

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER h: PUBLIC TRANSPORTATION

PART 653
STATE OPERATING ASSISTANCE TO DOWNSTATE AREAS

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AUTHORITY: Implementing and authorized by Articles I and II of the Downstate Public Transportation Act [30 ILCS 740/Articles I and II].

SOURCE: Adopted at 11 Ill. Reg. 1985, effective January 13, 1987; amended at 34 Ill. Reg. 13142, effective August 24, 2010.

SUBPART A: GENERAL PROVISIONS

Section 653.10 Program Overview

- a) Articles I and II of the Downstate Public Transportation Act [30 ILCS 740/Arts. I and II] (Act), establish a continuing program of State operating assistance for public transportation services outside the areas served by the Regional Transportation Authority (Cook, DuPage, Will, McHenry, Lake and Kane Counties). (See Section 2-2.04 of the Act.)
- b) The funds for this program are appropriated annually by the Illinois General Assembly. Operating assistance grants are made by the Illinois Department of Transportation (Department) on an annual basis. Operating assistance funds may be used only for the purposes, and subject to the conditions, set forth in the Act

and this Part.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.20 Purpose

The purpose of this Part is to implement Articles I and II of the Act by providing the procedures, conditions and limitations applicable to operating assistance grants for eligible downstate applicants and participants. (See Section 2-2.04 of the Act.)

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.30 Definitions

The following words and phrases as used in this Part shall have the meanings ascribed to them in this Section.

"Act" means the Downstate Public Transportation Act [30 ILCS 740/Arts. I and II].

"AICPA" means the American Institute of Certified Public Accountants.

"Applicant" means any eligible participant who applies for an operating assistance grant under the Act and this Part.

"Application" means those materials and forms required by the Department to be submitted by an applicant in support of its request for operating assistance. (See Sections 2-5 and 2-5.1 of the Act.)

"Department" means the Illinois Department of Transportation, Division of Public and Intermodal Transportation. (Section 2-2.01 of the Act)

"Demand Response Service" means a non-fixed route shared use service operating in response to pre-arranged time and location requests from passengers, or their agents, to the transit operator.

"Deviated Fixed Route Service" means transit service that operates along a fixed alignment or path at generally fixed times but may deviate from the route alignment to collect or drop off passengers who have requested the deviation.

"Eligible Operating Expenses" means all expenses required for public transportation, as defined in Section 2-2.04 of the Act and Section 653.111 of this Part.

"Fiscal Year" means the fiscal year of the State of Illinois that begins on July 1 and ends on June 30. (Section 2-2.06 of the Act)

"Fixed Route Service" means public transportation service provided on a repetitive, fixed-schedule basis along a specific route, stopping to pick up and deliver passengers to specific locations.

"FTA" means the Federal Transit Administration of the United States Department of Transportation, or its successor.

"Grant Contract" means the written agreement between the applicant and the Department defining the program, funding limits and terms of the grant.

"Ineligible Operating Expenses" means those expenses ineligible for State operating assistance, as defined in Section 2-2.04 of the Act and Section 653.112 of this Part.

"OMB" means the U.S. Office of Management and Budget.

"Operating Deficit" means operating deficits as defined in Section 2-2.03 of the Act.

"Participant" means any eligible participant as defined in Section 2-2.02 of the Act who has received an appropriation from the Illinois General Assembly for downstate operating assistance.

"Preliminary Application" means those materials and forms prescribed by the Department to be submitted by an applicant in support of its projected request for operating assistance in the next fiscal year.

"Program of Proposed Expenditures" or "POPE" means those activities, services and proposed eligible operating expenditures to be provided by the applicant that directly relate to the operation, maintenance or improvement of general public transportation service benefiting the residents of the applicant.

"Public Transportation" means the transportation or conveyance of persons by means available to the general public including groups of the general public with special needs:

within the urbanized area; or

in the nonurbanized areas within the service area of each participant as

approved by the Department, except for transportation by automobiles not used for conveyance of the general public as passengers. (Section 2-2.05 of the Act)

Service in a participant's service area may be provided by either:

another eligible participant through an intergovernmental agreement; or

a private for-profit operator through a third party contract or a private non-profit operator through a pass through agreement or third party contract.

"Purchased Transportation" means those public transportation activities procured by a participant and provided by a third party through contracts.

"Service Area" means a participant's territorial boundaries plus service extensions or contiguous service areas approved by the Department.

"State" means the State of Illinois.

"Territorial boundaries" means:

the municipal boundaries of a municipal participant plus the boundaries of any contiguous city, village, incorporated town, and/or county that has agreed by intergovernmental agreement to be included in the territorial boundaries of the municipal participant;

the county boundaries of a county participant plus the boundaries of any contiguous city, village, incorporated town, and/or county that has agreed by intergovernmental agreement to be included in the territorial boundaries of the county participant;

the boundaries of the municipalities, villages, incorporated towns, counties, and/or participating areas having created a mass transit district, plus the boundaries of any contiguous city, village, incorporated town, and/or county that has agreed by intergovernmental agreement to be included in the territorial boundaries of the mass transit district participant.

Any boundary established by intergovernmental agreement must be approved by ordinance and/or resolution by the appropriate and requisite governing bodies. Establishment of the boundary shall not be in conflict with the Act and/or the Local Mass Transit District Act [70 ILCS 3610]. Additionally, a participant cannot establish as part of its territorial boundary any area that is

already included in another participant's territorial boundary.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.40 Effective Date

This Part applies to grants made for the fiscal year beginning July 1, 2010 and each year thereafter.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

SUBPART B: GRANT APPLICATION REQUIREMENTS

Section 653.90 Preliminary Grant Application

At the discretion of the Department and no later than September 1 of each fiscal year, the Department will distribute preliminary grant applications for the following fiscal year to all participants. The preliminary grant application will contain information about the operating assistance program and required forms that must be filed with the Department. The completed preliminary grant application shall be submitted to the Department no later than 30 days after receipt and shall include certain identified preliminary revenue and expense budget information for the next fiscal year.

(Source: Added at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.100 Notification of Grant Cycle

No later than March 1 prior to the start of any fiscal year, the Department will send operating assistance grant applications to all participants. The grant application will contain information and instructions regarding the operating assistance program and will also include forms that must be filed with the Department. Operating assistance applications are available by writing:

Illinois Department of Transportation
Division of Public and Intermodal Transportation
100 West Randolph Street, Suite 6-600
Chicago, Illinois 60601
Phone: 312/793-2111.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.110 Application Contents

- a) Operating assistance applications shall include, at a minimum, the following

information:

- 1) A cover letter stating that the applicant is applying for operating assistance funds. The cover letter shall contain the applicant's name, address and certification that the information provided is true and correct.
- 2) A description of the applicant including, but not limited to, service area, service characteristics, transit system management, transit and special taxing authority, year and means created, e.g., by statute, home rule or interstate compact, the name and title of the person directly responsible for supervising the applicant's proposed expenditures, the name and title of the person authorized to submit and execute the application, and name and title of the person authorized to certify financial reports.
- 3) A summary consisting of total estimated operating expenses, revenues, income and deficits for the next fiscal year, 65% of the estimated eligible operating expenses for the next fiscal year and a certification that the expenses will be for public transportation in Illinois or the service area approved by the Department. (See Section 2-7(b) of the Act.)
- 4) A summary consisting of projected total operating revenues and expenses including, but not limited to, those associated with passenger fares; special transit fares; school bus service revenues; freight tariffs; charter service revenues; auxiliary transportation revenues; non-transportation revenues; taxes levied directly by transit system, local cash grants and reimbursement; local special fare assistance; State cash grants and reimbursements; State special fare assistance, federal grants and reimbursements; contributed services; labor costs; salaries and wages; fringe benefits; services; materials and supplies; utility, casualty and liability costs; taxes; purchased transportation services; miscellaneous expenses; debt service, including principal and interest, on publicly-owned equipment or facilities; interest expenses for short-term operating loans; and lease and rentals. (See Section 2-2.04 of the Act.)
- 5) Operating information, itemized according to fixed route service and demand response service (including deviated fixed route service), including, but not limited to, total service miles and hours, number of vehicles, passenger trips, and facilities and equipment inventory.
- 6) Passenger trips shall be broken out by service type and by the following categories: general public; seniors who are at least 65 years old and who are receiving free or reduced fare transportation; people with disabilities who are receiving free or reduced fare transportation; and students who

are receiving reduced-fare transportation.

- 7) Information regarding purchased transportation, including, but not limited to, a description of the public transportation services and products to be purchased, relevant information regarding the provider of the purchased services, the number and type of revenue and non-revenue vehicles, and operating revenues and expenses as detailed in Subpart B of this Part.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.111 Eligible Operating Expenses

- a) Operating assistance grants will be made only for the reimbursement of eligible operating expenses. In all instances, operating expenses shall be deemed eligible to the degree that they are required for public transportation, are subject to independent documentation and audit verification, are consistent with State or federal program eligibility requirements, and are the net of all applicable credits, as determined by the Department to be in accordance with standard accounting practices. Eligible operating expenses include, but are not limited to:
 - 1) employee wages;
 - 2) employee benefits;
 - 3) materials, fuels and supplies;
 - 4) rental of facilities;
 - 5) taxes other than income taxes;
 - 6) payment made for debt service (including principal and interest) on equipment or facilities owned by the applicant, to the degree that the participant's governing board, through resolution, certifies that the public transportation portion of the equipment or facilities is required for the day-to-day provision of public transportation within the next 24 months, provided that, in undertaking and administering the acquisition and ownership of the equipment and facilities, the participant complies with the Department's "Public Transportation Capital Improvement Grants Manual" and "Supplemental Operating Assistance Guidelines";

- 7) non-rolling-stock equipment purchases that are less than \$10,000;
 - 8) administrative costs, i.e., costs incurred in capital grant record keeping, grant management, and the preparation of status reports required by the Department under its capital grant program, associated with capital projects that are not reimbursed elsewhere;
 - 9) routine maintenance and repairs to buildings, equipment or vehicles that do not extend their useful life for replacement eligibility purposes;
 - 10) reasonable expenses and compensation for applicant's board members or trustees as provided for under the Local Mass Transit District Act [70 ILCS 3610/4];
 - 11) established reserves for self-insurance programs; and
 - 12) any other expenditure that an independent auditor retained by the participant's governing board determines is required for the provision of public transportation according to the most current version of AICPA's generally accepted accounting principles for public transportation operations.
- b) Eligible operating expenses also include the costs associated with the audit requirements set forth in Section 653.410.
- c) Eighty percent of the dues paid by the applicant to the Illinois Public Transportation Association and 90% of the dues paid by the applicant to the American Public Transportation Association or the Community Transportation Association of America are also eligible operating expenses. (See Section 2-2.04 of the Act.)

(Source: Added at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.112 Ineligible Operating Expenses

- a) Operating assistance grants will not be made for ineligible operating expenses, as defined in Section 2-2.04 of the Act, Section 653.30 of this Part and this Section. Ineligible operating expenses include, but are not limited to, the following:
- 1) depreciation, whether funded or unfunded;
 - 2) amortization of any intangible costs, which means depreciation of an asset that is without physical qualities, e.g., patents, copyrights and goodwill;

- 3) debt service on capital assets acquired with the assistance of State capital grant funds provided by the State;
- 4) profit or return on investments;
- 5) excessive payment to associated entities, such as payments made by a participant to any entity that is owned or controlled by the participant or that controls or owns the participant;
- 6) expenses associated with the Workforce Investment Act (29 USC Chapter 30), or its successor;
- 7) costs reimbursed under Sections 5303, 5304 and 5305 of the Federal Mass Transit Act (49 USC Chapter 53);
- 8) travel and entertainment expenses incurred in attending non-public transportation-related activities;
- 9) charter, school bus and sightseeing expenses as defined by the FTA;
- 10) fines and penalties;
- 11) charitable donations;
- 12) interest expense on long-term borrowing and debt retirement other than on that portion of publicly-owned equipment and facilities required for public transportation;
- 13) income taxes;
- 14) that portion of any eligible operating expenses for which the participant has or will receive reimbursement from any other federal or State capital grant program absent a specific federal or State directive allowing the capital expense to be treated as an operating expense, e.g., federal preventative maintenance expense;
- 15) expenses associated with compliance with OMB Circular A-133 (Audits of States, Local Governments, and Non-Profit Organizations);
- 16) any expense that is reimbursed from insurance proceeds;

- 17) maintenance or operation of vehicles that are not used by a participant or its contractors for public transportation or to support public transportation operations;
 - 18) any other expense determined by the Department to be inconsistent with federal regulations or requirements.
- b) If a participant receives federal operating assistance funds through the Department, and federal law prohibits the participant from using those funds to pay for any expense that is an eligible operating expense under the Act or this Part, then that expense shall be ineligible for reimbursement. (See Section 2-2.04 of the Act.)

(Source: Added at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.113 Reportable Income

- a) Revenues that reduce the operating deficit under standard accounting practices and, therefore, must be reported to the Department include, but are not limited to, revenues from the following sources:
- 1) passenger fares for transit services;
 - 2) special transit fares;
 - 3) charter service revenues;
 - 4) auxiliary transportation revenues;
 - 5) non-transportation revenues; and
 - 6) federal cash grants and reimbursements.

(Source: Added at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.114 Accounting and Documentation

- a) Applicants shall use the accrual method of accounting in accordance with generally accepted accounting principles when submitting the operating expense and revenue information called for in the application utilizing the same line items on which the actual expenses and revenues will eventually be reported to the Department in all quarterly and final fiscal year financial statements.

- b) All expenses shall be documented by cancelled check, by paid bills, invoices or purchase orders, or by electronic records that clearly show when the expense was incurred, when the vendor was paid, and what was purchased.
- c) If the Department questions the eligibility of a particular expense, the participant shall provide certification by an independent auditor that the expense is eligible under applicable State and federal law and the certification will be considered by the Department in determining whether the particular expense is eligible for reimbursement.

(Source: Added at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.120 Application Filing Deadline

Grant applications shall be submitted to the Department no later than April 1 prior to the fiscal year for which operating assistance is requested. (See Section 2-5 of the Act.)

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.130 Place of Filing

Grant applications and all forms submitted under the State operating assistance program shall be filed with the Department at the following address:

Illinois Department of Transportation
100 West Randolph Street, Suite 6-600
Chicago, Illinois 60601
Attn: Division of Public and Intermodal Transportation, Bureau of Downstate
Area Programs.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

SUBPART C: REVIEW AND APPROVAL OF APPLICATION

Section 653.200 Review of Application

Review of Application. The Department will date stamp the application upon receipt. The Department will perform an initial examination of the application to determine if the application is complete, in accordance with the criteria contained in the Act and Subpart B, and will notify the applicant of any missing information, any issues that require clarification, any errors or inaccuracies that exist in the application and any expenses that are listed as eligible by the applicant but that are ineligible under Section 653.112. The Department will begin its review process after the application is complete. An application is complete if all required information

is included, is accurate if all calculations are correct, and is clear if the application is legible.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.205 Approval/Disapproval of Applicant's Program of Proposed Expenditures

- a) Within 45 days after the Department's receipt of the application, the Department will notify the applicant in writing of its approval or disapproval of the Program of Proposed Expenditures (POPE). (See Section 2-11 of the Act.)
- b) Disapproval of Applicant's Program of Proposed Expenditures. The Department will disapprove an applicant's POPE that contains:
 - 1) a finding that expenditures are being proposed for projects or purposes that are not in compliance with Section 2-5 of the Act; i.e., proposed expenditures are not related to the actual operation, maintenance or improvement of the applicant's proposed public transportation service; or
 - 2) a finding that expenditures are being proposed for projects or purposes that are in conflict with established comprehensive transportation plans, where applicable; or
 - 3) proposed expenditures that are not, or other information that is not, in compliance with the Act and Section 653.111 of this Part.
- c) The Department will notify the applicant, in writing, of deficiencies in the applicant's POPE that result in disapproval and will include the reasons for disapproval. The applicant may, within 45 days after receipt of the disapproval, submit an amended application for that part of the application that was disapproved. The Department will then review the amended application in the same manner as provided in subsections (a) and (b) and, within 45 days after the Department's receipt of the amended application, the Department will notify the applicant in writing of its approval or disapproval of the amended POPE. The Department's decision concerning the amended application is final. (See Sections 2-11 and 2-12 of the Act.)

(Source: Added at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.210 Approval of Application

The Department will approve the application within 45 days after determining that all additional information requested from a participant regarding the application has been provided, that the initial or amended application, including the POPE, is in compliance with the Act and this Part,

and that an appropriation sufficient to support the participant's application and POPE has been signed into law.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.220 Grant Contract Requirements and Procedures

- a) As a condition for receiving operating assistance, the applicant shall enter into a grant contract with the Department. The Department will send two copies of the grant contract to the applicant as soon as possible following notification that the application has been approved.
- b) The grant contract shall include, at a minimum, the following terms and conditions:
 - 1) funding amounts and limitations;
 - 2) payment procedures and conditions;
 - 3) the Department's attendance at the participant's FTA triennial reviews;
 - 4) records maintenance and access requirements;
 - 5) participant's authority to contract;
 - 6) inspection rights of the State;
 - 7) indemnification of the State;
 - 8) audit scope, procedures and requirements;
 - 9) provisions governing the legal relationships between the participant and the State, and other provisions as required by State or local laws; and
 - 10) provisions regarding ethics, prohibited interests, a drug free workplace, non-discrimination, school bus operations, and other provisions as required by State law.
- c) The applicant shall execute both copies of the grant contract and return both copies to the Department together with a resolution of the applicant's governing board and an opinion of counsel as described in subsections (d) and (e).
- d) The applicant shall submit, with the executed grant contract, a certified resolution

or ordinance adopted by the applicant's governing body that authorizes the execution of the grant contract and identifies the person, by position, authorized to sign the grant contract and payment requisitions and to provide official information to the Department.

- e) The applicant shall submit, with the executed grant contract, a legal opinion from an attorney licensed to practice law in the State and authorized to represent the applicant in the matter of the grant contract, stating that:
 - 1) the applicant is lawfully organized;
 - 2) the applicant is an eligible participant under the Act;
 - 3) the applicant is legally authorized to enter into the grant contract; and
 - 4) the grant contract will be legally binding on the applicant.
- f) Upon receipt of the applicant's executed grant contract, the applicant's governing body resolution or ordinance and the legal opinion, the Department will execute the grant contract on behalf of the State and will return one executed copy to the applicant.
- g) The application and all other documents or materials requested by the Department, submitted by the applicant and accepted by the Department before and after grant contract execution, shall become a part of and incorporated into the grant contract.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.230 Amounts of and Limitations on Grants

- a) For fiscal year 2008 and thereafter, the Department is authorized under the continuing appropriation language of Sections 2-3(d) and 2-7(b) of the Act to pay a participant in an amount equal to 65% of the participant's actual eligible operating expenses up to the amount set forth in the State's annual budget or the formula amount required under Section 2-7(b-10) of the Act, whichever is greater. If a participant's actual eligible operating expenses for a particular fiscal year are unknown at the time the grant agreement is executed for the year, the Department will, as soon as practicable at the beginning of that fiscal year, enter into a grant contract for the amount set forth in the State's annual budget or for the formula amount required under Section 2-7(b-10) of the Act, depending on which is greater. (See Section 2-7 of the Act.)

- b) The amount of operating assistance received from the State under the Act, together with any other operating assistance received from any federal, State or local agency, shall not exceed the participant's operating deficit for that fiscal year.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.240 Disapproval of Application (Repealed)

(Source: Repealed at 34 Ill. Reg. 13142, effective August 24, 2010)

SUBPART D: PROGRAM MANAGEMENT

Section 653.300 Quarterly Reports/Requisitions for Advance Payment

- a) Thirty calendar days before the end of a current quarter, the participant may file, on a form prescribed by the Department, the Quarterly Financial Report request for advance payment of estimated eligible operating expenses and revenues for the next quarter. This report shall contain a description of and amounts of estimated revenues and expenses and any other information required by the Department.
- b) The earliest date that requisitions for payments based on estimates may be processed by the Department are detailed in this subsection (b); however, no payments will be made until the State's annual budget has been passed and grant contracts are fully executed by both the Department and the participant and filed with the Office of the Comptroller.
- 1) June 1 – for the 1st quarter (July, Aug., Sept.)
 - 2) Sept. 1 – for the 2nd quarter (Oct., Nov., Dec.)
 - 3) Dec. 1 – for the 3rd quarter (Jan., Feb., Mar.)
 - 4) March 1 – for the 4th quarter (Apr., May, June)

(See Section 2-7(b) of the Act.)

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.310 Reporting of Actual Expenses for all Quarters

By December 1, March 1, May 1 and August 1, the participant shall file, on a form prescribed by

the Department, a statement of actual eligible expenses incurred in the 1st, 2nd, 3rd and 4th quarters respectively, known as the Quarterly Financial Report – Actual Revenues and Expenses.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.320 Payment

- a) Participants may requisition based on estimated or actual expenses and revenues, or any combination of the two. Requisitions shall be filed with the Department, quarterly, on forms prescribed by the Department.
- b) All payments by the Department are contingent upon the General Assembly's passing legislation, signed by the Governor, that appropriates and provides for the release of funds to the participant for operating assistance under the Act and this Part.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.330 Notification of Change in Services

- a) The participant shall file a Notification of Change in Services on a form prescribed by the Department at least 30 days prior to the participant's implementation of a proposed change in services when the change in services was not included in the application. If the participant does not file a Notification of Change in Services form at least 30 days prior to the implementation of the proposed change in services, the participant must not implement the change in services. The Notification of Change in Services shall include, but not be limited to, the following information:
 - 1) the nature of the proposed change;
 - 2) whether the proposed change is in an approved planning document; and
 - 3) a description of, and the budgetary impact of, the proposed change that includes an estimate of the increase or decrease in operational expenses, revenues and ridership and an indication of the extent to which the service change will require additional equipment acquisition or reduction in equipment usage or needs.
- b) A change in service means any of the following:
 - 1) new service areas;

- 2) discontinuance of routes and/or service areas;
 - 3) a structural revision of routes;
 - 4) a change in hours or days of service; or
 - 5) execution or termination of a purchased transportation contract.
- c) A change in service does not mean:
- 1) temporary changes, e.g., routing due to temporary road closures, seasonal adjustments, natural disasters or emergencies; or
 - 2) any changes described in subsection (b) that result in less than a 20% increase or decrease in total service provided or fares collected.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.335 Notification of Change in Fares

The participant shall file a Notification of Change in Fares on a form, prescribed by the Department, at least 90 days prior to the participant's implementation of any proposed increase in fares when an increase in fares was not included in the application. If the participant does not file a Notification of Change in Fares form at least 90 days prior to the implementation of the proposed increase in fares, the participant must not implement the fare increase. When submitting the required notification, the participant shall, at a minimum, explain in detail why the fare increase is necessary and why other approaches to financial and operational management will not eliminate the need for an increase in fares.

(Source: Added at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.340 Filing of Reconciliation Report for Actual Expenses Accrued in Fiscal Year

- a) On or before August 1 following each fiscal year for which the participant has received operating assistance, the participant shall file with the Department, on a form prescribed by the Department, a reconciliation statement and final requisition for actual but unaudited revenues and expenses accrued during that fiscal year.
- b) Upon receipt of the documents referenced in subsection (a), the Department will reconcile the actual amounts paid to the participant with the total eligible reimbursement owed based on actual eligible expenses accrued for the fiscal year

and will make payment to the participant for any amounts due.

- c) Payment to the participant under this Section is contingent upon submission of the fiscal year final requisition and reconciliation report by August 1 as provided for in subsection (a). All funds in the Downstate Public Transportation Fund, except funds designated for payment of audit adjustments and 1st quarter estimated expenses for the succeeding fiscal year, revert to the Downstate Transit Improvement Fund on September 30 following the fiscal year for which the funds were appropriated. Failure to timely file the fiscal year final requisition and reconciliation report under this Section may jeopardize the Comptroller's ability to make a payment during the lapse period. In the event that the late filing by participant does not allow time for the Department to process payment under this Section, any funds due the participant upon completion of the State audit shall be paid to the participant as provided in Section 653.450.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.350 Downstate Transit Improvement Fund

- a) *Except as otherwise provided in Section 2-15 of the Act, all funds that remain in the Downstate Public Transportation Fund or the Metro-East Public Transportation Fund after the payment of the fourth quarterly payment to participants other than Metro-East Transit District participants and the last monthly payment to Metro-East Transit participants in each fiscal year shall be transferred to the Downstate Transit Improvement Fund. Transfers shall be made no later than 90 days following the end of the fiscal year. Beginning fiscal year 2010, all moneys each year in the Downstate Transit Improvement Fund, held solely for the benefit of the participants in the Downstate Public Transportation Fund, shall be appropriated to the Department to make competitive capital grants to the participants of the respective funds. However, such amount as the Department determines to be necessary for allocation to participants for the purposes of Section 2-7 of the Act for the first quarter of the succeeding fiscal year and an amount equal to 2% of the total allocations to participants in the fiscal year that just ended to be used for the purpose of audit adjustments shall be retained in such funds to be used by the Department for such purposes. (Section 2-15 of the Act)*
- b) Competitive capital grants shall not be available for projects, purchases or purposes that are not:
- 1) required for the provision of public transportation;

- 2) identified in the Department's annual Capital Needs Assessment, which can be obtained from the Division of Public and Intermodal Transportation;
- 3) identified in the comprehensive long range or short range planning documents in the region for which the applicant is a part; and
- 4) in accordance with the guidelines set forth in the Department's Procedural Handbook for Public Transportation Capital Improvement Grants, which can be obtained from the Division of Public and Intermodal Transportation.

(Source: Added at 34 Ill. Reg. 13142, effective August 24, 2010)

SUBPART E: AUDIT PROCEDURES/GRANT CLOSEOUT

Section 653.400 Year End Operating Data Report

On or before August 1 following the fiscal year for which the participant has received State operating assistance under the Act, the participant shall file the Year End Operating Data Report with the Department. The report shall be on a form prescribed by the Department and shall include at a minimum:

- a) operators' and other employees' salary and wages by position;
- b) vehicle use; and
- c) passenger trips by service type, passenger category and fare category. (See Section 2-4 of the Act.)

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.410 Independent Audit Requirements and Procedures

- a) **Deadline for Submission of Audit**
No later than 180 days following the last day of the fiscal year, the participant shall provide the Department with an independent audit prepared by a licensed certified public accountant. This deadline may be changed, at the discretion of the Department, to accommodate the participant's fiscal year periods or due to unforeseen circumstances. (See Section 2-7(c) of the Act.)
- b) **Selection of Auditor**
The selection of the licensed certified public accountant shall be made by the

participant. However, any licensed certified public accountant selected by the participant shall be independent and shall not have a relationship with the participant that would create a conflict of interest. A conflict of interest will be deemed by the Department to exist where the licensed certified public accountant serves the participant in any capacity other than that of auditor for the participant or where the licensed certified public accountant has a relationship, contractual or otherwise, with the participant that would inhibit the ability to perform an independent audit.

c) Audit Requirements

- 1) The independent auditor shall review the following materials in preparing the audit report:
 - A) the Act;
 - B) the grant contract between the Department and participant;
 - C) this Part and pertinent forms prescribed by the Department; and
 - D) the appropriation legislation relating to the operating assistance grant.
- 2) The independent auditor shall examine the systems of internal control, systems established to ensure compliance with laws and regulations affecting the expenditure of State funds, financial transactions and accounts, and financial statements and reports of the participant. "Examine" means all that is necessary for the auditor to make the determinations required in this subsection (c)(2). These examinations are to determine whether:
 - A) There is effective control over and proper accounting for revenues, expenditures, assets, and liabilities.
 - B) The financial statements are presented fairly in accordance with generally accepted accounting principles adopted by AICPA.
 - C) The financial reports contain accurate and reliable financial data.
 - D) State funds are being expended in accordance with the terms of the grant contract and those applicable provisions of state law and regulations.

- 3) Compliance with Audit Standards
The audit shall be made in accordance with generally accepted auditing standards established by AICPA.
- d) Requirements for Independent Audit Reports
 - 1) Audit Report Elements
The audit report shall contain the following elements:
 - A) Scope of audit
 - B) A description of audit procedures used
 - C) Opinion
 - D) Findings
 - E) Recommendations
 - F) Financial statements and analyses
 - G) On forms prescribed by the Department, a schedule of operating revenues and expenses for the participant's grant contract period. (See Section 2-4 of the Act.)
 - 2) Contents of Report
The audit report shall consist of the following:
 - A) Financial statements, including footnotes, of the participant.
 - B) The auditor's comments on the financial statements, which:
 - i) Identify the statements examined and the period covered.
 - ii) Express an opinion as to whether the financial statements are fairly presented in accordance with generally accepted accounting principles. If an unqualified opinion cannot be expressed, the nature of the qualification shall be stated.
 - C) Calculations, assurances (i.e., positive or negative assurances that something has been done) and certifications (i.e., statements by which it is declared that a fact is true or a requirement has been met), stating whether the requirements of subsection (c)(2) have

been met by the Department, including, but not limited to, the following:

- i) A determination and calculation of eligible and ineligible operating expenses.
 - ii) A determination and calculation that the State operating assistance, when added to the federal operating assistance, does not exceed the total operating deficit. Operating deficit shall be calculated as eligible expenses less revenues. In determining deficit, the definition of eligible expenses in the Act and this Part and the definition of revenue in the Act shall govern.
- D) The auditor's assurances that:
- i) The financial statements of the participant were prepared in accordance with generally accepted accounting principles adopted by the AICPA.
 - ii) Applicable laws were complied with by the participant.
 - iii) The participant's system of internal accounting controls and procedures were adequate relating to funds received and costs chargeable to the grant contract.
 - iv) State funds were expended in accordance with the grant contract.
- E) The auditor's comments on compliance and internal control, which shall include:
- i) Comments on weaknesses in and noncompliance with the systems of internal control, separately identifying material weaknesses.
 - ii) Identification of instances of noncompliances with the terms of the grant contract, State law or this Part, and the effect of the noncompliance, if any, on the reliability or accuracy of the financial statements and reports filed under this Part.
- F) Comments on the accuracy and completeness of financial reports

and claims for advances or reimbursement.

- G) Comments on corrective action taken or planned by the participant relative to the audit findings of the previous year and recommendations for current year corrective action.
- e) Access to and Retention of Auditor's Records
- 1) The participant shall require the independent auditor, in the letter of engagement or other contract for services document between the participant and the independent auditor, to give authorized representatives of the Department access to the independent auditor's working papers pertaining to the audit of the participant at reasonable times convenient to the Department and the independent auditor.
 - 2) Work papers and reports shall be retained by the auditor for a minimum of three years from the date of the audit report unless the auditor is notified in writing by the Department of the need to extend the retention period. The three year period will be extended under the following conditions:
 - A) When the State audit is not conducted within the three year period; and
 - B) When there is litigation involving the provision of funds to the grantee.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.420 Review of Independent Audit

The Department will review the independent audit to assure that the requirements of Subpart E have been met and will notify the participant and the independent auditor of any errors or omissions in the audit and any issues raised by the independent audit requiring clarification or revision.

Section 653.430 State Audit

- a) The Department shall perform or commission an audit, known as the State audit, of the participant's financial records and the audit performed by the independent auditor submitted by the participant with its own forces or by contracting with an independent licensed certified public accountant solely at the expense of the Department. Any audit under this Section shall begin no later than three years following the last day of the fiscal year that is being audited. The Department

will perform a State audit on all grants. The State audit will be done after the Department receives the independent audit. The Department will give written notice to the participant of the dates scheduled for the State audit, which shall be an agreed-upon time arrived at between the grantee and the Department.

- b) The independent auditor and the participant shall work with the Department in resolving any issues raised by the State audit. Any issues that cannot be resolved to the mutual agreement of the Department, the participant and/or independent auditor shall be decided by the Department consistent with the Act, this Part and the Department's application and interpretation of generally accepted accounting principles adopted by the AICPA. The Department's decisions shall be considered final.
- c) Upon resolution of the issues according to the procedures provided in subsection (b), the Department will issue a final State audit report to the participant. In the absence of fraud, payment issues, audit issues or any other matters pertaining to the grant may not be raised and are forever settled upon issuance of the final State audit.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.440 Corrective Action by Participant

Whenever the independent audit or State audit discloses significant weaknesses, irregularities and areas of noncompliance, i.e., failure by the grantee to act in accordance with any of the terms and conditions of the grant contract or State law, including by way of example and information only and not by way of limitation, conflicts of interest, falsification of records or reports and inadequate internal controls. The participant shall correct the weaknesses, irregularities and noncompliance consistent with the corrective recommendations of the independent or State audit. "Inadequate" means "unable to meet the requirements of the State laws, this Part and the terms of the grant contract."

Section 653.450 Reconciliation of Payments

The Department will reconcile the amounts paid to the participant consistent with the final State audit. The Department will take the necessary steps to pay the participant any amounts due the participant for the audited fiscal year. If the audit reflects that the Department has overpaid the participant, then the Department shall notify the participant in writing of the amount due and owing. In determining whether amounts paid to the participant are consistent with the State audit, the Department looks at how much was actually paid to the participant and how much the State audit says should have been paid to the participant. If the participant received actual payments which are less than the State audit, then the Department will pay the difference. If the participant received actual payments in excess of the State audit, then the Department will notify

the participant in writing of the over-payment and request remittance. "Necessary steps" means "seeking an appropriation, if necessary, preparing a request for payment form and generally doing the paperwork that is required to get a check from the Office of Comptroller to the participant."

Section 653.460 Grant Closeout

The Department shall consider the grant closed when the final reconciliation payment is made, either by the Department or the participant, as provided in Section 653.440. The Department shall send notification to the participant that the grant is closed. At the discretion of the Department, several years of audit reconciliation balances may be combined to allow for one payment to reconcile minor annual reconciliation balances.

(Source: Amended at 34 Ill. Reg. 13142, effective August 24, 2010)

Section 653.470 Finality of Prior Grant Related Decisions (Repealed)

(Source: Repealed at 34 Ill. Reg. 13142, effective August 24, 2010)

SUBPART F: MISCELLANEOUS PROVISIONS

Section 653.500 Access to and Retention of Records

- a) The participant shall make available to any authorized representatives of the Department any and all checks, payrolls, invoices, contracts, vouchers, accounting and financial documents, correspondence, bills, accounts payable and receivable and data pertaining to the participant's operating expenses and revenues.
- b) The participant shall maintain all financial records and documents pertaining to public transportation operating expenses and revenues for a minimum period of three years following the last day of the fiscal year or until notification by the Department that the grant is closed, whichever is later.