

**From:** [PTN ProgramMgmt](#)  
**To:** [Stephanie Gonterman](#); [PTN ProgramMgmt](#)  
**Cc:** [Tricia Martinez](#); [Kaitie Czuchaj](#); [Kai Boysan](#); [Wende Hughes](#)  
**Subject:** RE: TXDOT Stakeholder Consultation 8.23.24 GLI Comments  
**Date:** Friday, September 13, 2024 12:53:26 PM

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Re: Response to Greyhound Lines, Inc. (“Greyhound”) objection to TxDOT’s certification of intercity bus needs met under 49 USC 5311 (f).

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On 9/6/24, TxDOT received a letter emailed from Kadir Boysan, Chief Executive Officer, Greyhound, expressing objections to TxDOT-PTN’s certification of the state’s intercity bus needs being met and subsequent intent to transfer unused 5311(f) funds to the 5311 rural grant program. Greyhound’s objections include the following assertions:

- FTA provides funds for the specific needs of intercity bus
- Texas has identified unmet intercity bus needs
- Greyhound applied for funds to meet rural transportation needs and was denied
- TxDOT should not be allowed to certify no unmet intercity bus needs
- TxDOT predetermined that it would move funds from intercity bus to transit before properly assessing intercity bus needs
- Greyhound’s request for over the road buses and for a Houston location should be funded

This is TxDOT’s response to Greyhound’s assertions.

Overarching Principals of the Federal 5311(f) Intercity Bus (ICB) Program

- Program Intended for Rural Areas of the State - FTA’s 5311 Formula Grants for Rural Areas Program is intended to support public transportation in rural areas with populations less than 50,000. This principal also applies to the 5311(f) intercity bus program which requires each state to spend 15% of its annual 5311 apportionment to carry out a program to develop and support intercity bus transportation for the benefit of a state’s rural population unless the governor certifies that the intercity bus needs of the state are being met adequately.
- Eligible Subrecipients – Rural transit districts, as political subdivisions of the state, are the typical subrecipient for 5311 grant funds, however private for-profit carriers are encouraged to participate in the 5311(f) program specifically. Government funds to private carriers are used to subsidize rural routes and connections that may otherwise be abandoned as not profitable. Government funds are not used to subsidize routes or projects that are profitable for private carriers, even in rural areas.

These overarching principals are grounded in the federal and state objectives for the ICB Program. First and foremost, as part of the 5311 Formula Grants for Rural Areas, the ICB program is for the benefit of the rural areas of the state.

Federal objectives for 5311(f) ICB Program

Since your letter quotes pieces from the FTA circular 9040.1.G “Formula Grants for Rural Areas, Program Guidance and Application Instructions”, (11/24/14), Section VIII, Intercity Bus, I wanted to provide the entire paragraph regarding the federal objectives of the ICB Program, which is:

**2. NATIONAL OBJECTIVES.** In many states, intercity bus service is a vital link between otherwise isolated rural communities and the rest of the nation. Historically, major intercity bus carriers abandoned less productive routes. Patronage generated in rural areas, however, appears to be important to the continuing viability of the remaining intercity routes. One objective of the funding for intercity bus service under Section 5311, therefore, is to support the connection between rural areas and the larger

regional or national system of intercity bus service. Another objective is to support services to meet the intercity travel needs of residents in rural areas. A third objective is to support the infrastructure of the intercity bus network through planning and marketing assistance and capital investment in facilities. FTA encourages states to use the funding under Section 5311(f) to support these national objectives, as well as priorities determined by the state.

Clearly, the federal government intends for the 5311(f) funds to be used in support of transportation for rural populations including, as an extension of that principal, infrastructure that supports rural mobility and connectivity. Other parts of the circular describe examples of facility projects private carriers should participate in including “intercity bus shelters, joint-use stops and depots”, “improvements to existing intercity terminal facilities for rural passengers” and “modifications to transit facilities to facilitate shared use” with bus, rail and “rural transit operators”. Also, Part VIII, Section 12 of the circular provides guidance on limiting investments for capital projects in UZAs.

#### State Objectives for the 5311(f) ICB Program

In accordance with the national objective, TxDOT has a history of prioritizing routes connecting rural areas of the state to the larger intercity bus network. Funds for capital projects in support of those connections is a second priority.

To better align investment of funds to strategic goals of the state’s ICB needs, TxDOT-PTN developed the Intercity Bus Program Strategic Directions Report (2019), approved by the Public Transportation Advisory Committee. As an outcome of that report, a consultant was selected to conduct a comprehensive, statewide ICB study which examined integrating and leveraging ICB funds to support and sustain access to intercity service connections for rural area residents. The ICB Study (2021) identified statewide priority connections for which TxDOT then solicited proposals in subsequent calls for projects conducted in 2022 and 2024. In both project calls, the state’s priorities for the 5311(f) program, including priority routes/connections identified in the 2021 study, and project application criteria were outlined in the project call instructions.

Changes were made between the 2022 and 2024 calls, with the differences being (1) removal of ‘transition’ funds for under-performing routes, (2) clarification on use of funds for public transit facilities, (3) emphasis on multi-modal passenger facilities as a focus for capital projects, (4) limits on the number of vehicles funded per call with a focus on supporting only those routes with a three year history of subsidy and demonstrated performance for continuation of subsidy.

We do not agree that these differences were “specifically designed to disqualify otherwise qualified uses of the ICB program” nor “done in order to satisfy [the] goal of moving funding out of the intercity bus program” as your letter suggests. The decision to fund routes with satisfactory performance as well as fleet to support those routes is simply being good stewards of government funds. The decision to fund multi-modal passenger facilities (as opposed to proportional share of operational, maintenance, or administrative facilities of public transit providers as described in the 2022 call) was made to maximize availability of ICB funds for facility projects that more closely align with the national objectives. (In recent years, TxDOT-PTN has focused its efforts to fund public transit provider operational, maintenance, and administrative facilities through USDOT NOFOs, not the 5311(f) program.) The decision to limit vehicle replacement with each call was made to more closely align with transit asset

management targets. Staggering fleet replacement allows for practical budgeting of fleet maintenance costs by providers and helps ensure routes are supported by fleet in a state of good repair.

#### **History of GLI projects funded by 5311(f)**

Service – Greyhound has a long history of providing service with rural connections in the state supported by subsidies from the ICB program where such routes are not otherwise profitable. The state tracks performance of these routes and works with Greyhound, through their applications in our biennial call for projects, to sustain routes with satisfactory performance as well as implement new routes serving rural communities. A large majority of our annual ICB allocation is distributed to Greyhound for this purpose.

Fleet - Greyhound historically included vehicle depreciation as an allocated expense in the total cost of providing service for each route subsidized with 5311(f) funds, rather than request the full capital outlay of an over the road coach. For years, TxDOT has stated in our call for projects that “over the road coaches may not be considered a priority and will only be funded up to a reasonably sized rural area fleet equivalent, based on Texas-based rural area ridership numbers”. Funding a proportional share of the benefit to the rural populations is in line with national and state program objectives. Since Greyhound is unable to discern the rural ridership on its subsidized routes sufficient to identify a proportional share, allocating the vehicle depreciation expense as part of the cost for each subsidize route has been an agreed upon practice for many years.

Facility – Decades ago TxDOT invested 5311(f) funds in ICB facilities for Greyhound and has since learned such investments are not in the best interest of the state. The state’s ability to maintain control over the federal investment in assets with a long-term useful life, such as construction of new facilities, is jeopardized due to the nature of for-profit companies. For-profit companies are subject to bankruptcy, restructuring, dismantling, or sell. As in the case with Greyhound who changed parent companies, from FirstGroup to Flix Bus in 2021. FirstGroup maintained control over the Greyhound properties, including government funded properties, sold those properties at a substantial profit and returned millions from the sale to shareholders. (Reference: FirstGroup Annual Report and Accounts 2022, also 2023 news article from Market Watch “FirstGroup Completes Greyhound Property Sale”). Some properties were slated to be leased back to Greyhound at market rates but our understanding is those properties are expected to be sold by First Group in the coming years, if they haven’t been already. FTA allowed Greyhound to depreciate the ICB grant funded properties based on remaining useful life, which is allowed by federal regulations, however, this resulted in a refund to the government worth a fraction of the properties sales value. Based on the state’s experience with the Greyhound properties as well as grant funded assets of other private for-profit carriers, TxDOT concluded that large capital investments of ICB funds to support assets with a long-term useful life for private for-profit carriers is not in the best interest of the state. This was communicated to Greyhound in a meeting in 2023. Your letter implies the refund is being used to fund Greyhound’s request for over the road coaches but in fact is being used to fund expansion of a passenger facility located in Austin, TX, owned and operated by Capital Area Rural Transportation System (CARTS). The facility needs expanding to accommodate increased foot traffic as a result of Greyhound’s closure of the Austin intercity bus terminal.

#### **Current Funding Recommendations for Greyhound**

Greyhound's proposed projects from the 2024 coordinated call for projects recommended for funding include:

- Service – 9 routes proposed by Greyhound that are consistent with national objectives and state priorities as outlined in the call (and referenced in the 2021 ICB Study) have been awarded funds (July 2024). 8 routes have a history of subsidy and performance that warrants continued subsidy, and 1 route through the IH 35 Corridor from Dallas to Austin with 2 rural connections has been awarded. The new route follows a portion of a priority route identified in the 2021 ICB Study but doesn't actually stop in one rural area recommended by the study. Still, TxDOT-PTN recommended it for award.
- Fleet – 4 over the road coaches in support of subsidized routes meeting the criteria for fleet investment will be recommended for funding. Rather than include depreciation as an allocated expense for subsidized routes, as has been their history, Greyhound elected to submit proposals for over the road coaches. Based on the fleet criteria outlined in the call for projects, to support subsidized routes with history of performance and need for continued subsidy, Greyhound has 4 routes that qualify for fleet. The cost of an over the road coach of \$750k is extraordinarily more than what may be reasonably necessary to support the rural ridership relevant to these 4 routes. While the average daily passenger counts for these routes, as reported by Greyhound, would suggest the need for an over the road coach, it is unlikely the proportional share of the rural ridership on those routes would. However, we recognize Greyhound uses over the road coaches for their entire network and in the spirit of compromise, TxDOT-PTN is recommending funds for consideration by the Texas Transportation Commission later this month for the full cost of the 4 vehicles.
- Facilities – Not only did Greyhound not follow the application instructions for the facility project to be considered as part of a competitive call for projects but as mentioned earlier, investment of ICB funds to support assets with a long-term useful life for private for-profit carriers, especially in UZAs, is not in the best interest of the state. (Note: Adherence to the application instructions was consistently applied across all aspects of the coordinated call for projects including the 5311 rural discretionary, 5311(b) RTAP, and 5304 planning programs.)

For reasons stated above, Greyhound's request for multiple over the road coaches or for a facility in Houston do not align with TxDOT's ICB program criteria and should not be funded.

#### The certification of needs met was pre-determined

The certification of funds was not predetermined as your letter implies. Over the last six years, PTN has implemented various efforts to focus more strategically on the 5311(f) program and the ICB needs of the state. These efforts include the ICB Strategic Direction Report (2019) and the ICB Study (2021) which informed the priorities outlined in the 2022 Coordinated Call for Projects and the 2024 Coordinated Call for projects. The series of events and timeline leading up to present time is outlined below:

- 2019 - ICB Strategic Direction Report, approved by PTAC
- 2021 - ICB Study, statewide focus on priorities and investment strategies, conducted by KFH Group
- 2022 - Coordinated Call for Projects - all project proposals eligible for funding and aligned with federal/state priorities were funded, (reference Minute Order 116278, July 2022)
- 2022 – Consultation with 5311 and ICB stakeholders conducted in Nov 2022, after the 2022 call for projects, with intent to certify the state's ICB needs met
- 2023 – Decision made to pause certification of needs met
- 2024 – Coordinated Call for projects – all project proposals eligible for funding and aligned with federal/state priorities were funded, reference Minute Order 116736, July 2024, as well as recommended action for upcoming Sept 2024 meeting of the Texas Transportation Commission.

- Present time – Second consultation with 5311 and ICB stakeholders, August 23, 2024, with intent to certify needs met.

TxDOT's statement that all ICB eligible projects were funded is an accurate statement. All projects that met the application criteria, objectives of national and state priorities from both the 2022 and 2024 Coordinated Call for Projects were funded or are being recommended for funding. Funding recommendations from the 2024 call for projects were formulated as early as May of 2024, after which time TxDOT-PTN began preliminary conversations regarding the potential use of the ICB residual funds with both PTAC and participants at the July 2024 Semi-Annual Operators mtg.

### Conclusion

TxDOT is authorized to implement a funding process that benefits the state of Texas. TxDOT's funding decisions are made in compliance with federal and state guidelines and the state's own priorities. The allocation of funds to the Rural Area Program is intended to address the most pressing transportation needs for rural mobility and connectivity, be amendable to the transportation needs of rural residence, and to ensure funds are used effectively as part of a strategic approach to enhance the state's overall transportation network.

We recognize the important role Greyhound plays in the larger intercity bus network in Texas. Nevertheless, Greyhound's need for funds as a private carrier, particularly for facilities in metropolitan areas to support larger aspects of their profit-making business, does not equate to the state's priorities for intercity bus service in support of rural mobility and connectivity. TxDOT maintains that all eligible projects meeting national objectives, state objectives and TxDOT's program priorities have been funded. (The ICB study identified other priority routes, but TxDOT did not receive proposals for those routes.)

TxDOT has gone through a lengthy process, starting in 2019, to identify ICB program priorities and investments, work with the industry to address those priorities over 2 separate calls for projects, resulting in fully funding the state's ICB service needs through fiscal year 2026. The next call for projects will start October of 2025, with distribution of funds for awarded projects slated for Sept 2026.

TxDOT, Public Transportation Division  
Sept 13, 2024

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**From:** Stephanie Gonterman <stephanie@isaacs-assoc.com>

**Sent:** Friday, September 6, 2024 4:06 PM

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**Subject:** TXDOT Stakeholder Consultation 8.23.24 GLI Comments

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Attached are Greyhound's comments in response to the August 23, 2024 Stakeholder Consultation.

Stephanie

Stephanie Gonterman

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