 642.5 Project scope and feasibility.

(a) Each applicant shall sufficient feasibility analysis in the planning phase of Urban Initiatives project development to provide a minimum level of technical data with which UMTA may evaluate the project. Funds for technical assistance are available from the UMTA Section 8 Technical Studies Program through local Metropolitan Planning Organizations.

(b) In developing projects, applicants are encouraged to undertake sufficient environmental analysis and engineering to enable UMTA to establish the project scope.

Subpart B—Eligible Project Categories

§ 642.11 General requirements.

(a) To qualify for consideration under the funding authorization of the Urban Initiatives Program, a project must extend beyond the scope of traditional

transit improvements to clearly demonstrate a significant degree of impact on the urban physical and economic environment, including increased private investment, enhanced interagency coordination and the support of social goals including increased employment opportunities and accessibility for disadvantaged groups.

(b) Projects which do not contain a significant transit element are not eligible for funding under the Urban Initiatives Program.

(c) The acquisition of vehicles is not an eligible Urban Initiatives activity.

(d) There are three categories of eligible projects: Intermodal terminals, transit malls and joint development.

Intermodal Transfer Facilities

§ 642.13 Types of facilities.

Intermodal transfer facilities that are eligible for funding under the Urban Initiatives Program include the construction and improvement of facilities which provide for the integration of urban public transportation systems with other forms of public and private transportation services such as intercity bus and rail systems, and taxis, which enhance the effectiveness of mass transit and facilitate coordination among modes.

§ 642.15 Requirements: Intermodal transfer facilities.

(a) UMTA will not participate in the construction of an intermodal terminal unless the space and service needs of local mass transportation constitute a reasonable component of the project.

(b) Project sponsors must notify private carriers operating within the area of the project of their intent to apply for Urban Initiatives funds for construction or reconstruction of an intermodal facility.

(c) If an intermodal terminal is to provide space for private carriers, the preapplication data must contain letters of interest committing the carriers to use of the facility providing that acceptable accommodations and rents are negotiated.

(d) Prior to award of construction funds, the applicant must secure a lease or lease equivalent type agreement from private carriers committing them to long term use of the facility.

(e) The intermodal facility must be the property of a public body.

(f) The proceeds from rental payments or other reimbursements in excess of operating and maintenance expenses must be used to offset eligible local mass transit capital expenses.

(g) Proceeds realized from lease or sale payments may not be used to

reduce local debt service payments, or otherwise reduce local share requirements without a commensurate reduction in the Federal share.

§ 642.17 Eligible projects costs: intermodal transfer facilities.

(a) Eligible project costs for intermodal transfer facilities include, but are not limited to, the following:

- (1) Design and engineering tasks.
- (2) Acquisition of real property, facilities, and equipment.
- (3) Roadbeds, tracks, and bus ramps.
- (4) Pedestrian concourses, and related equipment and facilities.
- (5) Loading shelters.
- (6) Improvements of existing bus or rail transit terminals, stations, major transfer points, and shelters as well as other facilities directly related to the linking of public transportation facilities with other modes of transportation.
- (7) Incidental parking. A small number of spaces may be provided. The number is limited to the amount required to reasonably accommodate the needs of intermodal facility patrons and employees who are not within the transit service area of any public transportation provider including taxis. It must be demonstrated that parking cannot be financed from other sources.

(b) Urban Initiatives funds may only be used to finance the engineering and construction of non-revenue producing elements. Funds may not be used for restaurants, major concessions, package storage and delivery facilities, and other revenue producing facilities not directly required for the transport of passengers.

(b) Urban Initiatives funds may only be used to finance the engineering and construction of non-revenue producing elements. Funds may not be used for restaurants, major concessions, package storage and delivery facilities, and other revenue producing facilities not directly required for the transport of passengers.

Transit Malls

§ 642.19 Types of malls.

Transit malls eligible for funding under the Urban Initiatives Program are those on streets which—

- (a) Have been improved for pedestrian use; and
- (b) Retain a roadway reserved for public transportation vehicles integrated with the city-wide, or regional transportation system.

§ 642.21 Requirements: Transit malls.

(a) The type of public transportation vehicles to be allowed to utilize the transit mall is a local decision determined by local priorities and the vehicular capacity of the mall. Public transportation vehicles may include, but are not restricted to, taxis, paratransit vehicles, or other high occupancy vehicles whose use provides increased mass transit service. General access by private vehicles, other than public transportation and emergency vehicles, must be restricted.

(b) Preferential signalization to facilitate bus movements must be incorporated within the mall design whenever appropriate.

(c) Parking is not an eligible item in a transit mall project.

§ 642.23 Eligible project costs: Transit malls.

Eligible project costs for transit malls include, but are not limited to the following:

- (a) Design and engineering.
- (b) Mall construction activities such as surveying, utility relocation (to the extent that the utility is not responsible for such costs), materials testing, and construction management.
- (c) Street, sidewalk and utility construction.
- (d) Traffic control devices.
- (e) Landscaping.
- (f) Pedestrian concourses and walkways and other passenger and pedestrian amenities.

Joint Development Projects

§ 642.25 Types of Projects.

Joint development projects that are eligible for funding under the Urban Initiatives Program are commercial, residential, industrial, or mixed use developments that are induced by or enhance the effectiveness of mass transportation projects, including private development activities associated with new rail rapid transit systems, automated systems, improvement and extension of existing rail systems, intermodal transfer facilities, transit malls, and Federal, State or local investments in existing facilities.

§ 642.27 Requirements: Joint Development Projects.

- (a) Each joint development project must—
- (1) Include a transit element;
 - (2) Enhance the effectiveness of a significant mass transportation project;
 - (3) Be physically or functionally related to the mass transportation project;
 - (4) Create new or enhanced coordination between public transportation, and other forms of transportation; and
 - (5) Enhance urban economic development through the incorporation of private investment including office, commercial, or residential development.
- (b) A project is physically related to a mass transportation project if it provides a direct physical connection with mass transportation services or facilities, including projects involving air rights over stations or adjacent property.

(c) A project is functionally related to a mass transportation project if it is related by activity and use and is functionally linked (with or without direct physical connection) to mass transportation services or facilities. Functional relationships must not extend beyond the distance most people will reasonably walk to use a transit service. The eligible project area for a functionally related project will be defined on a case-by-case basis.

§ 642.29 Eligible Project Costs: Joint Development Project.

(a) Eligible project costs for joint development projects include, but are not limited to, the following:

- (1) Site design, engineering, and environmental analysis as appropriate.
- (2) Real estate packaging for a specific UMTA capital project including assessment of market potential, preliminary design and engineering, estimates of operating income and expenses, capital costs, and negotiations to secure financing, developers and prime tenants.

(3) Land acquisition, relocation, and demolition.

(4) Foundations and substructure improvements for buildings over transit facilities.

(5) Pedestrian connections and access links between mass transportation services and related development.

(6) Other facilities and infrastructure investments needed to induce significant private investment and to improve access between new or existing development and mass transportation facilities.

(b) The eligibility of the costs of utility work associated with private investment will be considered on a case-by-case basis. UMTA will not pay for the costs of utility work that are attributable to non-UMTA project purposes unless—

- (1) The utility serves a joint private and transit use; or
- (2) The utility lines will be located under a collocated street or sidewalk or within other common elements so that it would benefit the project to provide adequate capacity at the outset of the project.

(c) Front end (except as noted in paragraph (a)(2) of this section), construction and permanent financing costs related to the design and construction of retail, commercial, housing or other public and private revenue producing facilities are not eligible joint development costs.

(d) Requests for UMTA participation in financing parking elements of joint development projects will be considered on a case-by-case basis.

(e) In developing proposals which contain a parking element, the applicant must demonstrate that—

(1) The provision of parking is strictly required for the success of the project and cannot be determined to adversely impact on the efficiency and effectiveness of mass transit service;

(2) The proposal will increase public transportation patronage;

(3) Trips to the project site cannot be adequately accommodated by use of existing or reasonably upgraded transit service. The local political jurisdiction is encouraged to document steps undertaken to upgrade area transit service, operator efficiency, visibility or accessibility, which when completed, will serve to reduce the public's dependency on private automobiles;

(4) The amount of parking in the proposal conforms to an approved local parking plan;

(5) All other possible sources of financing have been exhausted, including other Federal agencies, revenue bonds, and State and local agencies. UMTA is the source of funding for parking only as a matter of last resort;

(6) In cases where UMTA finances land acquisition or infrastructure improvements in support of a private or otherwise non-UMTA funded parking facility, local transit must participate in any disposition of proceeds arrangements (see § 642.31); and

(7) In cases where UMTA finances the construction of a parking facility, the project sponsor must assure that—

(i) The proportion of the structure and number of spaces financed are necessary to the proper functioning of the mass transportation facility; and

(ii) The net revenues realized from the accrual of parking receipts are to be used to offset transit system operating expenses (consistent with UMTA Circular 9050.1, Application Instructions for Section 5 Operating Assistance Projects).

(f) The applicant must provide all necessary documentation regarding the provision and justification for UMTA participation in projects with parking elements.

§ 642.31 Participation in proceeds derived from UMTA investment.

(a) Each grantee must negotiate a fair and equitable return of the benefits to be generated as a result of the UMTA investment.

(b) Local mass transit must benefit from revenues accruing as a result of UMTA financial participation in a project.

(c) Project sponsors must retain for transit related use proceeds and profits

realized in connection with UMTA participation in joint development projects.

(d) Proceeds and profits may include returns generated from, but not limited to, sale or lease of property, mortgage proceeds, or returns stemming from local agency participation in the distribution of project revenues.

(e) Local mass transit's participation in proceeds will reflect the percentage of the UMTA investment in relation to that of other participating public agencies.

(f) If property is sold, the entire proceeds of the sale up to the amount of the combined UMTA and local investment must be applied to finance other existing or proposed capital project elements that would be eligible for assistance under Section 3 of the UMT Act, or the proceeds may be returned to UMTA to reduce the amount of the Urban Initiatives grant. These project elements include traditional transit projects, existing Urban Initiatives projects, or new Urban Initiatives projects. Funds from these proceeds may not be used for local share of such federally assisted projects. Should profits result from such a sale, (that is, any amount above the combined UMTA and local share) those profits must be used for the above purposes and may also be used as the local share for other capital or operating projects. The grantee must obtain UMTA concurrence in the disposition of proceeds.

(g) If property is leased, or if any payments are made to the grantee or the public agency in consideration for the use of the property, the entire proceeds of the lease, as well as the proceeds from local agency participation in the distribution of project revenues, up to the amount of the appraised value of the leased property must be applied to capital project elements eligible for assistance under Section 3 of the UMT Act or the proceeds may be returned to UMTA to reduce the amount of the Urban Initiatives grant. These project elements include traditional transit, projects, existing Urban Initiatives projects or new Urban Initiatives projects. UMTA will approve the appraised value in accordance with the procedures set forth in UMTA Circular 4530.1 "Land Acquisition and Relocation Assistance Manual". Any additional proceeds from the lease beyond the approved appraised value must be used for the above purposes or as the local share for other capital or operating projects. The grantee must obtain UMTA concurrence in the disposition of lease proceeds.

(h) Agreements which transfer title or control of land or facilities acquired as

part of the UMTA project must contain provisions which—

- (1) Extend the requirements of the UMTA grant contract;
- (2) Ensure that the grantee retains continuing control of the mass transportation project; and
- (3) Assures that transit participates in the disposition of proceeds in the manner established in the grant contract.

Subpart C—Criteria for Meeting Policy Objectives

§ 642.41 General.

(a) Applicants for grants to assist in funding projects under the Urban Initiatives Program must demonstrate how the proposed project will meet the objectives of the President's Urban Policy Statement (the President's Policy Objectives are set out in Appendix A to this part).

(b) The criteria that an applicant must follow in meeting the Objectives are set out in this subpart.

§ 642.43 Transit.

(a) Projects must demonstrate a positive impact on transit patronage and quality of service. A project demonstrates a positive transit impact if it—

- (1) Improves accessibility and equity of service for elderly, handicapped and minority communities;
- (2) Increases system security and attractiveness;
- (3) Makes improvements allowing for more efficient use and operation of service and facilities; or
- (4) Increases public transportation access to employment, social, educational, health, recreational, and residential areas.

(b) The applicant must provide both general and specific information as appropriate on the project's transit impact including such factors as transit patronage, operational efficiency, increased service, projected changes in revenues/deficit, accessibility and security.

(c) Each proposal must include a description of any related changes in transit operations which, though not part of a specific project, will increase public access and facilitate circulation (i.e., headways, increased service, and special demonstrations).

(d) The project sponsor, if other than the local transit provider, must provide documentation that the transit provider participated in the development of the proposal, and identify the proposal's relative priority within the Transportation Improvement Program.

§ 642.45 Socio-economic: Employment.

(a) For projects that create new permanent jobs, each applicant shall set a goal of reserving 10–15 percent of the jobs for long term unemployed persons eligible to obtain assistance under the Comprehensive Employment and Training Act (CETA) (29 U.S.C. 801 et seq.).

(b) Each applicant for a project that creates new permanent jobs shall certify the established goal as a part of project development.

(c) Each applicant for a project that creates new permanent jobs shall develop an employment plan that documents how employment opportunities will be made available.

(d) The employment plan must be submitted prior to grant award or before receipt of construction funds.

(e) The employment plan must include the following elements:

- (1) The total number, title, and description of jobs to be created.
- (2) The goals for the total number, titles and timing of jobs to be made available to the long term unemployed.
- (3) The skill requirements for the jobs that are being made available to the long term unemployed.
- (4) A description of the activities which are to be undertaken in order to link new employment opportunities, training programs and assistance for CETA eligible individuals (The Linkage Program). This description must include:
 - (i) The name of the CETA prime sponsor, or other employment and training provider, who is assisting the applicant in developing and implementing the employment plan, including the name of a responsible person, with an address and telephone number;
 - (ii) An identification of the employment and training programs to be applied in preparing or referring qualified persons to available jobs with an indication of how they will be used and any special conditions required by the employer (i.e., number of referrals per vacancy to be filled, timing of referrals);
 - (iii) An identification of the roles and responsibilities of the participants in the employment plan (i.e., UMTA applicant, UMTA beneficiary, if different from applicant; employment and training provider; and local agency, if not the applicant);
 - (iv) The steps to be taken and the schedule for implementing the plan; and
 - (v) The signatures of persons or agencies party to the employment plan, (i.e. UMTA beneficiary, if different from the applicant; employment and training provider; and the economic development agency).

(f) After UMTA approval of the employment plan, each applicant shall provide UMTA with comprehensive quarterly status reports on the plan's implementation.

§ 642.47 Socio-Economic: Involvement of Neighborhood Organizations and Voluntary Associations.

(a) Each project sponsor shall document the degree to which the project considers established priority needs of the local community, and contributes to local plans.

(b) Each project should have active citizen participation at the planning and development stages. This participation can be satisfied by involvement of neighborhood organizations and voluntary associations.

§ 642.49 Development: Urban Economic Development/Private Sector Investment.

(a) Each project must enhance urban economic development and/or incorporate or leverage private sector investment.

(b) Each applicant shall provide documentation concerning how public/private financial participation and investment ratios are determined.

§ 642.51 Development: Business Opportunities for Small and Minority Businesses.

Each applicant shall indicate the extent to which the project will provide business opportunities for female owned, small, and minority businesses during the construction phase, or the extent to which the project generates opportunities for female, small or minority businesses to participate in spin-off development and business formation generated by the Federal investment.

§ 642.53 Development: Enhancement of the Immediate Physical Environment of the Project.

(a) Each project must enhance the immediate physical environment of the project.

(b) Each applicant shall document the extent to which the project is part of larger development plans or projects.

(c) Each applicant shall identify—

- (1) Potential secondary development including private as well as public investment;
- (2) A timetable for development;
- (3) Any interface between the project and future development; and
- (4) Changes in the nature of transportation services, accessibility and detailed impacts of broader development plans, parking regulations, auto restrictions, and impacts on air and noise pollution.

(d) Each applicant shall provide specific information as to how and to what degree private investors will financially participate in the project directly, or in related redevelopment in the project area.

(e) Each applicant shall provide information concerning the status of securing a developer's commitment.

(f) Each applicant shall submit pro formas and projected cash flow statements identical to those submitted to financial institutions to secure financing in those cases in which financing has been secured. If financing has not been secured, the applicant shall submit a preliminary pro forma and cash flow statement.

§ 642.55 Development: Coordination.

Each applicant shall submit—

(a) A discussion of the effect of investment on the economic viability of the central city;

(b) A discussion of the consistency of the project with local and State (if appropriate) plans including land use, economic development, employment, and housing;

(c) A discussion of the impacts of the project on central city revenues, accounting for anticipated changes in property, sales and income taxes; and

(d) A discussion of additional public expenditures (if any) which the transit provider and the central city will have to bear as a result of the proposed project and its corresponding development shifts.

Subpart D—Special Consideration

§ 642.61 Establishing priorities.

The extent to which projects meet the criteria set out in Subpart C of this part determines their priority within the Urban Initiatives Program. However, all else being equal, special considerations will be given to the following:

(a) Projects with smaller dollar value which provide strong potential for achieving the programs' objectives and those which can be fully funded within the budgetary constraints of the program. Emphasis is placed on funding smaller projects of less than \$5 million Federal share, and on ensuring a representative geographic balance in selecting projects.

(b) Projects which are located in those cities or sections of cities which have been determined to be distressed. Rules and regulations governing the basis for determining a city's economic status have been published by a number of Federal agencies including the Department of Housing and Urban Development (HUD), the Economic Development Agency (EDA), or

Department of Interior. Applicants shall state if the project is in a distressed city; identify the distress index utilized; provide the city's (area's) rank standing; and state how the project contributes to eliminating or alleviating the area's distress status.

(c) Projects which target UMTA funds cooperatively with HUD, EDA, and other Federal agency resources to maximize the economic development potential of Federal investments. Where appropriate, Urban Initiatives projects should be developed in maximum cooperation with projects planned or committed to by other Federal agencies. The application must include a discussion of the status and anticipated timing of any commitments by other Federal agencies.

(d) Projects which contain evidence of significant state financial participation. This includes, but is not limited to, long term lease arrangements for use of facilities; independent financing of integral components of the project, or separate but supporting components; engineering, design and construction of public works improvements in support of the project; commitment of other Federal funds within the control of the State, i.e. interstate substitution, or Federal Aid Urban System funds, to the project; contributed services; and participation in assisting the applicant to meet local share requirements.

(e) Projects which represent a special or unique opportunity to meet local priority needs and which are consistent with the overall objectives of the President's Urban Policy. Applicants should provide information about features of their proposal, program, neighborhood or community which are considered sufficiently special or unique to justify special consideration.

(f) Projects that meet UMTA's Employment Initiatives goal. In this regard, it is recognized by UMTA that not all projects will result in new permanent job opportunities, and that certain types of projects by their nature, will generate substantially less employment opportunities than others.

Subpart E—Application Procedures

§ 642.71 Preapplication procedures.

(a) In order to limit the requirements all applicants must address during the initial review process, each applicant shall submit a preapplication in lieu of a full Section 3 discretionary capital grant application package. The preapplication must include the following information:

(1) Standard Form 424.

(2) A brief description of the total project, including a discussion of prospective funding sources.

(3) A separate discussion and budget for the elements to be funded by UMTA stressing the proposal's physical and functional relationship to the project.

(4) Documentation required to support eligibility (as discussed in Subpart B of this part).

(5) Data demonstrating the degree to which the project meets the selection criteria (as discussed in Subpart C of this part).

(6) Employment Initiatives requirements (as discussed in § 642.45).

(7) Data demonstrating how the project addresses the Special Consideration Criteria (as discussed in Subpart D of this part).

(8) Discussion of the project applicant's compliance with regulations dealing with Historic Preservation/ Environmental Protection (UMTA Circular 5620.1).

(9) Status of attempts to utilize FHWA Federal Aid Urban Systems (FAUS) funds as well as resources available from HUD, EDA and other Federal agencies to finance components of the project.

(10) Financial pro formas establishing the value of the private investment, and the need for Federal participation are to be submitted for new private sector development proposed as part of the project.

(b) All forms, and the format for submitting data are available from the UMTA regional offices.

(c) In order to be eligible for consideration during the two selection periods, preapplication data must be submitted to the UMTA Regional Office, prior to September 15 for the December 31 announcement and prior to February 15 for the May 31 announcement.

(d) Letters of No Prejudice will not be issued during the preapplication phase of the selection process.

§ 642.73 Application procedures.

(a) Each applicant shall meet all standard Section 3 discretionary capital grant requirements before a grant can be awarded.

(b) Each applicant shall—

(1) Comply with the following regarding Civil Rights:

(i) UMTA Circular 1160.1 "Guidelines for Title VI Information Specific to UMTA Program", dated December 30, 1977.

(ii) UMTA Circular 1155.1 "UMTA Equal Employment Opportunity Policy and Requirements for Grant Recipients", dated December 30, 1977.

(iii) 49 CFR Part 23, "Participation by Minority Business Enterprise in Department of Transportation Programs".

(iv) 49 CFR Part 27, "Nondiscrimination on the basis of handicap in Federally-Assisted Programs and Activities Receiving or Benefiting from Federal Financial Assistance".

(2) Comply with the provisions of 23 CFR Part 450, Subpart C requiring that proposed projects be incorporated into the Annual Element of the local Transportation Improvement Program (TIP) in order to be considered eligible for funding;

(3) Possess adequate local public and private funds to assure implementation. Anticipated local public and private commitment must be identified in the application;

(4) Develop an Employment Plan;

(5) Sign a labor protection agreement meeting the provision of Section 13(c) of the Urban Mass Transportation Act;

(6) Secure OMB Circular A-95 clearance, addressing comments if appropriate; and

(7) Provide sufficient data to satisfy UMTA environmental impact and historic preservation requirements.

(c) The Section 3 application with supporting requirements must be completed within 90 days after fund reservation. If it is determined that an applicant cannot meet program requirements by the end of the fiscal year for which the funds are reserved, the reservation will be withdrawn, and funds programed for another project.

§ 642.75 Post Grant Activities.

Subsequent to grant award, grantees shall submit quarterly progress reports as to the status of project implementation, and the steps being taken to ensure that the project, when completed, achieves the objectives of the President's Urban Policy.

Appendix A—Policy Objectives

The objectives of the President's Urban Policy Statement are as follows:

1. Encourage and support efforts to improve local planning and management capacity, and the effectiveness of existing Federal programs by coordinating these programs, simplifying planning requirements, reorienting resources, and reducing paperwork.

2. Encourage States to become partners in assisting urban areas.

3. Stimulate greater involvement by neighborhood organizations and voluntary associations.

4. Provide fiscal relief to the most financially hardpressed communities.

5. Provide strong incentives to attract increased private investment in distressed communities.

6. Provide increased employment opportunities, primarily in the private

sector, for the long-term unemployed and disadvantaged in urban areas.

(7) Increase access to opportunities for those disadvantaged by a history of discrimination.

(8) Expand and improve social and health services to disadvantaged people in cities, counties, and other communities.

(9) Improve the urban physical environment and the cultural and aesthetic aspects of urban life.

Appendix B—Interagency Agreement Between the Urban Mass Transportation Administration of the Department of Transportation and the Employment and Training Administration of the Department of Labor

I. Purpose

In an effort to effectively implement the Interagency Coordinating Council's Employment Initiatives, this agreement specifies the process by which the Employment and Training Administration (ETA) of the Department of Labor (DOL) and the Urban Mass Transportation Administration (UMTA) of the Department of Transportation (DOT) will coordinate their activities to ensure that the maximum feasible number of jobs created by UMTA's Urban Initiatives Program go to the long-term unemployed. For purposes of this agreement, "long-term unemployed" is defined as persons who are eligible to obtain assistance under the Comprehensive Employment and Training Act (CETA).

II. Scope

In order to accomplish the purpose of this agreement, the provisions set forth herein relate to: (1) Specific employment goals to be established by UMTA with respect to the long term unemployed; (2) operational procedures to be used by UMTA and ETA in achieving these employment goals; (3) reporting and monitoring; and (4) provision for technical assistance and training to facilitate placing long term unemployed in permanent jobs created by federally assisted mass transportation projects.

III. Employment and Goals

Consistent with the President's national urban policy to stimulate private investments as well as increase employment opportunities in urban areas, the Urban Mass Transportation Administration, in consultation with the Employment and Training Administration, agrees to the following provisions:

(1) As a fiscal 1980 goal, 10-15% of the permanent jobs created by its Urban

Initiatives Program will be filled by the long term unemployed.

(2) By no later than September 1 of each year, in conjunction with the Employment and Training Administration, UMTA will review the current annual employment goal and experience, and establish its goal for the next fiscal year no later than September 20.

IV. Operational Procedures

A. UMTA

To achieve the employment goal that has been established for FY 1980 as well as those of succeeding years, UMTA will institute the following operational procedures relative to the Urban Initiatives Program:

1. Provide ETA with List of Employment Initiatives Coordinators—

UMTA will provide each ETA Regional Administrator with the names, addresses and telephone numbers of the UMTA Employment Initiatives Coordinators in the respective region.

2. Certification of Intent to Establish Project Employment Goals—Applicants seeking assistance under UMTA's Urban Initiatives Program will, as a criterion of participation, be expected to make a certification at the preapplication stage (project data sheet submission) that if new, permanent jobs result from such support, 10-15% will be earmarked for CETA eligible persons.

UMTA will review the preapplication data to determine if new permanent jobs will be created as a result of the project. UMTA's Regional Employment Initiatives Coordinator will also notify the relevant ETA Regional Employment Initiatives Coordinator of the project and its estimated employment impacts. The ETA representative will be invited to provide comments as to the viability of projects' employment generating possibilities and their potential impact on local unemployment. ETA comments, when provided, will be incorporated into the preapplication data to be considered during project review and evaluation. UMTA will review the applicant's certification in addition to other project support data in making its determination as to which projects to advance to the final application stage.

3. Initiate Consultation—Upon notifying an applicant to prepare a final application, the applicant working in conjunction with the UMTA Employment Initiative Coordinator, will develop an employment plan and initiate formal consultation with a CETA prime sponsor or other employment/training provider. UMTA will advise its applicant to consult first with the CETA prime sponsor. This consultation is

expected to continue as required, throughout the application, project funding, and implementation stages.

4. *Employment Plan*—Applicants from whom UMTA elects to solicit final applications for Urban Initiatives assistance will be required to prepare an employment plan when new permanent jobs will be created. If an employment plan is not appropriate, an explanation of why it is not must be submitted with the application. The employment plan shall include the following elements:

a. The total number and titles (and/or description) of jobs to be created by the project.

b. The goals for the total number, specific titles, and timing of jobs to be made available to CETA eligible persons.

c. The skill requirements for the jobs that are being made available to CETA eligible persons.

d. The linkage process:

i. Name of the CETA prime sponsor or other employment/training provider who is assisting the applicant in developing and implementing this employment plan. (Including name of responsible person, address, and telephone number.)

ii. Identification of any employment and training programs to be applied to preparing and/or referring qualified persons to available jobs. Indication of how they will be used and any special conditions required by the employer (e.g., number of referrals per vacancy to be filled, timing of referrals).

iii. Identification of the roles and responsibilities of the participants in the employment plan (i.e., UMTA applicant; UMTA beneficiary, if different from applicant; CETA prime sponsor or other employment and training provider; and local transit agency, if not the applicant).

iv. Indication of the procedure and schedule for implementing the employment plan.

v. Providing the signatures of persons or agency representatives party to the employment plan (i.e., UMTA beneficiary, if different from applicant; CETA prime sponsor or other employment and training provider; and local transit agency, if not the applicant).

5. *Contingent Project Approvals*—If the applicant certifies that the project will conform to program employment goals, but is unable to complete an employment plan by the time of scheduled grant award, UMTA may elect to approve the project contingent upon subsequent receipt of a satisfactory plan. Contract language will be included however, which would withhold construction funds until an

employment plan acceptable to UMTA is provided.

UMTA may elect to award architectural and engineering funds in order to assess feasibility of a project prior to concurring in an employment plan: *Provided*, The project sponsor certifies that new permanent jobs resulting from subsequent Urban Initiatives construction funding will be consistent with the program employment goals.

6. *Notification*—Upon approval of a project which includes or will include an employment plan, UMTA in conjunction with its grantee, will notify the CETA prime sponsor or other employment/training provider signatory to the employment plan, as well as the ETA Employment Initiatives Coordinator.

7. *Certification of Eligibility*—UMTA and its grantee will provide the information necessary to assist the CETA prime sponsors and the ETA delivery system in certifying the eligibility of persons who may be eligible for CETA assistance but are not CETA participants when such persons are to fill new and permanent jobs resulting from UMTA's Urban Initiatives projects.

8. *Identifying Alternate Employment/Training Provider*—When the local prime sponsor is unable to assist UMTA's staff and applicant in developing and implementing an employment plan, the UMTA staff may call upon the ETA Employment Initiatives Coordinator to discuss an alternate employment/training provider who might provide the necessary services.

B. ETA

The Employment and Training Administration recognizes that linking its employment and training programs with UMTA's Urban Initiatives Program can result in increased permanent employment opportunities for CETA eligible persons and agrees to facilitate this linkage by taking the lead in coordination of several activities.

1. *Provide UMTA with List of Prime Sponsors*—The Employment and Training Administration will provide each UMTA Regional Administrator with an updated list of CETA prime sponsor directors and regional ETA Employment Initiatives Coordinators along with their telephone numbers and addresses.

2. *Staff*—ETA will require each Regional Administrator and prime sponsor to identify an Employment Initiatives Coordinator to assume responsibility for coordinating activities related to the Employment Initiatives. To the extent possible, personnel

assigned these functions at the Federal and local levels should be the same staff that has been assigned to the Private Sector Initiatives Program.

3. *Responsibilities of Employment Initiatives Coordinators*—The designated Employment Initiatives Coordinators (EIC) assigned to coordinate activities related to the Employment Initiatives in each of the regions by ETA and at the local level by prime sponsors will assist UMTA's staff and applicants in developing and implementing the employment plan delineated above. The Employment Initiatives Coordinators will also be responsible, at their respective levels, for consulting with the UMTA Employment Initiatives Coordinators to determine the status of a project so that they can initiate required CETA activities (e.g. employment, training, recruiting, screening, referral and counseling services) in a timely fashion, to place CETA eligible persons in permanent jobs created by UMTA's Urban Initiatives Program.

4. *Identifying Alternate Employment/Training Provider*—When the local prime sponsor is unable to assist UMTA's staff and applicants in developing and implementing an employment plan, ETA's Employment Initiatives Coordinator will assist in identifying an alternate employment/provider who might provide the necessary services.

5. *Assist UMTA in Describing CETA Programs and Participants*—Consistent with available funds, ETA will assist UMTA in involving its applicants in employment/training programs by jointly developing and publishing information packets geared to the private sector, focusing on the availability and benefits of employment/training resources, including various tax credits.

6. *Certification of Eligibility*—Prime sponsors and the ETA delivery system, working with UMTA and its funds recipients, will certify the eligibility of persons who fill new and permanent jobs resulting from UMTA's Urban Initiatives projects.

V. Reporting/Monitoring

In order to keep the Interagency Coordinating Council (IACC), the Office of Management and Budget (OMB), and each of the participating agencies informed of the progress in achieving the goals of this agreement, UMTA and ETA agree to the following reporting/monitoring provisions:

A. Effective April 1, 1980, and on a semi-annual basis thereafter (October 1 and April 1), UMTA will submit reports to OMB. These reports shall include the

total number of projects funded for the six-month and annual periods, the federal dollars committed, the number of permanent jobs anticipated, the total number of actual jobs created, and the number/percentage of jobs to be filled by CETA eligible persons.

B. Effective April 1, 1980, and on a semi-annual basis thereafter (October 1 and April 1), ETA will submit reports to OMB. These reports shall include the total number of employment plans that prime sponsors and the ETA delivery system have entered into with UMTA and is grantees, the total number of jobs projected for the long term unemployed, and the total number of persons actually placed in jobs created by UMTA's Urban Initiatives Program.

VI. Technical Assistance

To facilitate and promote the placement of CETA eligible persons in permanent jobs resulting from UMTA assistance, both ETA and UMTA agree to provide the following technical assistance:

A. Whenever necessary, the agencies will brief each other's staff on programmatic and/or procedural changes affecting the implementation of the Employment Initiatives.

B. Jointly develop and publish promotional information on the placement of CETA eligible persons in permanent jobs created by UMTA investments.

C. As necessary, jointly conduct interagency workshops/seminars related to the Employment Initiatives, assessing experiences and focusing on techniques and strategies to be used to more effectively implement the Employment Initiatives.

VII. Duration

This agreement shall remain in effect through November 1, 1982. ETA and UMTA will, however, jointly review the provisions herein on an annual basis (prior to September 30) in order to make any necessary modifications. The operational procedures that are being utilized by UMTA and ETA to achieve UMTA's employment goal will be given particular attention during the annual review.

Appendix C—Timing and Degree of Public and Private Commitments for Joint Development Projects:

Joint development project negotiations typically progress through the following stages:

Stage 1. Executing letters of intent between local public agencies, developers, and financial institutions.

Stage 2. Executing development contracts, financing agreements and securing building permits.

Stage 3. Executing construction contracts.

UMTA's commitment to fund the project will depend on the stage of local negotiations. If the applicant has not progressed to Stage 2, UMTA would be reluctant to make a commitment to participate in the project. This will not preclude UMTA from making grants for preliminary engineering, design, appraisals and other analyses, which will allow costs to be more accurately defined. At Stage 1, UMTA may award a grant, or set aside funds for the project pending completion of final negotiations and grant approval requirements. At Stage 2 and/or 3, the local commitment would be sufficiently secure to allow UMTA to award a grant. However, the timing and degree of mutual commitments will be adjusted to reflect the needs of particular situations.

Appendix D—Project Application Review and Selection Process:

A.

The Urban Mass Transportation Administration will announce grant fund reservations for Urban Initiatives projects bi-annually based on preapplications received and evaluated. The first announcement will be made no later than December 31, and the second announcement no later than May 31. Additional announcements may be made if selected projects prove unable to meet Section 3 program requirements or additional program funds become available. Fund reservations will be made based upon a preapplication submission.

B. Preapplication Review

(1) The project sponsor will be sent a letter from the UMTA Regional Office within the first 15 days of the review period acknowledging receipt of the proposal for processing.

(2) All preapplications will be screened for completeness by the Regional Office before being officially accepted for review.

(a) If the preapplication is incomplete, the UMTA Regional Office will notify the project sponsor of the items needed to complete the preapplication. Consideration of the proposal will, however, be deferred until the next review period.

(b) Complete preapplications will be assessed to establish the proposal's eligibility for funding under the Urban Initiatives Program. The Regional Office will notify applicants if the project is eligible for further consideration within

30 days of the beginning of the review period.

(3) All eligible projects will be included in the Urban Initiatives national competition.

C. Selection Process/Fund Reservation

UMTA will make announcement of approvals or reservations no later than December 31 and May 31 respectively.

UMTA will determine which proposals best meet the objectives of the Urban Initiatives Program. Because funds are limited not all eligible projects will be funded.

Applicants will be notified of their proposal's status with the announcements of reservations and approvals:

(1) If a proposal is rejected, the preapplication will be returned with the deficiencies noted.

(2) If a proposal is deferred for lack of sufficient supporting data, the applicant will be advised to work with the Regional Office to provide the necessary data. These proposals will be reconsidered in the following review period if the applicant satisfies all deficiencies noted.

(3) Should lack of sufficient Urban Initiatives funds be cited as the reason for deferral, the proposal will automatically be reconsidered in one additional round of review.

(4) If a proposal is accepted, and a fund reservation made, the applicant will be notified to work with the Regional Office to develop a final application.

UMTA will announce a reservation of funds for those proposals which have been selected as part of the Urban Initiatives Program national competition. The action will set aside a specified sum of Urban Initiatives funds to be made available to the project sponsor upon satisfactorily fulfilling the requirements for a Section 3 discretionary capital grant.

If a project application cannot satisfactorily meet Section 3 program requirements by September 30 of the fiscal year in which the reservation is made, funds will be withdrawn. Projects for which funds have been withdrawn are automatically reconsidered as part of the national competition in the next two review periods. If it is determined that significant program requirements are not or cannot be met within this time, the application will be withdrawn and returned to the project sponsor.

D. Grant Award

UMTA will make grants no later than the last day of the fiscal year. The applicant will be notified in writing of grant award and will receive

appropriate contract documents from the UMTA Regional Office.

E. UMTA Regional Offices

Region I: Donald Sullivan, Acting Regional Administrator, Transportation Systems Center, Kendall Square, 55 Broadway, Cambridge, MA 02142, Tel: (617) 494-2055.

Region II: Hiram Walker, Regional Administrator, Suite 14-130, 26 Federal Plaza, New York, NY 10007, Tel: (212) 264-8162.

Region III: Peter N. Stowell, Regional Administrator, Suite 1010, 434 Walnut Street, Philadelphia, PA 19106, Tel: (215) 597-8098.

Region IV: Carl Richardson, Acting Regional Administrator, Suite 400, 1720 Peachtree Road, N.W., Atlanta, GA 30309, Tel: (404) 881-3948.

Region V: Joel Ettinger, Regional Administrator, Suite 1740, 300 South Wacker Drive, Chicago, IL 60606, Tel: (312) 353-2789.

Region VI: Glen Ford, Regional Administrator, Suite 9A32, 819 Taylor Street, Fort Worth, TX 76102, Tel: (817) 334-3787.

Region VII: Lee Waddleton, Regional Administrator, Suite 303, 6301 Rock Hill Road, Kansas City, MO 64131, Tel: (816) 926-5053.

Region VIII: Lou Mraz, Regional Administrator, Suite 1822, Prudential Plaza, 1050 17th Street, Denver, CO 80265, Tel: (303) 837-3242.

Region IX: Dee Jacobs, Regional Administrator, Suite 620, Two Embarcadero Center, San Francisco, CA 94111, Tel: (415) 556-2884.

Region X: Aubrey Davis, Regional Administrator, Suite 3142, Federal Building, 915 Second Avenue, Seattle, WA 98174, Tel: (206) 442-4210.

(49 U.S.C. 1602(a)(1)(D) and 1603(c)(1)(B); 49 CFR 1.51)

Dated: January 14, 1981.

Theodore C. Lutz,
Administrator.

[FR Doc. 81-1945 Filed 1-16-81; 8:45 am]

BILLING CODE 4910-57-M