The CARES Act and State-Managed Transit Grant Programs:

Words of Advice from CTAA

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By now, you probably know that the Federal Transit Administration (FTA) has allocated $25 billion in supplemental formula-based funding for urban and rural public transportation. These funds were authorized under the recently passed "Coronavirus Aid, Relief, and Economic Security Act" (CARES Act), which was a package of $2.2 trillion in various forms of assistance to help respond to the current nationwide public health emergency. These funds are in addition to the "regular" annual appropriations for FTA's formula grants.

FTA issued its routine FY 2020 apportionments and allocations of formula grants on February 3, 2020. As is the case every year, these apportionments cover all of FTA's formula-based grant programs, and those amounts have limited periods of availability (for instance, Section 5307 urban transit formula funds are available for five years from the time of allocation, and Section 5311 rural transit formula funds are available for three years from the time of allocation).

FTA allocated the CARES Act urban and rural transit funds on April 2, 2020. In keeping with the law, these funds are allocated only to Section 5307 (urban) and Section 5311 (rural) recipients. Unlike routine annual appropriations, the CARES Act transit funds are "available until expended," which means there's no time limit before the funds lapse (note, though, that this is one-time funding, not expected to be an annual occurrence, and there's a remote possibility that CARES Act funds that don't get spent may be rescinded by Congress in a few years).

Two other important features of the CARES Act funds are that they may be used for any activities that would be eligible uses of Section 5307 or 5311 funding (with some additional flexibility, including the ability to use these funds to cover operating costs borne by transit systems in larger urbanized areas), and that these CARES Act funds may be used to cover 100 percent of project costs, with no requirement for non-federal matching funds, in contrast to the local match requirements that pertain to most FTA formula grant programs.

If you're looking for more details about the CARES Act, its transit funding, and information on how transit providers can respond to the COVID-19 pandemic, FTA has information on its website at https://www.transit.dot.gov/coronavirus, and CTAA is maintaining comprehensive information on its site at https://ctaa.org/covid-19-resources/. Both of these sites are updated regularly, so you may want to monitor them with some frequency.

For many rural, small-urban and specialized transit providers, their funding – both routine FTA formula grants and the CARES Act urban and rural transit grants – flows through state departments of transportation. What does this mean for these state-managed program grantees and their possible use of CARES Act funds?

Here's the most important principle: Participants in state-managed transit grant programs should be in contact with their state department of transportation. Every state is different, every state's DOT will approach its use of CARES Act funding differently, and the CARES Act gives states vast flexibility in how they use the funds under their administration (similarly, urban transit systems have unprecedented flexibility in how they use the CARES Act urban transit grants they're receiving).

With that important principle in mind, here's a look at key considerations for state-managed transit grant programs for CTAA members.

Section 5311 rural public transit

- Let's first note that the routine FY 2020 apportionments of FTA formula grants included record-breaking levels of Section 5311 rural transit funds to every state DOT.
- Now, let's note that the CARES Act rural transit grants to each state are for amounts that are about 2.8 times the amount of the FY 2020 Section 5311 funds they'd just received a couple of months ago.
- That's a lot of money on the table, and with the special features of the CARES dollars – they can be used for any Section 5311-eligible activities, plus some additional flexibilities authorized under the CARES Act, with open-ended availability of funds, all at a 100% federal share of costs – there are many issues and possibilities that states may seek to balance, which could include:
    - ⇒ Determining how much money is needed to help cover new costs that are being borne by rural transit systems in response to the COVID-19 pandemic, such as new or reconfigured service, costs of cleaning/disinfecting, costs of personal protective equipment for employees, etc.;
    - ⇒ Looking at personnel costs associated with keeping employees on transit agencies' payrolls under CARES Act "administrative leave," instead of terminating or furloughing employees who might not otherwise need to be on duty, due to the dramatic reductions of transit demand during the pandemic (especially in communities and states under various forms of governmental "stay at home" orders to maintain social isolation and distancing);
    - ⇒ Looking at personnel costs and status of employees who cannot work because they are ill with COVID-19, because they are quarantined on account of household members ill with COVID-19 and at home, or because they are caring for – or otherwise impacted by – family members affected by COVID-19 (including the impacts in employees' households of having school-age children who are at home all day, or having children whose childcare

providers are closed or unavailable, as well as impacts that could be due to other family members' COVID-19 circumstances);

⇒ Trying to estimate whether – or when – some of these CARES Act funds will be needed for those cases when non-federal sources of dollars, such as farebox receipts, contract revenues, transit-dedicated state or local taxes, or expenditures of state or local revenues on transit, fail to materialize, and thus aren't available for matching "regular" Section 5311 grants currently or in future years;

⇒ Weighing the prospects of how much it may make sense to maximize the use of CARES Act funds this year, when both the fiscal scene and the operating context for rural transit is radically transformed, and if it makes sense to hold off on using the "regular" FY 2020 funds until a year or two from now, when circumstances may have settled to some level of normalcy; and

⇒ Considering whether any of these rural CARES funds are needed to support important, eligible transit services that aren't otherwise funded through that state's Section 5311 program, such as rural services for elderly adults or individuals with disabilities, rural Medicaid or other NEMT services, or other essential transportation services in rural areas.

Section 5307 transit in small-urban areas

- The basic details around Section 5307 funding are similar to those for Section 5311: First, we had record-setting routine appropriations for FY 2020, then the CARES Act added a supplemental appropriation nearly three times the amount of what FTA allocated in February.
- With respect to Section 5307 funding to urbanized areas of less than 200,000 population, practices among states vary – some states are largely "hands-off," routing their small-urban apportionments directly to the transit agencies in these areas, and having them serve as "direct recipients" of their FTA funds, while other states retain some, or all of their small-urban Section 5307 funds, spent and managed at the state's direction. These same approaches apply to CARES Act urban transit allocations.
- Every urbanized area in the country receives a Section 5307 allocation, even if it does not have a public transit program; for a few states, this results in what may feel like a minor windfall of CARES Act urban funding that's been apportioned on the basis of small-urban areas without transit service.
- In those cases where a state DOT has an active role in administering the small-urban Section 5307 program in its state, many of the considerations over how to use and balance "regular" FY 2020 FTA formula grants and the much larger, more flexible tranche of CARES Act urban transit formula funding allocated to its smaller urbanized areas, the core issues are very similar to those facing rural transit operators, as described above, although there is at least as much diversity among small-urban transit operators' operating environments, fiscal contexts, and styles of operation as among their rural counterparts.

Section 5310 Grants for Senior and Disabled Persons' Mobility

- The CARES Act did not appropriate any supplemental funding to FTA's Section 5310 program of formula grants to support the enhanced mobility of seniors and individuals with disabilities.
- Regular, annual appropriations of Section 5310 funds are allocated to states for projects and activities in rural and small-urban areas; in some states, the state DOT also is the designated recipient of Section 5310 funds allocated to those states' larger urbanized areas. As with all of FTA's formula grants, FY 2020 represents an all-time high funding level for the Section 5310 program.
- As FTA has pointed out in its CARES Act outreach, every activity that is an eligible use of Section 5310 funds also is an eligible use of CARES Act urban or rural transit funds. The difference is that the private nonprofit entities making up most of the Section 5310 subrecipient network are not current nor eligible recipients of Section 5307 or 5311 dollars.
- Transit agencies that routinely receive both Section 5310 and 5311 funds, or that routinely receive both Section 5307 and 5310 funds, may be able to use some of their CARES Act formula funding to cover otherwise-eligible expenses for which their Section 5310 resources are insufficient.
- As an informational item, some Section 5310 subrecipients may be receiving supplemental funding through CARES Act appropriations to programs of the Administration for Children and Families, the Administration for Community Living, or other federal agencies; while those appropriations might not cover any increased transportation costs that otherwise would be borne through Section 5310, they at least hold promise for some degree of organizational continuity during the COVID-19 pandemic. It might also be worth noting that private nonprofit entities, such as many Section 5310 subrecipients, were eligible applicants for the SBA-backed Payroll Protection Program of forgivable loans under the CARES Act, and may be eligible for any successor or related programs that emerge from SBA or other federal sources.
- As for those nonprofit Section 5310 subrecipients performing expanded – or different – types of transportation service (e.g., home delivery of food or medications to elderly individuals or persons with disabilities, or providing one-on-one transportation instead of grouped trips), but can't sustain these services without something like CARES Act funding, there's no solid mechanism to help them. One theoretical approach that may work in some instances is to have a Section 5307 or 5311 recipient engage the nonprofit in some form of contractual relationship, and then use the transit agency's CARES Act funding to fund work by the nonprofit contractor that otherwise would have been done with Section 5310 assistance.

The final word

Despite all that's presented above, let's remember the most important CARES Act instruction for transportation providers who receive FTA funds from their state DOT:
Talk to your state agency!