

FTA FISCAL YEAR 2011 AGREEMENTS
COMPARED WITH
FTA FISCAL YEAR 2010 AGREEMENTS

Grant Agreement, Supplemental Agreement, and Cooperative Agreement

We have made the following changes in our Federal assistance agreements:

- (1) The new document numbers and dates are as follows:
 - (a) Grant Agreement, FTA G-18, October 1, 2011,
 - (b) Supplemental Agreement, Attachment to FTA G-18, October 1, 2011, and
 - (c) Cooperative Agreement, FTA C-18, October 1, 2011.
- (2) The website address for the new Master Agreement will soon be established at <http://www.fta.dot.gov/documents/18-Master.pdf>, and referenced in the Grant Agreement and the Cooperative Agreement.

Master Agreement

Notably, we have undertaken a significant revision of the Master Agreement for consistency with the Plain Writing Act of 2010, Pub. L. 111-274, October 13, 2010, 5 U.S.C. § 301 note. We are aware that the length of the Master Agreement has greatly increased. The increased length results from Federal guidance directing us to group requirements in lists and to use a list format to identify persons and types of circumstances covered by particular requirements.

Nevertheless, the number of substantial changes have not been extensive. Except for the addition of a few new requirements and updated references, the underlying requirements of this Master Agreement are substantially similar to last fiscal year's Master Agreement.

Below are the important changes to the new Master Agreement. We have not identified editorial, text changes, minor changes to headings of provisions when the essential meaning of those provisions is consistent with our previous requirements:

- (1) Cover Page. We have made the following changes:
 - (a) The document number and date for the new Master Agreement is FTA MA(18), October 1, 2011.
 - (b) The FTA website for the new Master Agreement is <http://www.fta.dot.gov/documents/18-Master.pdf>.

- (2) Preface. FTA and the Recipient understand and agree as follows:

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(a) Due to Federal Plain Writing Act requirements, FTA reduced lengthy lists of persons, entities, and documents to a single word or term that has a specific meaning, now defined in Section 1 of this Master Agreement.

(b) Therefore to determine the extent of the provisions that do apply to the Recipient or the Project, each provision of the Master Agreement must be interpreted in view of the requirements of the Master Agreement as a whole, with particular emphasis on Section 1, “Definitions” and the “Applicability” provisions of Section 2.

(3) Section 1 – To implement Federal “Plain Writing” principles, we have developed the following terms to eliminate the necessity of repeating the several parties or documents to which some requirements apply.

- (a) Section 1.r contains a definition of “third party agreement,” which includes:
- A subrecipient,
 - A lessee,
 - A third party contractor,
 - A third party subcontractor, and
 - Other participant in the Recipient’s Project.

- (b) Section 1.t contains a definition of “third party participant,” which includes:
- A subagreement with a subrecipient,
 - A lease,
 - A third party contract,
 - A third party subcontract, and
 - Another similar arrangement.

- (c) Section 1.v contains a definition of “underlying Agreement,” which includes:
- A specific Grant Agreement,
 - A specific Cooperative Agreement,
 - A specific Transportation Infrastructure Loan,
 - A specific Transportation Infrastructure Line of Credit, and
 - A specific Transportation Infrastructure Loan Guarantee.

(d) We revised former Section 1.b to use separate subsections for the definitions of “approval,” “concurrence,” and “waiver.” Although we re-numbered the subsections of Section 1 due to that change, we did not change the meaning of those definitions.

(4) Section 12.d(1)(a). We added a reference to the “Hiring Incentives to Restore Employment Act” (HIRE Act), Pub. L. 111-147, Title IV, § 451, March 18, 2010, 124 Stat. 96, 23 U.S.C. 101 note, which extended SAFETEA-LU and its Disadvantaged Business Enterprise requirements.

(5) Section 12.d(1)(b). We have also added a reference to U.S. DOT’s newly

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published final “Disadvantaged Business Enterprise: Program Improvements,” regulations, 49 C.F.R. Part 26, 76 Fed. Reg. 5083, January 28, 2011.

(6) Section 15.f. Pub. L. 111-350, 124, Stat. 367, Jan. 4, 2011, codified Title 41, United States Code, “Public Contracts,” as positive law.

(a) The codification changed the citation to President Obama’s Executive Order on the use of Project Labor Agreements to 41 U.S.C. ch. 39, Refs. & Annos.

(b) We have changed the heading of this subsection to “Project Labor Agreements” to reflect better the nature of the President Obama’s Executive Order.

(7) Section 19. Although we have not changed any substantive provisions of this section, we have re-arranged the order of its subsections and provisions to group the subjects more usefully.

(8) Section 31.b. We added a reference to OMB Circular A-16 Supplemental Guidance, “Geospatial Line of Business,” November 10, 2010.

(9) Subsection 32.a(1). Pub. L. 111-350, 124, Stat. 367, Jan. 4, 2011, codified Title 41, United States Code, “Public Contracts,” as positive law. The codification changed the citation for the Drug-Free Workplace Act of 1988, as amended, to 41 U.S.C. § 8103.

(10) Former Section 33. We changed the location of former Section 33, “Motor Carrier Safety” to Section 35 to place it with other sections of the Master Agreement addressing safety matters. Although we separated financial requirements and safety requirements into two separate subsections, we made no substantive changes to the previous requirements.

(11) Former Section 35. We changed the location of former Section 35, “Federal \$1 Coin Requirements” to Section 33, but made no substantive changes to the previous requirements.

(12) Section 36. We made the following additions to Section 36:

(a) In Section 36.b(1), we added the citation “23 U.S.C. § 402 note” to the reference to Executive Order No. 13513, “Federal Leadership on Reducing Text Messaging While Driving,” October 1, 2009, and

(b) In Section 36.b(2), we added a reference to DOT Order 3902.10, “Text Messaging While Driving,” December 30, 2009.

(13) Section 44. We made the following additions and revisions to the requirements for research, development, demonstration, and special studies projects for greater consistency

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with FTA Circular 6100.1D, “Research, Technical Assistance, and Training Programs Application and Program Management Guidelines,”

(a) Section 44.a(3)(b). We added a reference to the Federal website providing information about accessibility standards for reports, specific publication elements, and report style guides that must be used for Federal research projects.

(b) Section 44.a(5). We made minor revisions to the disclaimer for research reports.

(c) Section 44.b(2)(e). We added prototypes, software, and Internet pages to the list of research and development deliverables under the Project that must be identified as having been financed with U.S. DOT funds.