

CHAPTER 5

POLICY OPTIONS FOR ADDRESSING SERVICE NEEDS

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION PUBLIC TRANSPORTATION AND RAIL DIVISION (PTRD) PROGRAMS

The Department of Transportation's PTRD uses federal and state funding for capital and operating assistance to support local and regional public transportation services. There are 28 local governmental public transportation systems, of which 20 are part of a PTBA. The PTRD provides funding under a single competitive and formula based program of public transportation grants, in which all applicants submit grant applications every two years, and a competitive review process conducted by a designated committee selects the projects. The PTRD then matches the selected projects with the available funding sources (the federal funds are provided on a formula basis to different population tiers—under 50,000, 50,000 to 200,000, and over 200,000—with differing program requirements and eligible expenditures). For 2005-2007 over \$50 million was awarded, of which \$27 million was under the competitive program (which uses federal and state matching funds), and \$23 million was formula-based using state funds. This approach, utilizing a single application for all the different federal and state programs, and a completely competitive scoring using a paired-comparison method, is unique in the country.

WASHINGTON STATE'S S. 5311(F) PROGRAM

One of the FTA programs administered by the PTRD as part of its Public Transportation Grant Program is the S.5311(f) program of assistance for rural intercity services. The overall S. 5311 program provides for capital, operating, administrative, and planning assistance for transportation services open to the general public that are provided in areas under 50,000 persons. The S.5311(f) program is a subsection of the overall program. Fifteen percent of a state's overall S.5311 allocation is designated for rural intercity services, and a specific definition is provided regarding the intercity nature of the services—including a requirement for a meaningful connection with the national intercity bus network, as previously discussed.

ISSUES WITH USING THE EXISTING PUBLIC TRANSPORTATION GRANT PROGRAM TO FUND INTERCITY PROJECTS

As noted above, there are already a number of S.5311(f) projects in place, which would seem to indicate that all is well. However, there are several issues that need to be considered going forward with the effort to develop and maintain an intercity network under the existing program.

Inclusion in the Consolidated Grant Program

One concern is that project applications are not grouped into comparable categories for evaluation—each project competes each time with another project, which may be of quite a different type. Intercity projects are likely to suffer under this approach for several reasons:

- **Lack of grant-writing skills:** One reason is that they are likely to be proposed by private for-profit firms or small rural agencies, neither of which may be very good at developing and articulating a project proposal.
- **Lack of comparability in projects:** A second factor is that intercity projects typically are very different from transit projects, in that they have few passengers (who make long trips)—scoring on the basis of the number of persons served will typically not favor the intercity project. Intercity projects may have higher potential farebox revenues than transit projects, as passenger fares are based on distance, but often this does not offset the perception that there are few riders compared to local transit. Also, intercity projects typically do not carry enough passengers to affect congestion levels.
- **Lack of local public support:** A third factor is that local public support is often problematic for intercity projects, as they may cross a number of jurisdictional boundaries, with each jurisdiction seeing someone else as responsible for maintaining this service. This is particularly the case when each jurisdiction has few users of the service, even if there is a larger number overall. Also, if inbound and outbound ridership is balanced, perhaps half of all intercity riders on a given project are not residents of the origin or destination end. Finally, although intercity bus passengers often have the same mobility issues as local transit riders (due to lack of auto ownership, poverty, inability to drive, etc.) they are often perceived as less worthy or desirable as compared to transit riders.
- **Local match may not be available:** Also, the public transit programs are typically operated by local governments, with either the transit operator or the local government in the position of using tax revenues to provide the local match. Intercity projects proposed by a private for-profit operator currently lack a source of local match and political support, as the carrier is not likely to want to operate a loss-making service if only part of the loss is covered. So intercity projects may need state match, potentially affecting scoring when compared to local transit projects.

- **Intercity projects may lack a sponsor:** The current grant program offers funding, and depends on local interests to develop competitive projects and present them in the best possible light. There may well be intercity needs, but in the absence of a local government sponsor, no project will be developed, and no one will apply for funding to provide it.

Fundamentally, the reason that intercity projects do not fit well into state public transportation grant programs is that the jurisdictional level is not the best fit. The experience of the WUTC, and in most states before federal deregulation, was that non-local transportation was a state responsibility, to be regulated at the state level. Only a state-level program could maintain unprofitable rural services by enforcing cross-subsidies, and ensure that the public interest was met. The public transit programs, with the exception of S.5311(f), are aimed at local or regional services. But the “locality” of concern for intercity services is effectively the state. Recognizing this would require that the state become the grantee or applicant for intercity programs, and becoming the analogue of the transit authority in terms of managing the system and seeking funding. This does not mean that the state would need to take over all intercity services, but only that it would need to identify which services are not being provided by the marketplace, and then using available funding to contract for these services.

Issues of Overlapping Roles

The area in which these two approaches—regulation and subsidy—overlaps is the case in which a service regulated by the WUTC is also subsidized by the WSDOT programs—and this is most likely and apparent in the case of the S.5311(f) program. Northwestern Trailways, Olympic Bus Lines and Genie Tours all have the WUTC Certificate of Authority for the services that are or have been subsidized by the WSDOT, while People for People, a private non-profit does not.

Potential issues arise if, for example, WSDOT wishes to provide its funding to a different carrier for one of these services, one that does not have the certificate. Does it have to find a public agency that is exempt from WUTC requirements? If it is seeking a new carrier because their existing grantee is not complying with federal and state program requirements, is that grounds for seeking to have their WUTC certificate revoked? In its grant program, does it have to require that all applicants have the appropriate certificate (or obtain it)?

Furthermore, if a certificate holder who is also receiving operating or capital assistance from the WSDOT applies to the WUTC to change its rates, how is the effect of the subsidy considered in the rate-making process? State legislation has already recognized the potential for damage to private for-profit enterprises with WUTC certificates by subsidized public entities by requiring PTBA’s to buy them out. However, if WUTC certificate holders are receiving subsidies the possibility exists that subsidized firms will have an economic advantage over others (although in theory there should not be direct competition among certificate holders).

Possible Options

There are several possible policy directions:

1. Maintain the existing system—with regards to both regulation and funding.
2. Modify the existing systems to address some of the issues. The WSDOT public transit competitive grant program could be modified to mandate additional points in the competition for intercity projects that fit into the state's defined network plan, or otherwise modify the scoring to put such projects on a more level playing field. However, this approach would still rely on firms or organizations deciding to apply for funding, and could leave many areas with needs unfunded, simply due to lack of an application. WUTC regulations might also be modified to make WSDOT-funded projects exempt from regulation, but existing certificate holders would certainly object if they thought a competitor could apply for a grant and get both subsidies and the ability to compete. Or the WSDOT program could require that any applicant for an intercity grant have the appropriate state (and federal) authorities.
3. A separate intercity funding program: WSDOT could segregate applications for S. 5311(f) projects into a separate competition, with points provided for projects that are compliant with a state-developed plan. This would reduce issues from competition with transit projects, would still depend on applicants to submit projects for consideration.
4. WSDOT becomes the grantee, the statewide plan becomes the intercity equivalent of a five-year Transit Development Plan, and services identified in the plan that are not provided by the marketplace are implemented by the state using service contracts. S. 5311(f) funding and state match, is separated from the overall state public transportation grant program. WUTC regulation is used to protect funded operations from competition that could increase subsidy needs (i.e. intrastate contracted carriers have WUTC authority). However, to allow the WSDOT program to have competitive procurements, a way would have to be developed to allow it to have control over the authority (i.e. have the certificate go to its contractor, and take the certificate away if a contractor lost the contract). WUTC or WSDOT procedures would need to be developed to have non-subsidized carriers register their services, so that it would be possible to maintain an accurate inventory of what the marketplace is supplying. This would also facilitate maintenance of up-to-date schedule information for the state's trip information system, and would serve as a means of identifying service changes in advance of the change, so that the state could plan for service continuation.

This fourth approach is very much like that developed in the United Kingdom to govern local urban public transit. A planning body determines the needed services, private transit operators register the services they are going to provide out of their own revenues, the planning agency bids out operation of the services that have not been registered by any of the private firms, and the planning agency continues to monitor all services (including its contractors). In this case, we are looking at the WSDOT to act as the planning entity, and there would be a need

to combine it with some regulatory type activities (registering services). It should be noted that this approach is not generally seen with state transit programs, most of which are generally “passive” in the sense that they respond to grant applications from other entities—rather than directing the flow of funds to achieve some statewide policy goal. It is similar, in some sense, to the New York State DOT’s intercity bus program, which provides state operating assistance on designated lines, and to the Michigan Intercity Bus Program, which provides operating assistance (or capital) to designated routes or services—depending on the location.

As an administrator of federal transit funds, WSDOT should be aware that there are only three sources of FTA funds specifically for intercity bus transportation, and only one that may be administered through the state: S.5311(f). There are two other intercity bus related FTA programs, the Section 3038 the Over-the Road Bus Program/Over-the-Road Bus Accessibility Program, and changes that permit FTA funds to be used for all aspects of intercity bus facilities which meet the FTA criteria for joint development projects. The definitions of public transportation in SAFETEA-LU (S.5302(a)(10)) state that intercity bus transportation is not to be considered public transportation under the FTA programs, except for rural services covered by S. 5311(f), and in terms of facilities under and the Bus and Bus Facilities Programs. This means that FTA funds cannot be used to support intercity bus services that provide service solely between urbanized areas—that is left to the private sector.

The other FTA program addressing intercity bus, S.3038, provides for the incremental costs of wheelchair lifts and associated accessibility equipment, and training, for private for-profit regular-route and charter bus companies. It is administered directly by FTA, though some states have offered to assist private carriers in their states in developing applications to FTA, and by providing the local match.

The intercity bus portions of eligible joint development projects can now be funded with FTA funds, and the limitation that made commercial facilities ineligible for FTA funding has been lifted for intercity bus terminals or the intercity bus portions of joint development projects. Intercity bus facilities are no longer required to provide a fair share of revenue for public intermodal facilities, but can be treated as a public transportation use. In addition, SAFETEA-LU includes authorization for \$35 million per year for intercity bus facilities under the Bus and Bus Facilities Program. In general, these facilities are typically developed in Urbanized Areas, with direct recipients taking the lead, so state program participation may be limited—though the state can advocate for including intercity bus facilities in such projects, particularly if they are also involving the state rail passenger program.

This leaves S.5311(f) as the primary funding tool available to states to maintain or develop intercity bus services. Based on the updated S.5311 Circular C 9040.1f, Chapter VIII, the definition of eligible intercity services includes the following characteristics:

- Regularly scheduled bus service
- Serves the general public (no eligibility or trip purpose restrictions)
- Limited stops
- Fixed-route

- Connecting two or more urban areas not in close proximity (urban area is defined very broadly)
- Capacity for transporting baggage
- Makes meaningful connections with intercity bus service to more distant points “if such service is available”, but “...must make meaningful connections wherever feasible” with the “national network of intercity bus service”
- Package express service may be included, if incidental to passenger transportation
- Does not include commuter service (or air, rail, charter, or tour services).

Within these guidelines FTA is clearly also wrestling with the definitions of intercity service. The draft guidance states that “...service which provides extensive circulation within a region (in contrast to regular but infrequent service from limited points in the community of origin to limited points in the destination community) is not considered intercity service, although it may be an eligible public transportation service.” Also, FTA notes “service which only incidentally stops at an intercity bus facility among other destinations within the city at either end of a route which covers a long distance, without regard to scheduled connections, is eligible for S.5311 assistance as public transportation, but is not an intercity feeder service.”

FTA also permits funding for services that are described as “Feeder Service”, which may be demand-responsive, or differ in other characteristics from that described above. Feeder services can also provide access to intercity rail or air service. The flexibility to fund Feeder Service that does not meet the definition of eligible service found in Section 7 of the Circular would appear to open the door to any service that a state or applicant might want to fund, as long as it “acts as a feeder to intercity bus service”.

Need for a Narrow Definition

While the concepts above include a broad network as the Washington intercity bus network, much of that network is provided by the market without subsidy, or is funded with other public transportation programs. Given that the primary source of funding for the state’s intercity bus program is S.5311(f), there are several reasons why it makes sense to adopt a more narrow definition of intercity with regard to the projects which might be funded:

- There is not enough S.5311(f) funding to meet all or many of the needs identified in the outreach process.
- Many of those needs or services, including some that have received S.5311(f) service in the recent past, can be funded with other programs,
- The FTA guidance cited above defines eligible S.5311(f) projects as those with a meaningful connection in terms of both physical connection and schedule, and
- Participation by the unsubsidized intercity bus company will be needed in any project that uses their in-kind capital match, and they will not want to support intercity services that do not make a meaningful connection with their service.

Given that limited amount of S.5311(f) funding available in Washington, and the fact that state funding for match is likely to be even more limited, a key concern is that many of the service needs identified through the outreach effort documented in Chapter 4 cannot be funded under S.5311(f) even though they meet some of the general criteria.

For the WSDOT S.5311(f) program, the consideration of candidate services should utilize the federal definitions found in Section 7, listed above—with a particular focus on the definition of a “meaningful connection” with the national intercity bus network. Projects should be evaluated as to their eligibility based on the degree to which they make a meaningful connection. A meaningful connection, based on the FTA guidance, would appear to include not only serving the same terminals, but also considering the scheduled connections. This would mean that a S.5311(f) funded service bringing patrons to connect with the national network should serve the same terminal (not two blocks away at the transit transfer point, not somewhere that offers a connecting bus to the Greyhound terminal, not the hospital, etc.), should arrive shortly before the scheduled intercity bus arrival, and should be scheduled to leave an appropriate time after the scheduled intercity bus arrival, to allow for late intercity buses.¹

Also, as a general funding policy, WSDOT may want to regard services within a transit system service area as inherently local, and therefore eligible for other transit funds but not S.5311(f). This would keep services offering end-to-end connections as local services, rather than intercity, for funding purposes. Alternatively, WSDOT could use the more conservative definition of intercity access from Chapter 4 as a basis for the definition of intercity service. In the needs assessment, places of high or moderate needs ranking located more than 25 miles from an existing intercity bus service point were defined as having potential need. This could be modified slightly to say that only places 25 miles or more from an intercity location would be eligible for service funding. The earlier needs analysis included places of all population sizes, without regard as to the size of the likely market (and therefore ridership and revenue. A minimum population threshold should be considered for funded services, perhaps the 2,500 threshold used in the FTA guidance—this should not be construed to mean that all places of 2,500 will get service, only that there will not be any consideration of funding service to/from places under 2,500 under the S.5311(f) program (unless such a place lies directly on the route of service between larger places).

How would this affect the current and planned S.5311(f) corridors? With regards to some of the current projects:

- The Omak-Wenatchee-Ellensburg corridor is timed to make intercity connections; offers interline tickets onto both Northwestern Trailways and Greyhound services; and offers baggage service, etc.—and it clearly is long distance, limited stops, etc. So it would be eligible for funding.

¹ An issue can even be raised as to whether or not S.5311(f) connections should be required to offer a guaranteed connection, waiting until the intercity bus has arrived no matter what. The success of the California Amtrak feeder bus network is in part attributed to the guaranteed connection, which really makes the buses part of the overall network.

- The original GrapeLine schedule to/from Walla Walla also offered a meaningful connection to Greyhound service at Pasco, and its replacement could be developed with an interline agreement, so it would be eligible as well.
- The current People for People Yakima-Prosser connector would not be considered intercity—its schedules do not bear any relationship to the Greyhound connections at Yakima, and it does not list the Greyhound station in its timetable (though it drives past the station and a stop could be requested). If the Yakima-Prosser Connector were modified to actually dock at the Greyhound station, and it was included in the timetable, this definition of S.5311(f) eligibility would only cover funding for the trips that provided a scheduled connection with Greyhound services, and the other trips would need to be treated as local public transit.
- The Port Angeles-Sea Tac Airport service operated by Olympic Bus Lines would probably qualify, simply because there are enough schedules into and out of the Seattle Greyhound station that connections could be made in a timely way—though the Greyhound station stop would need to be a regular scheduled stop (not on-demand only). Olympic Bus Lines is an off-line Greyhound agency, and should/could be an interline partner. It should be considered as eligible.
- A potential route from Colville to Spokane could be developed to meet the meaningful connection criteria, including interline ticketing, service to the Spokane Intermodal facility, and coordinated schedules.

This proposed application of the definition would appear to make some additional services potentially eligible. The Grays Harbor Transit service from Aberdeen to the Greyhound station in Olympia, which is not now S.5311(f) funded, could be considered as it operates from a point 25 miles away from the Olympia Greyhound station, and makes the physical connection at the Greyhound station. However, WSDOT might fund only those trips that offer a schedule connection out of S.5311(f), with the others continuing to be considered local transit.

By making the “meaningful connection” a key criteria focus of the eligibility for S.5311(f) (along with compliance with all applicable federal and state regulations, service from rural areas, applying for eligible uses, meeting the other Section 7 requirements, etc.), the potential demand for S.5311(f) funding would be limited. The downside is that scheduling to make meaningful connections with limited intercity services will often not allow the service to meet other needs very well, and therefore limit the potential ridership. To make such service from rural areas feasible, it is likely that S.5311(f) services will need to carry not only persons making intercity connections, but people traveling to medical facilities, to work, to school, for shopping, for personal business, to airports, etc. They are likely to need different schedules. For that reason some flexibility will be needed in project design regarding the definition of meaningful connection. In addition, WSDOT may have to fund other trips on the same routes with different sources—JARC, or S.5311, or CMAQ, etc.

Another factor to consider in the allocation of S.5311(f) to projects is the state’s priority for the program. Based on the input to date, it would appear that the first priority would be

providing operating assistance to maintain existing rural intercity services (meeting the definition set out above). A second priority would be operating assistance for new rural intercity services meeting the definition, serving areas identified as having unmet need (based on the analysis in this study), that are currently unserved, and with the potential to generate some level of ridership/revenue (to be determined—one possibility is a set farebox recovery threshold, which would allow some trading off of frequency, route length, and fare level—perhaps 20%). A third priority would be funding for support of the intercity aspects of the statewide travel planner/information system (which would include all the intercity networks, not just rural). A fourth priority would be support for intermodal terminal capital for construction/improvement/maintenance. S.5311(f) participation would be limited to amounts related to the proportion of services using the station that have rural trip origins, but other funding sources such as CMAQ, S.5309 earmarks, S.5307 capital could be used. A fifth, related priority would be capital for accessibility improvements.

These policy considerations, together with the available funding, lead us to the program policy described in Chapter 6.