

U.S. Department of Transportation

Federal Transit Administration

Application

Federal Award Identification Number (FAIN)	SD-2020-017-02
Temporary Application Number	6860-2020-1
Application Name	FY18 5311 Tribal Transit Formula - Design and Construction
Application Status	Final Concurrence / Reservation
Application Budget Number	0

Period of Performance Start Date	11/19/2020
Original Period of Performance End Date	12/31/2022
Current Period of Performance End Date	7/31/2023 Revision #: 1

Part 1: Recipient Information

Name: Lower Brule Sioux Tribe

Recipient ID	Recipient OST Type	Recipient Alias	UEI	DUNS
6860	Indian Tribe	LOWER BRULE SIOUX TRIBE	LBKTNCQZVHZ7	146099668

Location Type	Address	City	State	Zip
Headquarters	187 OYATE CIR	LOWER BRULE	SD	57548
Physical Address	187 OYATE CIR	LOWER BRULE	SD	57548
Mailing Address	187 OYATE CIRCLE	LOWER BRULE	SD	57548

Union Information

There are no union contacts for this application

Part 2: Application Information

Title: FY18 5311 Tribal Transit Formula - Design and Construction

FAIN	Application Status	Application Type	Date Created	Last Updated Date	From TEAM?
SD-2020-017-02	Final Concurrence / Reservation	Grant	7/29/2022	7/29/2022	No

Application Executive Summary

Amendment #2 (August 2022):

This amendment includes the addition of FFY22 Section 5311 Tribal Transit Program Formula funds in the amount of \$300,000 (partial apportionment) apportioned to the Lower Brule Sioux Tribe.

Purpose: The purpose of the amendment is to add funds for a change order to the facility construction contract.

Activities to be Performed: The change order will fund:

- 1) Upgrade driveways from asphalt to concrete, which have a longer useful life,
- 2) 8' security chain link fence around the perimeter of site, and
- 3) Two power sliding chain link gates for access into the secure site for employees.

Expected Outcomes: Extend the useful life of the driveways and improve security for the entire transit facility.

Intended Beneficiaries: Transit employees and patrons of the Lower Brule Sioux Tribe's transit services.

Subrecipient Activities: N/A

Amendment #1 (August 2021):

This amendment adds FFY2019, 2020 and 2021 Section 5311 Tribal Formula funds in the amounts of \$363,557, \$421,648 and \$385,232 respectively (all full apportionments). The total amount added in this Amendment is \$1,170,437 into the construction and oversight activity line items, and additional details have been added to these activities. Additionally, funds were added into the existing Design ALI to cover the actual amount of funds expended in design. The Federal share is 100%.

The Admin and Maintenance Facility will be funded using four grants:

- 1) SD-2021-015 FFY20 CARES Act (\$387,969) Construction only
- 2) 6860-2021-2 FFY21 ARP Act (this grant) (\$375,631) Construction only
- 3) 6860-2021-3 FFY21 CRRSAA (\$387,969) Construction only
- 4) SD-2020-017 FFY18, 19, 20, 21 Formula funds (\$1,159,974 for construction ALI, \$120,000 Oversight, \$247,818 (adds \$57,818 to original amount))

\$2,679,361 Total

\$2,311,543 for Construction ALI across these grants

Construction activities should be drawn from grants in the order listed above. Oversight will be drawn concurrently and design is drawn in full.

Supporting documents include:

- Cat Ex Worksheet
- FTA TRO-8 Cat Approval Letter
- Funding Matrix
- Base BID

Original Grant:

Lower Brule Sioux Tribe will use the full apportionment FY18 5311 Tribal Transit Formula funds in the amount of \$357,355 for the design, NEPA work, and ultimate construction for a Transit Maintenance and Administration Facility on the Lower Brule Sioux Tribe Reservation. The grant will include two activities 1) the conceptual design, NEPA analysis and clearances, and Final Design, and 2) construction. Once design work identifies more specific information related to the costs of construction, this grant will be amended to add more funding to complete the construction phase. Work on final design and construction will not proceed until FTA has approved the environmental document.

Frequency of Milestone Progress Reports (MPR)

Quarterly

Frequency of Federal Financial Reports (FFR)

Quarterly

Does this application include funds for research and/or development activities?

This award does not include research and development activities.

Pre-Award Authority

This award is using Pre-Award Authority.

Does this application include suballocation funds?

Recipient organization is directly allocated these funds and is eligible to apply for and receive these funds directly.

Will this Grant be using Lapsing Funds?

Yes, this Grant will use Lapsing Funds.

Will indirect costs be applied to this application?

This award does not include an indirect cost rate.

Indirect Rate Details: N/A

Requires E.O. 12372 Review

No, this application does not require E.O. 12372 Review.

Delinquent Federal Debt

No, my organization does not have delinquent federal debt.

Application Point of Contact Information

First Name	Last Name	Title	E-mail Address	Phone
Tim	Azure	Red Tail Express Transit Director	timazure@lowerbrule.net	605-470-0312
Emma	Belmont	Transportation Program Specialist	emma.belmont@dot.gov	(303) 362-2392

Application Budget Control Totals

Funding Source	Section of Statute	CFDA Number	Amount
5311 - Tribal Transit Program Formula	5311-1B	20509	\$1,827,792
Local			\$0
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0

Transportation Development Credit	\$0
Adjustment	\$0
Total Eligible Cost	\$1,827,792

Application Budget

Project Number	Budget Item	FTA Amount	Non-FTA Amount	Total Eligible Amount	Quantity
SD-2020-017-01-02	600-00 (600-A1) OTHER PROGRAM COSTS	\$1,527,792.00	\$0.00	\$1,527,792.00	3
SD-2020-017-01-02	11.41.03 ENG/DESIGN - ADMIN/ MAINTENANCE FACILITY	\$247,818.00	\$0.00	\$247,818.00	1
SD-2020-017-01-02	11.43.03 Admin/Maint Facility Construction	\$1,159,974.00	\$0.00	\$1,159,974.00	1
SD-2020-017-01-02	11.71.04 CONSTRUCTION MANAGEMENT - 3RD PARTY	\$120,000.00	\$0.00	\$120,000.00	1
SD-2020-017-02-02	600-00 (600-A2) OTHER PROGRAM COSTS	\$300,000.00	\$0.00	\$300,000.00	1
SD-2020-017-02-02	11.43.03 CONSTRUCT - ADMIN/MAINT FACILITY	\$300,000.00	\$0.00	\$300,000.00	1

Discretionary Allocations

This application does not contain discretionary allocations.

Part 3: Project Information

Project Title: Project 1 - Design and Construction

Project Number	Temporary Project Number	Date Created	Start Date	End Date
SD-2020-017-01-02	6860-2020-1-P1	7/29/2022	7/25/2020	2/3/2023

Project Description

Amendment #2 (August 2022): No change.

Amendment #1 (August 2021):

Following completion of NEPA and final design this grant was amended to add funds and increase the level of detail provided in the grant. This Amendment does the following:

- 1) Updates the amount of funds in the Design ALI to match the actual costs;
- 2) Adds funds and new details of the project that were not available at the time of the original grant into the Construction ALI;
- 3) Adds a new ALI for Construction Oversight.

The following activities are included in this project, all at 100% Federal Share:

- 1) Design Cost (actual updated in this Amendment) - \$247,818 (adds \$57,818 to original amount)
- 2) Construction - \$1,159,974 (adds \$992,619)
- 3) Oversight Estimate - \$120,000 (new ALI)

Total Application - \$1,527,792

The proposed project includes the construction of a Tribal transit building on 4.5 acres of tribal owned property. The building will be 120 foot by 80 foot in size and have on-site parking on the east side including an handicap accessible parking stall. The building will serve as the administration building for the Lower Brule Sioux Tribe Transportation Administration and the night storage for transit vehicles.

The TOTAL Construction is funded by the following fund sources and grants in TrAMS:
 \$109,537 FFY2018 5311 Tribal Formula (partial apportionment) – FAIN SD-2020-017 - this grant
 \$363,557 FFY2019 5311 Tribal Formula (full apportionment) – FAIN SD-2020-017 - this grant
 \$421,648 FFY2020 5311 Tribal Formula (full apportionment) – FAIN SD-2020-017 - this grant
 \$265,232 FFY2021 5311 Tribal Formula (partial apportionment) – FAIN SD-2021-017 - this grant
 \$387,969 FFY2020 CARES Act (full apportionment) – FAIN SD-2020-015-00
 \$387,969 FFY2021 CRRSAA (full apportionment) – Temporary ID 6860-2021-3
 \$375,631 FFY2021 ARP Act (full apportionment) Temporary ID 6860-2021-2

\$2,311,543 Total Amount for Construction

 Original Grant:

This project includes the conceptual design, NEPA evaluation and clearances, final design, and construction. Once conceptual design (10% to 30%) is available, the NEPA evaluation will be conducted. Upon approval from FTA of the NEPA documentation, final design will proceed and construction cost estimates developed.

The total cost of design is estimated to be \$190,000 (federal) and no local share. The remaining amount (\$167,355) is put in a Construction activity line item and this will be added to when construction estimates are developed through the design phase of the project.

Project Benefits

Provide maintenance and administration facility for Lower Brule Sioux Tribe transit services.

Additional Information

Provide maintenance and administration facility for Lower Brule Sioux Tribe Transit services.

Location Description

Lower Brule Sioux Tribe Reservation.

Project Location (Urbanized Areas)

UZA Code	Area Name
460000	South Dakota

Congressional District Information

State	District	Representative
South Dakota	1	Kristi Noem

Program Plan Information

STIP/TIP

Date: N/A

Description: N/A

UPWP

Date: N/A

Description: N/A

Long Range Plan

Date: N/A

Description: N/A

Project Control Totals

Funding Source	Section of Statute	CFDA Number	Amount
5311 - Tribal Transit Program Formula	5311-1B	20509	\$1,527,792
Local			\$0
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$1,527,792

Project Budget

Project Number	Budget Item	FTA Amount	Non-FTA Amount	Total Eligible Amount	Quantity
SD-2020-017-01-02	600-00 (600-A1) OTHER PROGRAM COSTS	\$1,527,792.00	\$0.00	\$1,527,792.00	3
SD-2020-017-01-02	11.41.03 ENG/DESIGN - ADMIN/ MAINTENANCE FACILITY	\$247,818.00	\$0.00	\$247,818.00	1

SD-2020-017-01-02	11.43.03	Admin/Maint Facility Construction	\$1,159,974.00	\$0.00	\$1,159,974.00	1
SD-2020-017-01-02	11.71.04	CONSTRUCTION MANAGEMENT - 3RD PARTY	\$120,000.00	\$0.00	\$120,000.00	1

Project Budget Activity Line Items

Budget Activity Line Item: 11.41.03 - ENG/DESIGN - ADMIN/MAINTENANCE FACILITY

Scope Name / Code	Line Item #	Line Item Name	Activity	Quantity
OTHER PROGRAM COSTS (600-00)	11.41.03	ENG/DESIGN - ADMIN/ MAINTENANCE FACILITY	ENGINEERING & DESIGN - BUS SUPPORT EQUIP/FACIL	1

Extended Budget Description

Amendment #2 (August 2022) - No Change

Amendment #1 (August 2021):

This amendment updated the total amount of design to the actual amount expended of \$247,818.

Original:

This activity includes the conceptual design and NEPA evaluation and clearances. Once NEPA has been approved, final design and cost estimates will be developed for the construction of the administrative and maintenance facility on LBST land.

The administrative and maintenance facility will have the following elements:

- Administrative offices for 4 office staff, a dispatching center, kitchen/break room, bathrooms and locker rooms
- Customer waiting area
- Vehicle storage garage for up to 10 vehicles for future expansion needs
- Maintenance area, including office space, work shop area, storage space, 1 vehicle lift
- Bus wash
- Public and employee parking lot (20-25 spaces)
- Generator
- Perimeter security fencing
- Stormwater detention pond to deal with run off

A high level cost estimate was developed to estimate the cost of design based on other similar transit facilities built by nearby tribal transit providers. These other transit facilities averaged \$190 per square foot. Based on estimated space needs (approximately 10,000 square feet), LBST staff estimate that our facility will cost \$1.9M. We estimate that design will cost 10% of that, so this ALI uses \$190,000 for the conceptual design, NEPA work and final design.

An on-call contract for design services was put out for competitive selection in July 2020 and a selection was made in August 2020 and contracting process is in progress as of late August 2020. We expect to have a contract by the end of September 2020 and will initiate design shortly after.

Will 3rd Party contractors be used to fulfill this activity line item?

Yes, 3rd Party Contractors will be used for this line item.

Funding Source	Section of Statute	CFDA Number	Amount
5311 - Tribal Transit Program Formula	5311-1B	20509	\$247,818
Local			\$0
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$247,818

Milestone Name	Est. Completion Date	Description
RFP	7/25/2020	RFP published
Contract signed	9/30/2020	Plan to have contract signed with selected engineering firm
Initiate design work	10/1/2020	Meet with consultant team
NEPA	1/15/2021	Initiate NEPA evaluation once 30% design is completed
Final Design and Construction Cost Estimates	5/31/2021	

Budget Activity Line Item: 11.43.03 - Admin/Maint Facility Construction

Scope Name / Code	Line Item #	Line Item Name	Activity	Quantity
OTHER PROGRAM COSTS (600-00)	11.43.03	CONSTRUCT - ADMIN/ MAINT FACILITY	CONSTRUCTION OF BUS SUPPORT EQUIP/FACIL	1

Extended Budget Description

Amendment #2 (August 2022) - No Change

Amendment #1 (August 2021):

This amendment uses remaining FFY2018 and full FFY2019 and FFY2020 and partial FFY2021 funds (add \$992,619 for a total in this ALI of \$1,159,974). This will fund the construction of a 120' by 80' building to house transit administration, customer waiting area, light maintenance and vehicle storage on tribal owned property. The project is located along the north side of Indian Affairs (BIA) Highway 10 in Lower Brule, South Dakota, approximately 1,200 feet west of the intersection of BIA 10 and BIA 5. A project location map can be found in the supplemental information.

Construction activities will include: excavation, backfill, grading, surfacing, asphalt approaches, installation of a power slide gate, chain link fence, and sewer/water service extension to accommodate the construction of a 120 foot by 80 foot perimeter building. The building will have on-site parking on the east side including an handicap accessible parking stall. Specific elements to be included:

- Administrative offices for 4 office staff, a dispatching center, kitchen/break room, bathrooms and locker rooms
- Customer waiting area

- Vehicle storage garage for up to 10 vehicles for future expansion needs
- Maintenance area, including office space, work shop area, storage space, 1 vehicle lift
- Bus wash
- Public and employee parking lot (20-25 spaces)
- Generator
- Perimeter security fencing
- Stormwater detention pond to deal with run off

An RFP for construction was released in June 2021 and award is anticipated in August 2021.

Federal share is 100%. The useful life of the structure is 40 years, the parking lot's useful life is 20 years and fittings and equipment's useful life is 10 years. Any equipment over \$5,000 will be reported out at grant closeout.

Original Grant:

This activity includes funding for construction of the facility. Additional funding and facility details will be added to this ALI once the design is complete and construction estimates have been developed.

The useful life of a facility is estimated at 40 years.

Will 3rd Party contractors be used to fulfill this activity line item?

Yes, 3rd Party Contractors will be used for this line item.

Funding Source	Section of Statute	CFDA Number	Amount
5311 - Tribal Transit Program Formula	5311-1B	20509	\$1,159,974
Local			\$0
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$1,159,974

Milestone Name	Est. Completion Date	Description
RFP	3/18/2021	
Contract	5/1/2021	
Initiate site work	6/16/2021	
Finish construction	9/30/2022	

Budget Activity Line Item: 11.71.04 - CONSTRUCTION MANAGEMENT - 3RD PARTY

Scope Name / Code	Line Item #	Line Item Name	Activity	Quantity
OTHER PROGRAM COSTS (600-00)	11.71.04	CONSTRUCTION MANAGEMENT - 3RD PARTY	3RD PARTY CONTRACTS	1

Extended Budget Description

Amendment #2 (August 2022) - No Change

 New ALI in Amendment #1 (August 2021):

This activity uses FFY 2021 funds for the oversight activities associated with construction, including: plan review, inspections, and technical support of grantee throughout the construction of the facility. The Oversight contractor is KLJ Engineering, the firm that prepared the design, specs and cost estimates for the project.

Federal share is 100%

Will 3rd Party contractors be used to fulfill this activity line item?

Yes, 3rd Party Contractors will be used for this line item.

Funding Source	Section of Statute	CFDA Number	Amount
5311 - Tribal Transit Program Formula	5311-1B	20509	\$120,000
Local			\$0
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$120,000

Milestone Name	Est. Completion Date	Description
Contract amendment	7/30/2021	Amend contract to add oversight activities
Review BID	8/16/2021	Review submitted BIDs assisting the grantee
Inspect site work	11/17/2021	Review/inspect the sight work initiated prior to winter 2022
Inspect utility extensions	6/3/2022	Estimated inspection
Inspect foundation	8/1/2022	estimated inspection date
Inspect parking lot	9/2/2022	Estimated inspection
Inspect building framing	10/3/2022	estimated inspection
Inspect interior	12/9/2022	estimated inspection
Review substantial completion	2/3/2023	estimated inspection

Project Environmental Findings

Finding: Class II(c) - Categorical Exclusions (C-List)

Class Level Description

Class II(c) consists of projects called categorical exclusions (CEs) which are known not to have, either individually or cumulatively, a significant environmental impact on the human or natural environment and are therefore categorically excluded from the requirement to prepare an environmental assessment

or an environmental impact statement. Class II(c) does not require documentation.

Categorical Exclusion Description

Type 13: Federally-funded projects:

- (i) That receive less than \$5,000,000 of Federal funds; or
- (ii) With a total estimated cost of not more than \$30,000,000 and Federal funds comprising less than 15 percent of the total estimated project cost.

Date Description	Date
Class IIc CE Approved	6/1/2021

Project Title: Project 2 - FY22 Contract change order

Project Number	Temporary Project Number	Date Created	Start Date	End Date
SD-2020-017-02-02	SD-2020-017-02-P3	7/29/2022	7/28/2022	3/31/2023

Project Description

Added through Amendment #2 (August 2022): This project uses FY22 Section 5311 Tribal Transit Program Formula funds for a change order adding perimeter fencing, upgrading asphalt to concrete and power sliding gates.

All work completed as part of this change order is covered through the original CE approval.

Project Benefits

This work improves the overall security of the site and extends the useful life of the pavement around the site.

Additional Information

None provided.

Location Description

Lower Brule Sioux Tribe reservation.

Project Location (Urbanized Areas)

UZA Code	Area Name
460000	South Dakota

Congressional District Information

State	District	Representative
South Dakota	1	Dusty Johnson

Program Plan Information

STIP/TIP

Date: N/A

Description: N/A

UPWP

Date: N/A

Description: N/A

Long Range Plan

Date: N/A

Description: N/A

Project Control Totals

Funding Source	Section of Statute	CFDA Number	Amount
5311 - Tribal Transit Program Formula	5311-1B	20509	\$300,000
Local			\$0
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$300,000

Project Budget

Project Number	Budget Item	FTA Amount	Non-FTA Amount	Total Eligible Amount	Quantity
SD-2020-017-02-02	600-00 (600-A2) OTHER PROGRAM COSTS	\$300,000.00	\$0.00	\$300,000.00	1
SD-2020-017-02-02	11.43.03 CONSTRUCT - ADMIN/ MAINT FACILITY	\$300,000.00	\$0.00	\$300,000.00	1

Project Budget Activity Line Items

Budget Activity Line Item: 11.43.03 - CONSTRUCT - ADMIN/MAINT FACILITY

Scope Name / Code	Line Item #	Line Item Name	Activity	Quantity
OTHER PROGRAM COSTS (600-00)	11.43.03	CONSTRUCT - ADMIN/ MAINT FACILITY	CONSTRUCTION OF BUS SUPPORT EQUIP/FACIL	1

Extended Budget Description

Added in Amendment #2 (August 2022): This ALI uses FY22 5311 TTP funds for a change order to the construction contract included in Project 1 to:

- 1) add an 8' tall chain link perimeter fence,
- 2) add two power sliding chain link gates and
- 3) upgrade the drive ways from asphalt to concrete. Concrete's useful life is 30 years compared to asphalt's 20 years useful life. The useful life of fencing is 25 years.

The federal share is 100%.

Will 3rd Party contractors be used to fulfill this activity line item?

Yes, 3rd Party Contractors will be used for this line item.

Funding Source	Section of Statute	CFDA Number	Amount
5311 - Tribal Transit Program Formula	5311-1B	20509	\$300,000
Local			\$0
Local/In-Kind			\$0
State			\$0
State/In-Kind			\$0
Other Federal			\$0
Transportation Development Credit			\$0
Adjustment			\$0
Total Eligible Cost			\$300,000

Milestone Name	Est. Completion Date	Description
Contract add-ons or change order was executed.	7/28/2022	
End Date	3/31/2023	Date matching over all construction grant.

Project Environmental Findings

Finding: Class II(c) - Categorical Exclusions (C-List)

Class Level Description

Class II(c) consists of projects that do not have a significant environmental impact on the human or natural environment and are therefore categorically excluded from the requirement to prepare an environmental assessment or an environmental impact statement. FTA requires a sufficient project description to support a CE determination. The project may require additional documentation to comply with other environmental laws.

Categorical Exclusion Description

Type 13: Federally-funded projects:

- (i) That receive less than \$5,000,000 of Federal funds; or
- (ii) With a total estimated cost of not more than \$30,000,000 and Federal funds comprising less than 15 percent of the total estimated project cost.

Date Description	Date
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Part 4: Fleet Details

No fleet data exists for this application.

Part 5: FTA Review Comments

FTA Comments for DOL

Comment By **Emma Belmont**

Comment Type DOL Review for Information

Date 8/29/2022

Grant adds funds for exterior fencing and gate access.

Comment Grantee contact:
Tim Azure
Transit Manager
timazure@lowerbrule.net
605-470-0312

Application Review Comments

Comment By **Morgan Hecht**

Comment Type Application Details

Date 8/1/2022

Your agency must comply with all applicable Federal laws and regulations related to this project, including the ADA Standards for Transportation Facilities, based on the U.S. Access Board's ADA Accessibility Guidelines. Found here: <https://www.access-board.gov/ada/>

Specifically, your agency must comply with the ADA Standards for Transportation Facilities. The following is a non-exhaustive list of ADA standards:

Requirements to Remember for: New Construction of Facilities

- Comment
- As required under DOT ADA Standard 206.4.1, your agency must ensure that 60 percent of all public entrances to the facility will be accessible. If there are only two entrances, then both must be accessible.
 - As required under DOT ADA Standard 206.3, your agency must ensure that accessible routes coincide with or are located in the same area as general circulation paths, and elements such as ramps, elevators, and fare vending and collection areas are placed to minimize the distance that wheelchair users and other persons who cannot climb steps must travel in comparison to the general public.
 - As required under DOT ADA Standard 406.8, your agency must ensure that curb ramps will have detectable warnings.
 - As required under DOT ADA Standard 201 and DOT ADA Regulation 49 C.F.R. 37.43(a)(1), your agency must ensure that altered or added portions of the facility must

be made accessible.

- As required by DOT ADA Regulation 49 C.F.R. 37.43(a)(2) and DOT ADA Standard 202.3, your agency must ensure that the path of travel to the altered or added portion of the facility must be made accessible, to the maximum extent feasible.
- As required by DOT ADA Standard 202.4 and DOT ADA Regulation 49 C.F.R. 37.43(e)(1), if the path of travel cannot be made accessible, your agency must submit to FTA an analysis demonstrating that the cost of making the path of travel accessible is disproportionate to (i.e., > 20%) the cost of the alterations or additions to the primary function area.
- As required by DOT ADA Standard 202.4 and DOT ADA Regulation 49 C.F.R. 37.43(b), if the path of travel cannot be made accessible, your agency must submit to FTA an analysis demonstrating that site-specific conditions prevent you from making the path of travel accessible. Include relevant diagrams and maps.

Title VI Requirements for Facilities:

DETERMINATION OF SITE OR LOCATION OF FACILITIES. Title 49 CFR Section 21.9(b)(3) states, "In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding persons from, denying them the benefits of, or subjecting them to discrimination under any program to which this regulation applies, on the grounds of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the Act or this part." Title 49 CFR part 21, Appendix C, Section (3)(iv) provides, "The location of projects requiring land acquisition and the displacement of persons from their residences and businesses may not be determined on the basis of race, color, or national origin." For purposes of this requirement, "facilities" does not include bus shelters, as these are transit amenities and are covered in Chapter IV, nor does it include transit stations, power substations, etc., as those are evaluated during project development and the NEPA process. Facilities included in this provision include, but are not limited to, storage facilities, maintenance facilities, operations centers, etc. In order to comply with the regulations:

- a. The recipient shall complete a Title VI equity analysis during the planning stage with regard to where a project is located or sited to ensure the location is selected without regard to race, color, or national origin. Recipients shall engage in outreach to persons potentially impacted by the siting of facilities. The Title VI equity analysis must compare the equity impacts of various siting alternatives, and the analysis must occur before the selection of the preferred site.
- b. When evaluating locations of facilities, recipients should give attention to other facilities with similar impacts in the area to determine if any cumulative adverse impacts might result. Analysis should be done at the Census tract or block group where appropriate to ensure that proper perspective is given to localized impacts.
- c. If the recipient determines that the location of the project will result in a disparate impact on the basis of race, color, or national origin, the recipient may only locate the project in that location if there is a substantial legitimate justification for locating the project there, and where there are no alternative locations that would have a less disparate impact on the basis of race, color, or national origin. The recipient must show how both tests are met; it is important to understand that in order to make this showing, the recipient must consider and analyze alternatives to determine whether those alternatives would have less Chap. III-12 FTA C 4702.1B of a disparate impact on the basis of race, color, or national origin, and then implement the least discriminatory alternative.

The information provided above is intended as technical assistance and applies only to the project as described. Should the project scope change or new information on the project be provided, FTA may require a re-evaluation of the project information and require additional information. This confirmation is not an express or implied promise of project compliance with the ADA or other civil rights requirements.