

INSTRUCTIONS FOR FISCAL YEAR 2020 CERTIFICATIONS AND ASSURANCES FOR FTA GRANTS AND COOPERATIVE AGREEMENTS¹

1 What are the Certifications and Assurances?

Awards of FTA funding are subject to certain mandatory certifications on the part of the recipient. These certifications variously are required by statutes, regulations, or FTA or U.S. DOT policies. Some certifications must be included with an application for assistance as a condition of FTA considering the application for an award. Other certifications may be made post-award. For the convenience of FTA's recipients, and pursuant to 49 U.S.C. § 5323(n), FTA consolidates all required certifications into a single document called the Certifications and Assurances that each applicant must submit once annually in any fiscal year in which it will apply for a new award or an amendment to an existing award.

FTA normally issues a new version of its Certifications and Assurances for each federal fiscal year at the time FTA publishes its notice of funding apportionment in the Federal Register for that fiscal year. An applicant must execute the latest Certifications and Assurances available in the fiscal year in which it is submitting an application. A regular applicant that receives formula assistance from FTA each year should be prepared to execute its annual Certifications and Assurances within 90 days of FTA's publication of a new annual version of the Certifications and Assurances, to ensure that award processing is not delayed.

Any award by FTA is conditioned explicitly on the applicant's Certifications and Assurances. FTA cannot make an award to an applicant that has not submitted current Certifications and Assurances.

Unless FTA later determines otherwise, the applicant must comply with the Certifications and Assurances it made to receive its award. The applicant's Certifications and Assurances remain in effect until the award is closed or the disposition of any project property funded by the award, whichever is later.

The purpose of the Certifications and Assurances is to consolidate the affirmative representations an applicant or recipient must make as a condition of receiving an

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award from FTA. THE CERTIFICATIONS AND ASSURANCES DO NOT INCLUDE ALL FEDERAL REQUIREMENTS THAT APPLY TO AN AWARD.

2 Which certifications must the applicant make?

The Certifications and Assurances are grouped into several categories that broadly correspond with FTA's funding programs or the activities to be undertaken in an award. An applicant must certify to every category that applies to the applicant and the applications it will submit in the fiscal year.

For the applicant's convenience, FTA's Certifications and Assurances provide an option for the applicant to make all certifications at once, instead of selecting specific certifications.

However, in fiscal year 2020, FTA is requesting that an applicant refrain from making the Public Transportation Agency Safety Plans certification if the applicant is not subject to the PTASP rule (49 C.F.R. Part 673), or if it is subject to the PTASP rule but has not yet completed its PTASP requirements. The applicant can make other applicable certifications at any time, and add the PTASP certification after it has completed PTASP requirements.

Not every provision of every certification will apply to every applicant or award. If a provision of a certification does not apply to the applicant or its award, FTA will not enforce that provision.

3 Who may execute the Certifications and Assurances on behalf of the applicant?

The Certifications and Assurances must be executed by the applicant's authorized representative. The authority of the authorized representative to make certifications on behalf of the applicant must be demonstrated by submitting a resolution of the applicant's board, a statute, ordinance, or other appropriate source of authority. If the applicant's authorized representative changes in subsequent years, the applicant may have to submit new authority identifying the new authorized representative.

The certifications also must be affirmed by the applicant's attorney. The attorney affirms that the applicant and the applicant's authorized representative have the legal authority to make the certifications, and that there is no pending or imminent legislation, litigation, or other legal matter that could adversely affect the validity of any certification.

4 What if an applicant cannot make one of the required certifications, or the applicant falls out of compliance with a previously made certification?

The applicant must contact the FTA regional office for the region in which the applicant is located as soon as possible.

5 What are the applicant's responsibilities for third parties?

With few exceptions, an applicant makes certifications on its own behalf, and not on behalf of its subrecipients, contractors, or other third parties. Nonetheless, the applicant bears the ultimate responsibility for the performance of its award. The applicant must take all necessary measures to ensure that the participation of any third party in its award does not invalidate any of the certifications made to FTA.

6 What is the significance of italicized text in the Certifications and Assurances?

Text that is in italic typeface is prefatory and explanatory. It provides instructions to the applicant about a certification. This text is included for the convenience of the reader, and it is not part of a certification.

7 How does the applicant submit the Certifications and Assurances?

The applicant must make its certifications in FTA's Transit Award Management System (TrAMS). TrAMS includes an electronic module for selecting and digitally signing the Certifications and Assurances. The applicant's authorized representative and attorney must be registered in TrAMS and have a personal identification number ("PIN") to submit Certifications and Assurances by this method.

In some cases, particularly where an applicant relies on outside counsel for attorney services, it may be impractical for the applicant's attorney to have a TrAMS account. In such cases, the applicant's authorized representative may digitally sign as both the authorized representative and the attorney, and the applicant's attorney may sign the attorney affirmation by hand and submit a copy to TrAMS as a Recipient Document.

8 What are the penalties for a false or fraudulent certification?

False statements may incur federal civil and criminal penalties under the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq.; U.S. Department of Transportation regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31; or 49 U.S.C. § 5323(*I*)(1), which authorizes criminal penalties and termination of federal assistance for false statements. Penalties may apply to the recipient of Federal assistance as an entity, and may apply personally to the individual who made the false statement.