

Program Design Improvements

Elizabeth Ellis, AICP
KFH Group, Inc.

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OVERVIEW

Reauthorization of the federal surface transportation legislation offers an opportunity to improve the structure of the Section 5310, New Freedom and JARC programs. As of this writing, Congressmen Oberstar and DeFazio have introduced a House transportation bill that calls for consolidation of the three programs under an overarching Coordinated Access and Mobility program. Several prominent transportation organizations have offered their own proposals to consolidate two or three of these programs. Similar to the House transportation bill, APTA proposes consolidating the three programs under a Coordinated Mobility Initiative. AASHTO's proposal would consolidate only the Section 5310 and New Freedom programs, while CTAA proposes to redirect all federal transit funding into three programs: Rural Transit, Urban Transit, and Intercity Bus and Rail Service, allowing local transit agencies wide latitude to decide how to best invest federal dollars while maintaining traditional commitments to older persons, low-income persons, persons with disabilities, and rural residents. Common to each of the consolidation proposals is the desire for increased program flexibility and reduced administrative burden. For example, administrators would like the ability to use grant monies to best meet locally determined needs without rigid funding silos. They would also like to see streamlined grant application processes to reduce the number of required grant agreements.

Aging and disability organizations, including AARP, National Association of Area Agencies on Aging (N4A), Easter Seals, United Jewish Communities, and other members of the Senior Transportation Task Force, are concerned that consolidation of the programs could lower the quality of service provided under the Section 5310 program and lead to other unintended consequences. A particular concern for these organizations is the fact that older adults, persons with disabilities, and low income populations do not have identical transportation needs that can always be met by the same service. Ensuring that the needs of each group are met could pit advocates for these three groups in unproductive competition with one another. These organizations also believe that consolidation of the programs would remove the current priority for non-profit human service providers under the Section 5310 program. Many feel that these non-profit providers, given that their primary institutional purpose is to meet human service needs, are best able to offer the high quality, specialized service that many older adults and persons with disabilities require.

Whether consolidation is appropriate and the form it might take requires an understanding of not only program similarities, which may support the case for consolidation, but also program differences, which could support keeping separate programs. This paper outlines key program parameters of Section 5310, JARC and New Freedom, highlighting areas that merit attention when policymakers consider program design improvements.

PROGRAM STRUCTURE

All three programs focus on persons with specialized needs, all provide funds for less traditional transit services, and all are now intertwined through SAFETEA-LU's

coordinated planning requirements. Program management requirements are similar, and in some cases, identical.

At the same time, the programs differ significantly in their legislative goals and program evaluation. The three programs also vary in regard to funding framework, eligible activities, and data collection. Improving services for each of the target groups will depend considerably on the structure developed for the key components of each program. As some stakeholders have expressed, “the devil is in the details.”

PROGRAM GOALS

Section 5310 and New Freedom both focus on persons with disabilities, with Section 5310 also targeting elderly individuals. JARC focuses on lower-income persons, as well as reverse commuters regardless of income. JARC and New Freedom support transportation services for employment purposes while Section 5310’s goal is improved mobility, regardless of trip purpose. And significantly, Section 5310 is the only one of the three programs that is targeted to elderly persons without disabilities for general purpose transportation, such as trips to visit friends, pursue volunteer activities, and other quality-of-life type trips.

FUNDING FORMULA

All three programs are formula-based.ⁱ FTA provides Section 5310 funds directly to the states, usually the state department of transportation. JARC and New Freedom funds are divided among large urban areas (200,000 and greater population), small urban areas (50,000-200,000 population) and rural areas (less than 50,000 population). For the latter two programs, 60 percent of the total program funds are apportioned to designated recipients in large urban areas, 20 percent to the states for small urban areas, and the remaining 20 percent to states for rural areas.

The JARC and New Freedom formula gives more funding to larger metropolitan areas, effectively limiting states’ discretion to make funding decisions, although some flexibility is provided to move funds among programs, as outlined below.

Under the Section 5310 formula, however, a state receives its entire funding, so that states have more latitude with its use. States distribute Section 5310 funds in a variety of ways. The most common method is a discretionary selection process, typically competitive, with funds going mainly to non-profit agencies. Transportation Research Board (TRB) research (2008) found that 78% of Section 5310 funding had been provided to private non-profit agencies, with the remaining amount provided to local governments and independent public transit entities.ⁱⁱ

Additionally, most states distribute Section 5310 funds on a statewide basis, but some restrict potential grantees by geographic area.ⁱⁱⁱ For example, Texas distributes 25 percent of available funds equally among its 25 Texas DOT districts, with the remaining 75 percent going to districts on the basis of the latest census figures for disabled and elderly population.^{iv}

Funding for Section 5310 is a key issue, with many states experiencing far greater demand for program funding over the years than has been available. For the JARC and New Freedom programs, lapsed funds have been an issue. About 14 percent of FY 2006 JARC funds lapsed, primarily in small urbanized areas,^v while about 12 percent of New Freedom funds lapsed.^{vi} This situation may be only a short-term problem, however, since program recipients cited administrative issues as being mainly responsible for the loss of funds. For example, the FTA's delay in issuing final program guidance, and the time necessary to identify designated recipients reduced the time for securing the funds before they expired.^{vii}

FUNDING FLEXIBILITY

The FTA allows recipients to shift some funds from one program to another if certain conditions are met. States may transfer Section 5310 funds as well as JARC and New Freedom funds apportioned to small urban and to rural areas to the S. 5311 (c), the new tribal program under the Section 5311 rural program and to Section 5307^{viii} urban areas with less than 200,000 population, as long as the funds are used for purposes eligible under the original program.^{ix} The FTA has included these transfer provisions to Section 5311 and Section 5307 so it can award direct grants to tribes and urbanized area transit operators, not to allow greater flexibility for eligible purposes

For JARC, the FTA also provides the ability to transfer funds between population categories. A state can transfer funds between small urban and rural areas if the state certifies that all JARC objectives are being met in the area from which funds are being transferred. JARC funds apportioned for rural areas and small urban areas can also be transferred anywhere in the state, including to large urban areas, if the state has a statewide JARC program^x (but not the reverse, from large urban areas to small urban areas or to rural areas).

While this may seem difficult to follow, the ability to move program funds in certain specified ways does give the states some latitude, but the state must still track, manage, and report to the FTA on each program's funds *separately*. TRB research (2007) has suggested that states could benefit from increased funding flexibility. Specifically, if states are given maximum flexibility in program administration, they may be able to streamline the grant application process and reduce the number of grant agreements, decreasing staff efforts devoted to this effort.^{xi}

More recently, TRB research (2009) reviewed states' experience with fund transfers and found that not all states have taken advantage of the flexibility provided.^{xii} Seventeen states transferred funds from one or more eligible federal transit program from FY 2005 to FY 2007. The researchers found examples of funds reallocated from JARC, New Freedom and Section 5310 (as well as Section 5311, the rural program) to the Section 5307 program for urbanized areas. They also found examples of funds from JARC, New Freedom and Section 5310 (also Section 5307) reallocated to the Section 5311 program for rural areas. The most common transfer, used by eight states, was a transfer of funds from Section 5310 to Section 5311.

State representatives indicated, according to the TRB research, that the transfer process could be improved with additional training, enhanced information from the FTA, and potentially more funding flexibility, which would allow states to re-allocate resources where they are most needed.

ELIGIBLE RECIPIENTS

For Section 5310, state agencies are the eligible recipients, and most typically this is the department of transportation. Eligible subrecipients are private non-profit agencies and, by exception, public entities that the state has specifically designated to coordinate specialized transportation services in a particular area or in an area that has no non-profit agency to provide the service. Section 5310 funding may also be channeled to public or private transit providers through service contracts or other arrangements, for example, through user-side subsidies, since capital and operating costs associated with contracted service are eligible capital expenses under the program rules.

For JARC and New Freedom, the state is the designated recipient for small urban areas and rural areas. In large urban areas, the state, in consultation with “responsible local officials and publicly owned operators of public transportation,”^{xiii} determines a public entity to be the designated recipient. This may be the public entity designated to receive Section 5307 funds; for example, the local public transit provider or the metropolitan planning organization (MPO). Or it may be the state, which then serves as the recipient for large urban areas as well as for small urban and rural areas. Eligible subrecipients for both JARC and New Freedom include private non-profit agencies, state or local government bodies, and public transportation operators including private entities such as taxi and intercity bus companies.

The issue of subrecipients may be particularly interesting when the three FTA programs are compared. Over its more than 30-year history, the Section 5310 program has primarily supported local non-profit agencies in obtaining vehicles to provide specialized transportation services. The JARC and New Freedom programs have a broader set of subrecipients. A mix of grantees — public transit agencies, MPOs, private operators including local taxi companies, as well as private non-profit agencies — receive funds.

Does this broader mix of subrecipients foster or impede coordination, a stated goal of all three FTA specialized transportation programs? While the FTA strongly encourages coordination with other local organizations, especially the public transit provider and legislative changes over the years to Section 5310 have supported increased coordination, considerable variation exists from state to state regarding coordination. There is even “disagreement”^{xiv} on what transportation should be coordinated. This lack of agreement, according to recent research on the Section 5310 program, relates to the “apparent tension between the objectives of human service transportation and public transportation systems.”^{xv}

A basic policy question for the Section 5310 program is: should the grant program continue to invest in helping a wide array of non-profit human service agencies become transportation providers, when transportation is not central to their purpose, or should the grant program develop the capacity of public transit organizations to provide and coordinate transportation for the entire community?^{xvi} In some cases, however, human

service agencies may be the more appropriate transportation providers where mobility needs are highly specialized. Thus, a better question may be: How can we improve *planning for coordination* — as well as coordinated planning — so that human service transportation and public transit become integrated, accessible *community* transportation that serves the broad needs of individuals with specialized needs?

ELIGIBLE ACTIVITIES

Important differences in eligible activities exist among the FTA programs. Section 5310 is primarily a capital grant program that also allows the purchase of transportation service under a contract, lease, or other arrangement. Additionally, the use of Section 5310 funds for operating assistance is being formally tested as a pilot project in seven states.^{xvii}

For JARC and New Freedom, eligible activities include capital, planning, and operating projects. The list of eligible JARC activities is quite broad; activities are eligible as long as they support employment efforts for the intended beneficiaries and include, for example, projects such as bike racks on transit vehicles, car loan programs, and use of transit pass programs and benefits.

New Freedom activities are more prescribed since they must fit into the definition of “beyond the ADA,”^{xviii} and include, for example, the expansion of ADA paratransit service beyond the required three-fourths of a mile band around the fixed-route service area, and buying accessible taxi vehicles.

Notably, mobility management is an eligible activity for all three programs, including Section 5310, since mobility management is defined as a capital expense.

PROGRAM MANAGEMENT

SAFETEA-LU’s requirements for coordinated planning have presented challenges for designated recipients of FTA’s specialized transportation programs. Administrative issues have been reported, in particular that requirements to manage and administer the three grant programs are duplicative and disproportionate relative to the available funding. While the FTA allows recipients to consolidate planning efforts for the programs, such as for coordinated planning, applying for the funds is done separately, which is redundant and time-consuming.^{xix} Moreover, some state and local program administrators would like greater flexibility to administer the programs.^{xx}

Management of FTA programs at the state level is complex.^{xxi} Each transit program requires state administrators to manage parallel and often identical, overlapping and concurrent components, including:^{xxii}

- Rules, regulations and requirements relating to funding flow and administration;
- Separate and discrete application processes, documents, and timetables;
- Required “certifications and assurances;”^{xxiii}
- Funding allocations;
- Tracking of funds, and administration of obligations and payments;

- Project review and evaluation; and
- Ongoing program oversight and reporting.

The existence of multiple federal grant programs typically requires that the states have separate grant agreements with their subrecipients for the various programs (e.g., a local transit operator may receive funding from Section 5311, JARC and New Freedom as well as have a Section 5310-funded vehicle), and each grant agreement has its own set of rules tied to each separate grant. While many states have coordinated transit programs, the states must enter into multiple grant agreements with each subrecipient/transit operator, creating significant administrative burden.^{xxiv}

The requirements for coordinated planning established through SAFETEA-LU have increased the workload for state program administrators. States that are themselves responsible for plan development face increased administrative burden. But even if another entity develops the coordinated plan, the state must ensure — for those areas where it serves as the designated recipient of funds — that the projects and services funded through the three FTA programs are derived from a coordinated plan. Some states have developed specific procedures to streamline this effort, including, for example, requiring applicants to “copy and paste” relevant information from the coordinated plan into their grant application so that the project selection committee does not have to read the entire plan to ensure compliance with coordination requirements. Such a procedure, however, is minor in light of the full range of activities and responsibilities involved with transit program management.

SAFETEA-LU allows states to combine all or a portion of administrative funds for JARC, New Freedom and Section 5311 to support activities common to the three grant programs such as coordinated planning. Additionally, recipients “may combine program administrative funds into one administrative account, so long as the recipient uses the funds for costs associated with administering the 5310, JARC, and New Freedom Programs. However, FTA must still track the funds attributable to each program....in respective grants.”^{xxv} Since the states – and FTA – must track the funds attributable to each program separately, the ability to combine administrative funds provides little benefit to the states.^{xxvi}

Coordination of transportation services on the street is a key thrust of FTA’s grant programs for specialized transportation, yet management of the programs at the state level follows, essentially, a “silo” approach that coordination is intended to overcome.

DATA REPORTING AND PROGRAM EVALUATION

The data reporting function is critical for assessing program outcomes and performance. Limited and inconsistent data collected through FTA’s specialized transportation grant programs have hampered program evaluation.

Certain data elements are similar across the three specialized transportation programs, for example, one-way trips. But there are also different data elements that are tied to program objectives. Could data reporting elements for Section 5310, for example, be

incorporated in the new reporting requirements for JARC and New Freedom? If the programs are merged, differences in data elements would have to be addressed.

Yet data reporting is only an intermediary step. Program evaluation must take that data and assess the extent to which a program is meeting its intended goals — a challenge when goals are broadly defined or difficult to measure. Evaluation of the JARC program exemplifies this dilemma. If the three programs were consolidated, defining a workable set of measurable goals covering the range of objectives of the current programs would be particularly challenging. It would also be difficult to translate those goals to data that could realistically be collected by grant recipients and subrecipients.

SUMMARY

From the state and local program administrator perspective, valid reasons exist to pursue some administrative consolidation of the FTA's three specialized transportation programs. Requirements to manage and administer the three programs are duplicative, and many states and designated recipients say the tasks require more effort than the level of program funding warrants. Some state and local program administrators would also like more flexibility in program administration than currently allowed.

Yet, the three programs have different legislative objectives. A merger could dilute the stated goals of the programs, and possibly reduce benefits that some rider groups now receive. Further, strong competition for funding could result if a merged program has a broad array of eligible recipients and significantly more funds than available to any individual program. This situation could put smaller community agencies at a significant disadvantage. To-date, hundreds of such smaller community agencies have been recipients of grants from the three programs. They provide not only primary transportation service in rural and small urban areas but niche services in larger urban areas that, in some cases, complement and coordinate with the services of larger transportation organizations. To ensure that the specialized services actually do both complement and coordinate with other transportation services, improving coordination deserves concerted and continuing attention.

DISCUSSION QUESTIONS

- Is there agreement that the programs are burdensome to administer? If so, what can be streamlined and how?
- How could the statutory reauthorization and associated program guidance improve these programs?
- Should some programs and program components be consolidated? Can each of the program's target beneficiaries be effectively served through a consolidation of two or three of the programs? What are the potential benefits of consolidation? What are the potential pitfalls?

- What should the program design details look like with regard to apportionment, designated recipients, eligible subrecipients, and the flexing of funds options? Explore with respect to both status quo and consolidation proposals.

SPEAKERS

Mary Martha Churchman is a Senior Policy Advisor in the Office of Program Management, Federal Transit Administration. Among other responsibilities, she oversees the work of the team implementing the United We Ride initiative to promote coordination of public transit with human service transportation. From 2001 through 2007 she served as Director of the Office of Transit Programs, where she was responsible for administration of the major FTA formula and discretionary grant programs, including the urbanized and non-urbanized formula programs, the formula program for elderly and persons with disabilities, the Job Access and Reverse Commute Program, the bus discretionary program, the fixed guideway modernization formula program, the Over-the-Road Bus program, and two new programs authorized by SAFETEA-LU - the tribal transit program and the New Freedom formula program. For many years previously Ms. Churchman managed the Section 5311 program of formula assistance for public transportation and intercity bus service in other than urbanized areas and the Rural Transit Assistance Program (RTAP) and oversaw the management of the Section 5310 program for elderly and persons with disabilities.

Michael Sanders has served as the Administrator of the Office of Transit and Ridesharing for the Connecticut Department of Transportation since 1994. Mr. Sanders has more than 30 years of experience in the public transportation business, having held positions in planning, grants management, procurement, operations and general management with transportation and governmental agencies. He serves on the Executive Committee of the Board of Directors of the American Public Transportation Association (APTA), and represents the state on APTA's Access Committee and the Older Adults and Intergovernmental Issues Subcommittees.

William McDonald is the Executive Director of Medical Motor Service of Rochester, New York, the county's largest not-for-profit specialized transportation agency serving transit disabled of all ages. Mr. McDonald's experience includes developing service contracts, training programs, budgets, fundraising, Board development, a comprehensive fleet maintenance facility, and establishing numerous transportation funding agreements with public and private organizations. He received the Transit Manager of the Year Award from the Community Transportation of America in 2006 and was awarded outstanding Specialized Transportation Award from New York Department of Transportation in 2008. Prior to his work at MMS, he was employed for six years at the Monroe County Office for the Aging, the local Area Agency on Aging, where he was responsible for grant management of Title IIC programs, including transportation.

ENDNOTES

ⁱ The S. 5310 formula is based on each state's share of population of elderly persons (age 65+) and persons with disabilities. The JARC formula is based on the ratio of the number of low-income and welfare recipients in the specific area (large urban, small urban, rural) to total low-income and welfare recipients in all such areas. New Freedom's formula is based on the ratio of the number of individuals with disabilities in the specific area (large urban, small urban, rural) to the number of individuals with disabilities in all such areas.

ⁱⁱ National Cooperative Highway Research Program (NCHRP) Project 20-65 (16), "Current State Eligibility Requirements for Grantees to Qualify for Federal Section 5310 and Section 5311 Funds," Final Report, prepared by the KFH Group, Inc., in association with Cambridge Systematics, Transportation Research Board, 2008.

ⁱⁱⁱ Ibid.

^{iv} "A Review of FTA Section 5310 Program's State Management Plans: A Legacy Program in Transition," by A. Enders and T. Seekins, Technical Report, The University of Montana Rural Institute, Missoula, Montana, page 31.

^v "Federal Transit Administration-Progress and Challenges in Implementing and Evaluating the Job Access and Reverse Commute Program," U.S. Government Accountability Office (GAO), Report to Congressional Committees, May 2009, page 11. Apportioned funds are available to recipients during the fiscal year of apportionment plus two more years. Apportioned FY06 funds were available until Sept. 30, 2008, apportioned FY 07 funds are available until Sept. 30, 2009, and so forth. The GAO report notes that the FTA has made progress in awarding FY 07 and 08 funds.

^{vi} New Freedom Funds Awarded FY 2006-2008
http://www.fta.dot.gov/funding/grants/grants_financing_7188.html

^{vii} "Federal Transit Administration-Progress and Challenges in Implementing and Evaluating the Job Access and Reverse Commute Program, U.S. Government Accountability Office, Report to Congressional Committees, May 2009.

^{viii} S. 5307 is the FTA's Urbanized Area Formula Assistance Program, providing funding for capital assistance, planning, and operating assistance for public transportation in small urbanized areas with populations less than 200,000. FTA apportions these funds to the states for use in small urbanized areas. S. 5307 also provides funding for capital and planning assistance for public transportation in large urbanized areas with populations over 200,000. FTA makes these funds available to the designated recipient(s) in large urbanized areas. S. 5311 is the FTA's Nonurbanized Area Formula Assistance Program. The FTA apportions the funds to the states for public transportation projects in nonurbanized (rural) areas. 80% of the statutory formula is based on the rural population of the states; 20% is based on land area, with no State receiving more than 5% of the amount apportioned for land area

^{ix} FTA C 9070.1F, Elderly Individuals and Individuals with Disabilities Program Guidance and Application Instructions, 5/1/2007, page III-1; FTA C 9050.1 The Job Access and Reverse Commute (JARC) Program

Guidance and Application Instructions, May 1, 2007, page III-5; and FTA C 9045.1 New Freedom Program Guidance and Application Instructions, May 1, 2007, page III-5.

^x In the early years of JARC, recipients had to prepare an Area-Wide Job Access and Reverse Commute Transportation Plan. Some states developed a statewide plan, for example, the state of Maryland. A statewide JARC plan is a plan that encompasses the entire state, rather than just a region or metropolitan area.

^{xi} NCHRP Research Results Digest 320, “Current State Issues with Implementing Federal Transit Administration (FTA) Section 5310 and Section 5311 Programs,” prepared through National Cooperative Highway Research Program (NCHRP) Project 20-65 (11), by the KFH Group, Inc, in association with Cambridge Systematics, Transportation Research Board, July 2007, page 7.

^{xii} Research Results Digest 338, “Utilization by States of the Flexibility to Transfer Federal Funds Among Eligible Federal Programs,” NCHRP Project 20-65, Task 19, by S. Schofield and V. Truong, AECOM Consult, for National Cooperative Highway Research Program, Transportation Research Board, July 2009.

^{xiii} FTA C 9050.1 The Job Access and Reverse Commute (JARC) Program Guidance and Application Instructions, May 1, 2007, page III-1.

^{xiv} The University of Montana Rural Institute report, page xiii.

^{xv} Ibid, page xiii.

^{xvi} Ibid, page xi

^{xvii} SAFETEA-LU included a pilot project allowing a total of seven states to use up to 33 percent of their respective annual S. 5310 funds for operating assistance, with a 50% local share requirement. The seven states included Wisconsin, Alaska, Minnesota, Oregon Louisiana, North Carolina, and South Carolina, though subsequently Wisconsin decided not to participate. SAFETEA-LU required that a report be prepared assessing the pilot. According to a DOT letter to Congress, available at http://www.fta.dot.gov/funding/grants/grants_financing_8353.html, because the pilot was slow getting started, the study found that there is insufficient data to report the pilot’s effectiveness at this time. Also, the study found that because of increasing coordination of S. 5310 with other human service transportation activities, “it is difficult to isolate the impacts of this Pilot Program from other programs.” The FTA also indicated in this letter that it expects that adequate data will not be available to assess the pilot before the end of FY 2009.

^{xviii} The New Freedom program is intended to provide for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act (ADA) to assist persons with disabilities with transportation, including transportation to and from jobs and related services. The intent of the program was not to provide funding that entities could use to meet their requirements under the ADA to provide transportation for persons with disabilities, but to provide funds for services *beyond* the ADA mandates, such as providing ADA complementary paratransit service throughout a community, beyond -- serving a larger area than -- the required ¾-mile corridors of fixed routes.

^{xix} 2009 GAO Report, page 29.

^{xx} “State DOT Staff Resources for Administering Federal Public Transportation Programs,” Research Results Digest 314, prepared through National Cooperative Highway Research Program (NCHRP) Project 20-65 (7), by the KFH Group, Inc, in association with Cambridge Systematics, April 2007, page 11. States believe that the ability to flex funds among federal programs, including S. 5311, could streamline program management and allow the tailoring of the programs to address their state’s and localities needs. Some flexing is allowed but some states would like additional flexing and the process simplified.

^{xxi} NCHRP Research Digest 314 lists the core functions of state transit grant management. These include: policy development; administration and finance; education and outreach; support; information technology and technology support; grants administration – federal grants; grant administration – local operator grants; audit, oversight and monitoring; technical assistance to grantees; grants administration – capital program; planning; safety and security; training, staff development and research; special projects.

^{xxii} Ibid, page 5. The University of Montana Rural Institute Report also concludes that program management could be streamlined. Specifically, this report indicates that S. 5310 and New Freedom could be better integrated from a programmatic perspective, as managing the different requirements of “multiple ‘siloed’ state and federal programs seems inefficient.”

^{xxiii} Certifications and assurances are the many and various requirements of federal law and regulations that grantees must agree to before fund award, addressing such topics as the legal authority to enter into a grant agreement with the federal government, nondiscrimination, drug free workplace, etc.

^{xxiv} NCHRP Research Results Digest 320, pages 5-6.

^{xxv} FTA C 9045.1 page III-7; FTA C 9050.1 page III-7 – III-8; and FTA C 9070.1F page III-3

^{xxvi} NCHRP Research Results Digest 320, pages 5-6.