

## Using Stimulus Funds to Mitigate Cuts to Local Transit Service

Transit supporters may have fallen short of their goal to secure dedicated funding for transit operations in the American Recovery and Reinvestment Act of 2009 (ARRA), but a provision in the legislation can be used to provide communities with short-term relief against looming transit service cuts, employee layoffs, and fare increases.

At issue is capitalized maintenance, a transit operating expense known commonly as “preventive maintenance.” Preventive maintenance involves the major costs of repairing buses, trains and other transit vehicles, such as engine or transmission overhauls. While it does not include other major operating costs such as labor and fuel, preventive maintenance can nonetheless constitute a sizable portion of a transit agency’s operating budget. One major California bus operator, for instance, has an annual operating budget of about \$280 million, of which preventive maintenance needs amount to approximately \$45 million, or one-sixth of the total.

For the most part, transit funds in ARRA are restricted to capital use only and may not be used to subsidize operating expenses. However, under federal law, preventive maintenance is categorized not as an *operating* expense, but rather as a *capital* expense – making it eligible for federal assistance.<sup>i</sup> Specifically, the Federal Transit Administration (FTA) formula grant program known as 49 USC 5307 Urbanized Area Formula Grants (§ 5307), which received approximately \$5.5 billion in the economic recovery bill, recognizes preventive maintenance as an eligible expense.<sup>ii</sup> (The same eligibility is true of the 49 USC 5309 Fixed Guideway Modernization formula program.) This allows transit agencies to use their § 5307 stimulus funds to pay for a major operating expense. By doing so, they can free up scarce operating dollars that can be directed to preserve existing transit jobs and service levels.

As transit agencies receive a boost in § 5307 funds through ARRA, advocates must ensure that their regional Metropolitan Planning Organization (MPO) and local transit operators take full advantage of this flexibility under federal law. While transit officials are familiar with their ability to use FTA formula funds for preventive maintenance, it is by no means guaranteed that they will use it for that purpose. Federal law does not limit the amount of § 5307 funds that can be used to pay for preventive maintenance, but some MPOs have adopted policies that restrict this practice. For instance, the San Francisco Bay Area’s Metropolitan Transportation Commission (MTC) has a standing policy that

severely limits this flexibility. Moreover, MTC is proposing to divert 30 percent of each operator's share of the region's § 5307 stimulus allocation to pay for two capital expansion projects rather than allowing operators to use all of their ARRA funds to stop service cuts and employee layoffs in the immediate future. Such misguided proposals will harm cash-strapped operators, particularly those that carry high proportions of minority and transit-dependent riders, and prevent them from addressing their communities' more urgent employment and mobility needs.

In the long-term, transit supporters will need to identify a dedicated funding source for transit operations in order to sustain and increase existing levels of transit service. This will be a major focus of advocacy during the upcoming reauthorization of SAFETEA-LU, scheduled for the fall. As noted above, § 5307 funds cannot be dedicated to operations in general – they are only available for this one component of operating costs (preventive maintenance), and are stretched thin as they are called upon to meet other needs, such as transit vehicle replacement. In the meantime, taking full advantage of the flexibility afforded by ARRA can help soften the blow of the economic downturn on transit workers and riders.

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<sup>i</sup> Federal Transit Administration Circular 9030.1C, available at [http://www.fta.dot.gov/laws/circulars/leg\\_reg\\_4125.htm](http://www.fta.dot.gov/laws/circulars/leg_reg_4125.htm)

<sup>ii</sup> Federal Transit Administration, Economic Recovery: Questions and Answers for FTA Grantees and Stakeholders, available at [http://www.fta.dot.gov/index\\_9118.html#Can\\_economic\\_recovery\\_funds\\_be\\_used\\_for\\_preventive\\_maintenance\\_activities](http://www.fta.dot.gov/index_9118.html#Can_economic_recovery_funds_be_used_for_preventive_maintenance_activities)