

## AMENDMENTS

2005—Pub. L. 109-59 substituted “public transportation” for “mass transportation”.

## REGULATIONS

Pub. L. 109-59, title III, §3028(c), Aug. 10, 2005, 119 Stat. 1624, provided that: “Not later than 180 days after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] and the Secretary of Homeland Security shall issue jointly final regulations to establish the characteristics of and requirements for public transportation security grants, including funding priorities, eligible activities, methods for awarding grants, and limitations on administrative expenses.”

## PUBLIC TRANSPORTATION SECURITY

Pub. L. 109-59, title III, §3028(b), Aug. 10, 2005, 119 Stat. 1624, provided that:

“(1) IN GENERAL.—Not later than 45 days after the date of enactment of this Act [Aug. 10, 2005], the Secretary [of Transportation] shall execute an annex to the memorandum of understanding between the Secretary and the Secretary of Homeland Security, dated September 28, 2004, to define and clarify the respective roles and responsibilities of the Department of Transportation and the Department of Homeland Security relating to public transportation security.

“(2) CONTENTS.—The annex to be executed under paragraph (1) shall—

“(A) establish a process to develop security standards for public transportation agencies;

“(B) create a method of direct coordination with public transportation agencies on security matters;

“(C) address any other issues determined to be appropriate by the Secretary and the Secretary of Homeland Security; and

“(D) include a formal and permanent mechanism to ensure coordination and involvement by the Department of Transportation, as appropriate, in public transportation security.”

**[§ 5322. Repealed. Pub. L. 114-94, div. A, title III, § 3030(d), Dec. 4, 2015, 129 Stat. 1497]**

Section, Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 820; Pub. L. 109-59, title III, §§3002(b)(4), 3022, Aug. 10, 2005, 119 Stat. 1545, 1614; Pub. L. 112-141, div. B, §20015, July 6, 2012, 126 Stat. 695, provided for programs that address human resource needs in public transportation activities.

## EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as an Effective Date of 2015 Amendment note under section 5313 of Title 5, Government Organization and Employees.

**§ 5323. General provisions**

(a) INTERESTS IN PROPERTY.—

(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

(C) just compensation under State or local law will be paid to the company for its franchise or property.

(2) LIMITATION.—A governmental authority may not use financial assistance of the United States Government to acquire land, equipment, or a facility used in public transportation from another governmental authority in the same geographic area.

(b) RELOCATION AND REAL PROPERTY REQUIREMENTS.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall apply to financial assistance for capital projects under this chapter.

(c) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

(1) COOPERATION AND CONSULTATION.—The Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

(2) COMPLIANCE WITH NEPA.—The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply to financial assistance for capital projects under this chapter.

(d) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—

(1) AGREEMENTS.—Financial assistance under this chapter may be used to buy or operate a bus only if the applicant, governmental authority, or publicly owned operator that receives the assistance agrees that, except as provided in the agreement, the governmental authority or an operator of public transportation for the governmental authority will not provide charter bus transportation service outside the urban area in which it provides regularly scheduled public transportation service. An agreement shall provide for a fair arrangement the Secretary of Transportation considers appropriate to ensure that the assistance will not enable a governmental authority or an operator for a governmental authority to foreclose a private operator from providing intercity charter bus service if the private operator can provide the service.

(2) VIOLATIONS.—

(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.

(e) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

(1) **USE AS LOCAL MATCHING FUNDS.**—Notwithstanding any other provision of law, a recipient of assistance under section 5307, 5309, or 5337 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

(2) **MAINTENANCE OF EFFORT.**—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under section 5304, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

(3) **DEBT SERVICE RESERVE.**—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(3)(J) from amounts made available to the recipient under section 5309.

(f) **SCHOOLBUS TRANSPORTATION.**—

(1) **AGREEMENTS.**—Financial assistance under this chapter may be used for a capital project, or to operate public transportation equipment or a public transportation facility, only if the applicant agrees not to provide schoolbus transportation that exclusively transports students and school personnel in competition with a private schoolbus operator. This subsection does not apply—

(A) to an applicant that operates a school system in the area to be served and a separate and exclusive schoolbus program for the school system; and

(B) unless a private schoolbus operator can provide adequate transportation that complies with applicable safety standards at reasonable rates.

(2) **VIOLATIONS.**—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.

(g) **BUYING BUSES UNDER OTHER LAWS.**—Subsections (d) and (f) of this section apply to financial assistance to buy a bus under sections 133 and 142 of title 23.

(h) **GRANT AND LOAN PROHIBITIONS.**—A grant or loan may not be used to—

(1) pay ordinary governmental or nonproject operating expenses;

(2) pay incremental costs of incorporating art or non-functional landscaping into facilities, including the costs of an artist on the design team; or

(3) support a procurement that uses an exclusionary or discriminatory specification.

(i) **GOVERNMENT SHARE OF COSTS FOR CERTAIN PROJECTS.**—

(1) **ACQUIRING VEHICLES AND VEHICLE-RELATED EQUIPMENT OR FACILITIES.**—

(A) **VEHICLES.**—A grant for a project to be assisted under this chapter that involves acquiring vehicles for purposes of complying with or maintaining compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or the Clean Air Act is for 85 percent of the net project cost.

(B) **VEHICLE-RELATED EQUIPMENT OR FACILITIES.**—A grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment or facilities required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or vehicle-related equipment or facilities (including clean fuel or alternative fuel vehicle-related equipment or facilities) for purposes of complying with or maintaining compliance with the Clean Air Act, is for 90 percent of the net project cost of such equipment or facilities attributable to compliance with those Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs of such equipment or facilities attributable to compliance with those Acts.

(2) **COSTS INCURRED BY PROVIDERS OF PUBLIC TRANSPORTATION BY VANPOOL.**—

(A) **LOCAL MATCHING SHARE.**—The local matching share provided by a recipient of assistance for a capital project under this chapter may include any amounts expended by a provider of public transportation by vanpool for the acquisition of rolling stock to be used by such provider in the recipient's service area, excluding any amounts the provider may have received in Federal, State, or local government assistance for such acquisition.

(B) **USE OF REVENUES.**—A private provider of public transportation by vanpool may use revenues it receives in the provision of public transportation service in the service area of a recipient of assistance under this chapter that are in excess of the provider's operating costs for the purpose of acquiring rolling stock, if the private provider enters into a legally binding agreement with the recipient that requires the provider to use the rolling stock in the recipient's service area.

(C) **DEFINITIONS.**—In this paragraph, the following definitions apply:

(i) **PRIVATE PROVIDER OF PUBLIC TRANSPORTATION BY VANPOOL.**—The term "private provider of public transportation by vanpool" means a private entity providing vanpool services in the service area of a recipient of assistance under this chapter using a commuter highway vehicle or vanpool vehicle.

(ii) **COMMUTER HIGHWAY VEHICLE; VANPOOL VEHICLE.**—The term "commuter highway vehicle or vanpool vehicle" means any vehicle—

(I) the seating capacity of which is at least 6 adults (not including the driver); and

(II) at least 80 percent of the mileage use of which can be reasonably expected to be for the purposes of transporting commuters in connection with travel between their residences and their place of employment.

## (j) BUY AMERICA.—

(1) IN GENERAL.—The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, and manufactured goods used in the project are produced in the United States.

(2) WAIVER.—The Secretary may waive paragraph (1) of this subsection if the Secretary finds that—

(A) applying paragraph (1) would be inconsistent with the public interest;

(B) the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality;

(C) when procuring rolling stock (including train control, communication, traction power equipment, and rolling stock prototypes) under this chapter—

(i) the cost of components and sub-components produced in the United States—

(I) for fiscal years 2016 and 2017, is more than 60 percent of the cost of all components of the rolling stock;

(II) for fiscal years 2018 and 2019, is more than 65 percent of the cost of all components of the rolling stock; and

(III) for fiscal year 2020 and each fiscal year thereafter, is more than 70 percent of the cost of all components of the rolling stock; and

(ii) final assembly of the rolling stock has occurred in the United States; or

(D) including domestic material will increase the cost of the overall project by more than 25 percent.

## (3) WRITTEN WAIVER DETERMINATION AND ANNUAL REPORT.—

(A) WRITTEN DETERMINATION.—Before issuing a waiver under paragraph (2), the Secretary shall—

(i) publish in the Federal Register and make publicly available in an easily identifiable location on the website of the Department of Transportation a detailed written explanation of the waiver determination; and

(ii) provide the public with a reasonable period of time for notice and comment.

(B) ANNUAL REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2012, and annually thereafter, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report listing any waiver issued under paragraph (2) during the preceding year.

(4) LABOR COSTS FOR FINAL ASSEMBLY.—In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.

(5) ROLLING STOCK FRAMES OR CAR SHELLS.—In carrying out paragraph (2)(C) in the case of a rolling stock procurement receiving assistance under this chapter in which the average cost of a rolling stock vehicle in the procure-

ment is more than \$300,000, if rolling stock frames or car shells are not produced in the United States, the Secretary shall include in the calculation of the domestic content of the rolling stock the cost of steel or iron that is produced in the United States and used in the rolling stock frames or car shells.

## (6) CERTIFICATION OF DOMESTIC SUPPLY AND DISCLOSURE.—

(A) CERTIFICATION OF DOMESTIC SUPPLY.—If the Secretary denies an application for a waiver under paragraph (2), the Secretary shall provide to the applicant a written certification that—

(i) the steel, iron, or manufactured goods, as applicable, (referred to in this subparagraph as the “item”) is produced in the United States in a sufficient and reasonably available amount;

(ii) the item produced in the United States is of a satisfactory quality; and

(iii) includes a list of known manufacturers in the United States from which the item can be obtained.

(B) DISCLOSURE.—The Secretary shall disclose the waiver denial and the written certification to the public in an easily identifiable location on the website of the Department of Transportation.

(7) WAIVER PROHIBITED.—The Secretary may not make a waiver under paragraph (2) of this subsection for goods produced in a foreign country if the Secretary, in consultation with the United States Trade Representative, decides that the government of that foreign country—

(A) has an agreement with the United States Government under which the Secretary has waived the requirement of this subsection; and

(B) has violated the agreement by discriminating against goods to which this subsection applies that are produced in the United States and to which the agreement applies.

(8) PENALTY FOR MISLABELING AND MISREPRESENTATION.—A person is ineligible under subpart 9.4 of the Federal Acquisition Regulation, or any successor thereto, to receive a contract or subcontract made with amounts authorized under the Federal Public Transportation Act of 2015 if a court or department, agency, or instrumentality of the Government decides the person intentionally—

(A) affixed a “Made in America” label, or a label with an inscription having the same meaning, to goods sold in or shipped to the United States that are used in a project to which this subsection applies but not produced in the United States; or

(B) represented that goods described in subparagraph (A) of this paragraph were produced in the United States.

(9) STATE REQUIREMENTS.—The Secretary may not impose any limitation on assistance provided under this chapter that restricts a State from imposing more stringent requirements than this subsection on the use of articles, materials, and supplies mined, produced,

or manufactured in foreign countries in projects carried out with that assistance or restricts a recipient of that assistance from complying with those State-imposed requirements.

(10) OPPORTUNITY TO CORRECT INADVERTENT ERROR.—The Secretary may allow a manufacturer or supplier of steel, iron, or manufactured goods to correct after bid opening any certification of noncompliance or failure to properly complete the certification (but not including failure to sign the certification) under this subsection if such manufacturer or supplier attests under penalty of perjury that such manufacturer or supplier submitted an incorrect certification as a result of an inadvertent or clerical error. The burden of establishing inadvertent or clerical error is on the manufacturer or supplier.

(11) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.

(12) STEEL AND IRON.—For purposes of this subsection, steel and iron meeting the requirements of section 661.5(b) of title 49, Code of Federal Regulations may be considered produced in the United States.

(13) DEFINITION OF SMALL PURCHASE.—For purposes of determining whether a purchase qualifies for a general public interest waiver under paragraph (2)(A) of this subsection, including under any regulation promulgated under that paragraph, the term “small purchase” means a purchase of not more than \$150,000.

(k) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—Governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services shall—

(1) participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

(2) be included in the planning for those services.

(l) RELATIONSHIP TO OTHER LAWS.—

(1) FRAUD AND FALSE STATEMENTS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal public transportation program.

(2) POLITICAL ACTIVITIES OF NONSUPERVISORY EMPLOYEES.—The provision of assistance under this chapter shall not be construed to require the application of chapter 15 of title 5 to any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to whom such chapter does not otherwise apply.

(m) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—The Secretary shall

prescribe regulations requiring a preaward and postdelivery review of a grant under this chapter to buy rolling stock to ensure compliance with Government motor vehicle safety requirements, subsection (j) of this section, and bid specifications requirements of grant recipients under this chapter. Under this subsection, independent inspections and review are required, and a manufacturer certification is not sufficient. Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving rural areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.

(n) SUBMISSION OF CERTIFICATIONS.—A certification required under this chapter and any additional certification or assurance required by law or regulation to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of a grant application under this chapter. The Secretary shall publish annually a list of all certifications required under this chapter with the publication required under section 5336(d)(2).

(o) GRANT REQUIREMENTS.—The grant requirements under sections 5307, 5309, and 5337 apply to any project under this chapter that receives any assistance or other financing under chapter 6 (other than section 609) of title 23.

(p) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

(1) the incidental use does not interfere with the recipient's public transportation operations;

(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

(3) the recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

(4) private entities pay all applicable excise taxes on fuel.

(q) CORRIDOR PRESERVATION.—

(1) IN GENERAL.—The Secretary may assist a recipient in acquiring right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law.

(2) ENVIRONMENTAL REVIEWS.—Right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

(r) REASONABLE ACCESS TO PUBLIC TRANSPORTATION FACILITIES.—A recipient of assistance under this chapter may not deny reasonable access for a private intercity or charter transportation operator to federally funded public transportation facilities, including intermodal facilities, park and ride lots, and bus-only highway

lanes. In determining reasonable access, capacity requirements of the recipient of assistance and the extent to which access would be detrimental to existing public transportation services must be considered.

(s) VALUE CAPTURE REVENUE ELIGIBLE FOR LOCAL SHARE.—Notwithstanding any other provision of law, a recipient of assistance under this chapter may use the revenue generated from value capture financing mechanisms as local matching funds for capital projects and operating costs eligible under this chapter.

(t) SPECIAL CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—If, in a fiscal year, the Secretary is prohibited by law from enforcing regulations related to charter bus service under part 604 of title 49, Code of Federal Regulations, for any transit agency that during fiscal year 2008 was both initially granted a 60-day period to come into compliance with such part 604, and then was subsequently granted an exception from such part—

(1) the transit agency shall be precluded from receiving its allocation of urbanized area formula grant funds for such fiscal year; and

(2) any amounts withheld pursuant to paragraph (1) shall be added to the amount that the Secretary may apportion under section 5336 in the following fiscal year.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 821; Pub. L. 103-429, §6(10), Oct. 31, 1994, 108 Stat. 4379; Pub. L. 104-287, §5(15), Oct. 11, 1996, 110 Stat. 3390; Pub. L. 105-178, title III, §3020, June 9, 1998, 112 Stat. 362; Pub. L. 109-59, title III, §§3002(b)(4), 3023(a)-(i)(3), (j)-(m), Aug. 10, 2005, 119 Stat. 1545, 1615-1619; Pub. L. 110-244, title II, §201(j), June 6, 2008, 122 Stat. 1611; Pub. L. 112-141, div. B, §20016, July 6, 2012, 126 Stat. 697; Pub. L. 114-94, div. A, title III, §3011, Dec. 4, 2015, 129 Stat. 1474.)

HISTORICAL AND REVISION NOTES  
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5323(a)(1) ....	49 App.:1602(e).	July 9, 1964, Pub. L. 88-365, §3(e), 78 Stat. 303; Sept. 8, 1966, Pub. L. 89-562, §2(b)(1), 80 Stat. 716; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91-453, §2(1), 84 Stat. 962; Nov. 6, 1978, Pub. L. 95-599, §302(c), 92 Stat. 2737.
5323(a)(2) ....	49 App.:1608(e).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §12(e), (g); added Nov. 6, 1978, Pub. L. 95-599, §308(d), 92 Stat. 2747.
5323(b) .....	49 App.:1602(d).	July 9, 1964, Pub. L. 88-365, §3(d), 78 Stat. 303; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91-453, §2(2), 84 Stat. 964.
5323(c) .....	49 App.:1608(h)(1).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §12(h)(1); added Apr. 2, 1987, Pub. L. 100-17, §17(a), 101 Stat. 233.
5323(d) .....	49 App.:1602(f).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §3(f); added Jan. 4, 1974, Pub. L. 93-650, §1(a), 89 Stat. 2-1; Aug. 22, 1974, Pub. L. 93-383, §813(a), 88 Stat. 737; Nov. 26, 1974, Pub. L. 93-503, §109(b), 88 Stat. 1573.
5323(e) .....	49 App.:1608(g).	

HISTORICAL AND REVISION NOTES—CONTINUED  
PUB. L. 103-272

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5323(f) .....	49 App.:1602(g).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §3(g); added Nov. 26, 1974, Pub. L. 93-503, §109(a), 88 Stat. 1572.
5323(g) .....	49 App.:1602a.	Aug. 13, 1973, Pub. L. 93-87, §164, 87 Stat. 281; Jan. 4, 1974, Pub. L. 93-650, §1(b), 89 Stat. 2-1; Aug. 22, 1974, Pub. L. 93-383, §813(b), 88 Stat. 737.
5323(h) .....	49 App.:1602(a)(2)(C).	July 9, 1964, Pub. L. 88-365, §3(a)(2)(C), 78 Stat. 303; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25; Oct. 15, 1970, Pub. L. 91-453, §2(2), 84 Stat. 962; Nov. 26, 1974, Pub. L. 93-503, §§102, 104, 106, 88 Stat. 1566, 1571, 1572; restated Nov. 6, 1978, Pub. L. 95-599, §302(a), 92 Stat. 2736.
5323(i) .....	49 App.:1608(m).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §12(m); added Dec. 18, 1991, Pub. L. 102-240, §3020, 105 Stat. 2110.
5323(j)(1) ....	23:101 (note).	Jan. 6, 1983, Pub. L. 97-424, §165(a) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2136; Mar. 9, 1984, Pub. L. 98-229, §10, 98 Stat. 57; Dec. 18, 1991, Pub. L. 102-240, §1048(a), 105 Stat. 1999.
5323(j)(2) ....	23:101 (note).	Jan. 6, 1983, Pub. L. 97-424, §165(b) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2137; Apr. 2, 1987, Pub. L. 100-17, §§133(a)(6), 337(a)(1), (b), (c), 101 Stat. 171, 241.
5323(j)(3) ....	23:101 (note).	Jan. 6, 1983, Pub. L. 97-424, §165(c) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2137.
5323(j)(4) ....	23:101 (note).	Jan. 6, 1983, Pub. L. 97-424, 96 Stat. 2097, §165(g) (related to the Urban Mass Transportation Act of 1964); added Dec. 18, 1991, Pub. L. 102-240, §1048(b), 105 Stat. 2000.
5323(j)(5) ....	23:101 (note).	Jan. 6, 1983, Pub. L. 97-424, 96 Stat. 2097, §165(f) (related to the Urban Mass Transportation Act of 1964); added Dec. 18, 1991, Pub. L. 102-240, §1048(b), 105 Stat. 1999.
5323(j)(6) ....	23:101 (note).	Jan. 6, 1983, Pub. L. 97-424, §165(d) (related to the Urban Mass Transportation Act of 1964), 96 Stat. 2137.
5323(j)(7) ....	23:101 (note).	Jan. 6, 1983, Pub. L. 97-424, 96 Stat. 2097, §165(e) (related to the Urban Mass Transportation Act of 1964); added Dec. 18, 1991, Pub. L. 102-240, §1048(b), 105 Stat. 1999.
5323(k) .....	49 App.:1607(q).	July 9, 1964, Pub. L. 88-365, 78 Stat. 302, §8(q); added Oct. 6, 1992, Pub. L. 102-388, §502(i), 106 Stat. 1566.

In subsection (a)(1), before clause (A), the words “directly or indirectly”, “any facilities or other”, “reconstructing”, and “for the purpose of providing by contract or otherwise” are omitted as surplus. In clause (C), the words “and adequate”, “acquisition of”, and “applicable” are omitted as surplus. In clause (D), the words “the requirements of” are omitted as surplus.

In subsection (a)(2), the words “may not use” are substituted for “None of the provisions of this chapter shall be construed to authorize” to eliminate unnecessary words. The words “the purpose of financing” are omitted as surplus.

In subsections (b)(1), (c), and (e), the words “except section 5307” are added for clarity because of 49 App.:1607a(e)(1), restated as section 5307(n)(2) of the revised title.

In subsection (b)(1), before clause (A), the word “reconstruction” is omitted as surplus. In clause (B), the words “in the matter” are omitted as surplus. In clause (C), the word “environmental” is substituted for “and its impact on the environment” to eliminate unnecessary words. In clause (D), the word “comprehensive” is omitted as surplus.

In subsection (b)(2), the word “description” is substituted for “statement” for clarity.

In subsections (d)–(f) and (h), the word “Federal” is omitted as surplus.

In subsections (d) and (f), the word “provide” is substituted for “engage in”, and the word “transportation” is substituted for “operations”, for consistency.

In subsection (d)(1), the words “with the Secretary”, “and equitable”, and “publicly and privately owned” are omitted as surplus.

In subsection (d)(2), the words “alleged”, “take appropriate action to”, “and conditions”, and “for mass transportation facilities and equipment” are omitted as surplus.

In subsection (e), the words “This subsection shall apply to” and “which is acquiring such buses” are omitted as surplus. The words “occurring on or after November 6, 1978” are omitted as executed. The words “In the case of” are omitted as surplus. The words “may include” are substituted for “the Secretary shall permit . . . to provide in advertising for bids for” to eliminate unnecessary words.

In subsection (f)(1), before clause (A), the words “for use in providing public”, “to any applicant for such assistance”, and “and the Secretary” are omitted as surplus. The word “agrees” is substituted for “shall have first entered into an agreement that such applicant” to eliminate unnecessary words. In clause (A), the words “with respect to operation of a schoolbus program” are omitted as surplus.

Subsection (g) is substituted for 49 App.:1602a to eliminate unnecessary words.

In subsection (j), the word “goods” is substituted for “products” for consistency.

In subsection (j)(1), the words “Notwithstanding any other provision of law” are omitted as surplus.

In subsection (j)(2), before clause (A), the words “The Secretary of Transportation may waive” are substituted for “shall not apply” for clarity. In clause (B), the words “steel, iron, and goods” are substituted for “materials and products” for consistency. In clause (C), before subclause (i), the words “bus and other” are omitted as surplus. In subclauses (i) and (ii), the words “rolling stock” are substituted for “vehicle or equipment” for consistency. In clause (D), the word “contract” is omitted as surplus.

In subsection (j)(4), before clause (A), the words “The Secretary of Transportation may not make a waiver under” are substituted for “shall not apply” for clarity. The words “government of a foreign country” are substituted for “foreign country”, and the word “Government” is added, for consistency in the revised title and with other titles of the United States Code.

In subsection (j)(5), before clause (A), the words “the debarment, suspension, and ineligibility procedures in” are omitted as surplus. The words “department, agency, or instrumentality of the Government” are substituted for “Federal agency” for consistency in the revised title and with other titles of the Code. In clause (A), the word “produced” is substituted for “made” for consistency.

In subsection (k), the word “statewide” is omitted as surplus.

PUB. L. 103-429, §6(10)(A)

This makes a clarifying amendment to the catchline for 49:5323(j).

PUB. L. 103-429, §6(10)(B)

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5323(l) .....	49 App.:1608(j).	July 9, 1964, Pub. L. 88-365, §12(j), as added Apr. 2, 1987, Pub. L. 100-17, §319, 101 Stat. 234.

The word “review” is substituted for “audit” for clarity. The words “buses and other” are omitted as surplus.

PUB. L. 104-287

This amends 49:5315(d), 5317(b)(5), and 5323(b)(1), (c), and (e) to correct erroneous cross-references.

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (b), is Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, which is classified principally to chapter 61 (§4601 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4601 of Title 42 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (c)(2), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Americans with Disabilities Act of 1990, referred to in subsec. (i)(1), is Pub. L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

The Clean Air Act, referred to in subsec. (i)(1), is act July 14, 1955, ch. 360, 69 Stat. 322, which is classified generally to chapter 85 (§7401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of the Federal Public Transportation Act of 2012, referred to in subsec. (j)(3)(B), is deemed to be Oct. 1, 2012, see section 3(a), (b) of Pub. L. 112-141, set out as Effective and Termination Dates of 2012 Amendment notes under section 101 of Title 23, Highways.

The Federal Public Transportation Act of 2015, referred to in subsec. (j)(8), is title III of div. A of Pub. L. 114-94, Dec. 4, 2015, 129 Stat. 1446. For complete classification of this Act to the Code, see Short Title of 2015 Amendment note set out under section 5101 of this title and Tables.

AMENDMENTS

2015—Subsec. (h)(2), (3). Pub. L. 114-94, §3011(1), added par. (2) and redesignated former par. (2) as (3).

Subsec. (j)(2)(C). Pub. L. 114-94, §3011(2)(A), added subpar. (C) and struck out former subpar. (C), which read as follows: “when procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

“(i) the cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components of the rolling stock; and

“(ii) final assembly of the rolling stock has occurred in the United States; or”.

Subsec. (j)(5) to (11). Pub. L. 114-94, §3011(2)(B)–(D), added pars. (5) and (6), redesignated former pars. (5) to (9) as pars. (7) to (11), respectively, and in par. (8), substituted “Federal Public Transportation Act of 2015” for “Federal Public Transportation Act of 2012”.

Subsec. (j)(12), (13). Pub. L. 114-94, §3011(2)(E), added pars. (12) and (13).

Subsec. (q)(1). Pub. L. 114-94, §3011(3), struck out at end “The Secretary may establish restrictions on such

an acquisition as the Secretary determines to be necessary and appropriate.”

Subsecs. (s), (t). Pub. L. 114-94, §3011(4), added subsecs. (s) and (t).

2012—Pub. L. 112-141 amended section generally. Prior to amendment, section related to general provisions on assistance.

2008—Subsec. (n). Pub. L. 110-244 substituted “section 5336(d)(2)” for “section 5336(e)(2)”.

2005—Subsec. (a)(1). Pub. L. 109-59, §3023(a)(1), inserted heading and text of par. (1) and struck out former par. (1) which authorized use of financial assistance provided under this chapter for certain purposes only if the Secretary finds the assistance is essential to a program of projects required under sections 5303-5306 of this title, the Secretary finds that the program, to the maximum extent feasible, provides for the participation of private companies, just compensation will be paid to the company for its franchise or property, and the Secretary of Labor certifies that the assistance complies with section 5333(b) of this title.

Subsec. (a)(2). Pub. L. 109-59, §3023(a)(2), inserted heading.

Pub. L. 109-59, §3002(b)(4), substituted “public transportation” for “mass transportation”.

Subsec. (b). Pub. L. 109-59, §3023(b), reenacted heading without change and amended text of subsec. (b) generally, substituting provisions relating to general requirements, notice, and application requirements, consisting of pars. (1) to (3), for provisions relating to application requirements and notice, consisting of pars. (1) and (2).

Subsec. (c). Pub. L. 109-59, §3023(c), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: “Amounts appropriated or made available under this chapter after September 30, 1989, may be obligated or expended to acquire a new bus model only if a bus of the model has been tested at the facility established under section 5318 of this title.”

Subsec. (d)(1). Pub. L. 109-59, §3023(d)(1), inserted heading.

Pub. L. 109-59, §3002(b)(4), substituted “public transportation” for “mass transportation” in two places.

Subsec. (d)(2). Pub. L. 109-59, §3023(d)(2), inserted heading and text of par. (2) and struck out former par. (2) which read as follows: “On receiving a complaint about a violation of an agreement, the Secretary of Transportation shall investigate and decide whether a violation has occurred. If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement. In addition to a remedy specified in the agreement, the Secretary may bar a recipient under this subsection or an operator from receiving further assistance when the Secretary finds a continuing pattern of violations of the agreement.”

Subsec. (e). Pub. L. 109-59, §3023(e), amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: “The initial advertising by a State or local governmental authority for bids to acquire buses using financial assistance under this chapter may include passenger seat functional specifications that are at least equal to performance specifications the Secretary of Transportation prescribes. The specifications shall be based on a finding by the State or local governmental authority of local requirements for safety, comfort, maintenance, and life cycle costs.”

Subsec. (f). Pub. L. 109-59, §3023(f), in par. (1) inserted heading and realigned margins, added par. (2), and struck out former par. (2) which read as follows: “An applicant violating an agreement under this subsection may not receive other financial assistance under this chapter.”

Subsec. (f)(1). Pub. L. 109-59, §3002(b)(4), substituted “public transportation” for “mass transportation” in two places in introductory provisions.

Subsec. (g). Pub. L. 109-59, §3023(g), substituted “133 and 142” for “103(e)(4) and 142(a) or (c)” in two places.

Subsec. (i). Pub. L. 109-59, §3023(h), substituted “Government’s” for “Government” in subsec. heading, des-

ignated existing provisions as par. (1), inserted par. heading, inserted “or facilities” after “equipment” wherever appearing, and added par. (2).

Subsec. (j)(3) to (5). Pub. L. 109-59, §3023(i)(1), added par. (3) and redesignated former pars. (3) and (4) as (4) and (5), respectively. Former par. (5) redesignated (6).

Subsec. (j)(6). Pub. L. 109-59, §3023(i)(1)(A), (2), redesignated par. (5) as (6) and substituted “Federal Public Transportation Act of 2005” for “Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240, 105 Stat. 1914)” in introductory provisions. Former par. (6) redesignated (7).

Subsec. (j)(7), (8). Pub. L. 109-59, §3023(i)(1)(A), redesignated pars. (6) and (7) as (7) and (8), respectively.

Subsec. (j)(9). Pub. L. 109-59, §3023(i)(3), added par. (9).

Subsec. (l). Pub. L. 109-59, §3023(j), amended heading and text of subsec. (l) generally. Prior to amendment, text read as follows: “The planning and programming requirements of section 135 of title 23 apply to a grant made under sections 5307-5311 of this title.”

Subsec. (m). Pub. L. 109-59, §3023(k), inserted at end “Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving other than urbanized areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the post-delivery purchaser’s requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.”

Subsec. (o). Pub. L. 109-59, §3023(l), substituted “chapter 6 (other than section 609) of title 23” for “the Transportation Infrastructure Finance and Innovation Act of 1998”.

Subsec. (p). Pub. L. 109-59, §3023(m), added subsec. (p). 1998—Subsec. (d). Pub. L. 105-178, §3020(a), substituted “Condition on Charter Bus Transportation Service” for “Buying and Operating Buses” in heading.

Subsec. (i). Pub. L. 105-178, §3020(c), amended heading and text of subsec. (i) generally. Prior to amendment, text read as follows: “A Government grant for a project to be assisted under this chapter that involves acquiring vehicle-related equipment required by the Clean Air Act (42 U.S.C. 7401 et seq.) or the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) is for 90 percent of the net project cost of the equipment that is attributable to complying with those Acts. The Secretary of Transportation, through practicable administrative procedures, may determine the costs attributable to that equipment.”

Subsec. (j)(7). Pub. L. 105-178, §3020(b), inserted heading and amended text of par. (7) generally. Prior to amendment, text read as follows: “Not later than January 1, 1995, the Secretary of Transportation shall submit to Congress a report on purchases from foreign entities waived under paragraph (2) of this subsection in the fiscal years ending September 30, 1992, and September 30, 1993. The report shall indicate the dollar value of items for which waivers were granted.”

Subsecs. (k) to (m). Pub. L. 105-178, §3020(d), added subsec. (k) and redesignated former subsecs. (k) and (l) as (l) and (m), respectively.

Subsec. (n). Pub. L. 105-178, §3020(e), added subsec. (n).

Subsec. (o). Pub. L. 105-178, §3020(f), added subsec. (o). 1996—Subsecs. (b)(1), (c), (e). Pub. L. 104-287 struck out “(except section 5307)” after “under this chapter”. 1994—Subsec. (j). Pub. L. 103-429, §6(10)(A), substituted “America” for “American” in heading.

Subsec. (l). Pub. L. 103-429, §6(10)(B), added subsec. (l).

#### EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-94 effective Oct. 1, 2015, see section 1003 of Pub. L. 114-94, set out as a note under section 5313 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-141 effective Oct. 1, 2012, see section 3(a) of Pub. L. 112-141, set out as an Effec-

tive and Termination Dates of 2012 Amendment note under section 101 of Title 23, Highways.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-287 effective July 5, 1994, see section 8(1) of Pub. L. 104-287, set out as a note under section 5303 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-429 effective July 5, 1994, see section 9 of Pub. L. 103-429, set out as a note under section 321 of this title.

RULEMAKING

Pub. L. 109-59, title III, §3023(i)(5), Aug. 10, 2005, 119 Stat. 1618, required the Secretary of Transportation to issue a final rule on implementation of the Buy America requirements of former subsec. (j) of this section no later than 180 days after Aug. 10, 2005.

FINAL ASSEMBLY OF BUSES

Pub. L. 105-178, title III, §3035, June 9, 1998, 112 Stat. 387, required certain buses manufactured after Sept. 1, 1999, to conform with the Federal Transit Administration Guidance on Buy America Requirements, dated March 18, 1997.

**§ 5324. Public transportation emergency relief program**

(a) DEFINITION.—In this section the following definitions shall apply:

(1) ELIGIBLE OPERATING COSTS.—The term “eligible operating costs” means costs relating to—

- (A) evacuation services;
- (B) rescue operations;
- (C) temporary public transportation service; or
- (D) reestablishing, expanding, or relocating public transportation route service before, during, or after an emergency.

(2) EMERGENCY.—The term “emergency” means a natural disaster affecting a wide area (such as a flood, hurricane, tidal wave, earthquake, severe storm, or landslide) or a catastrophic failure from any external cause, as a result of which—

- (A) the Governor of a State has declared an emergency and the Secretary has concurred; or
- (B) the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

(b) GENERAL AUTHORITY.—The Secretary may make grants and enter into contracts and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) for—

(1) capital projects to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system operating in the United States or on an Indian reservation that the Secretary determines is in danger of suffering serious damage, or has suffered serious damage, as a result of an emergency; and

(2) eligible operating costs of public transportation equipment and facilities in an area directly affected by an emergency during—

- (A) the 1-year period beginning on the date of a declaration described in subsection (a)(2); or

(B) if the Secretary determines there is a compelling need, the 2-year period beginning on the date of a declaration described in subsection (a)(2).

(c) COORDINATION OF EMERGENCY FUNDS.—

(1) USE OF FUNDS.—Funds appropriated to carry out this section shall be in addition to any other funds available under this chapter.

(2) NO EFFECT ON OTHER GOVERNMENT ACTIVITY.—The provision of funds under this section shall not affect the ability of any other agency of the Government, including the Federal Emergency Management Agency, or a State agency, a local governmental entity, organization, or person, to provide any other funds otherwise authorized by law.

(3) NOTIFICATION.—The Secretary shall notify the Secretary of Homeland Security of the purpose and amount of any grant made or contract or other agreement entered into under this section.

(d) GRANT REQUIREMENTS.—A grant awarded under this section or under section 5307 or 5311 that is made to address an emergency defined under subsection (a)(2) shall be—

- (1) subject to the terms and conditions the Secretary determines are necessary; and
- (2) made only for expenses that are not reimbursed under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(e) GOVERNMENT SHARE OF COSTS.—

(1) CAPITAL PROJECTS AND OPERATING ASSISTANCE.—A grant, contract, or other agreement for a capital project or eligible operating costs under this section shall be, at the option of the recipient, for not more than 80 percent of the net project cost, as determined by the Secretary.

(2) NON-FEDERAL SHARE.—The remainder of the net project cost may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

(3) WAIVER.—The Secretary may waive, in whole or part, the non-Federal share required under—

- (A) paragraph (2); or
- (B) section 5307 or 5311, in the case of a grant made available under section 5307 or 5311, respectively, to address an emergency.

(Pub. L. 103-272, §1(d), July 5, 1994, 108 Stat. 824; Pub. L. 109-59, title III, §3024(a), Aug. 10, 2005, 119 Stat. 1619; Pub. L. 112-141, div. B, §20017(a), July 6, 2012, 126 Stat. 703.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
5324(a) .....	49 App.:1606(a).	July 9, 1964, Pub. L. 88-365, §7(a), 78 Stat. 305; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25.
5324(b)(1) ....	49 App.:1610(a) (last sentence).	July 9, 1964, Pub. L. 88-365, §14(a) (last sentence)-(c), 78 Stat. 308; Sept. 8, 1966, Pub. L. 89-562, §2(a)(1), 80 Stat. 715; May 25, 1967, Pub. L. 90-19, §20(a), 81 Stat. 25; restated Oct. 15, 1970, Pub. L. 91-453, §6, 84 Stat. 966.
5324(b)(2) ....	49 App.:1610(b).	