Report on CTD’s Policy and ADA Complementary Paratransit

Florida Commission for the Transportation Disadvantaged

June 30, 2021

Contact: Jeff Barbacci, CPA
Thomas Howell Ferguson P.A.
2615 Centennial Boulevard Ste 200
Tallahassee, Florida 32308
(850) 668-8100
Table of Contents

Contents

Executive Summary.................................................................................................................................................. 1

Introduction of the Transportation Desadvantaged Program......................................................................................... 3

Overview of ADA Complementary Paratransit Services .............................................................................................. 9

Impact of ADA Paratransit on the TD Program........................................................................................................ 18

CTD Public Workshops ................................................................................................................................................ 26
  Summary of Public Input........................................................................................................................................ 26
  Response to Opposing Comments ....................................................................................................................... 27

Recommendations .................................................................................................................................................... 33

Appendices

  Appendix A: Comparison of Terms and Definitions: TD Program vs ADA Paratransit Requirements
  Appendix B: Stakeholder Letters Received
  Appendix C: Public Workshop Meeting Summaries
  Appendix D: 1997 TD Trust Fund Eligibility Criteria
REPORT ON CTD’S POLICY ON ADA COMPLEMENTARY PARATRANSIT

Executive Summary

The Transportation Disadvantaged (TD) program was created within Chapter 427, Florida Statutes, to support transportation services for individuals with disabilities, persons with low-income, older adults, and children at-risk to access life-sustaining activities within their community. The program is administered by the Commission for the Transportation Disadvantaged (CTD), which oversees the coordination of TD services across Florida’s 67 counties through a network of Community Transportation Coordinators (CTCs). CTD administers the Transportation Disadvantaged Trust Fund (TDTF), which reimburses CTCs for the delivery of TD services that are not funded by other federal, state, or local government programs, known as “non-sponsored” transportation.

The U.S. Americans with Disabilities Act (ADA) is a comprehensive civil rights law that affords individuals with disabilities the right to access all areas of public life, including public transportation. The ADA requires transit entities that operate fixed route bus services to provide “complementary paratransit” services to individuals with disabilities who live within ¾ of a mile of a fixed route and cannot access the route itself due to their disability. Individuals who are eligible for ADA complementary paratransit services may be considered a subset of the broader population eligible for Florida’s TD program. This report examines the impact ADA paratransit services have on the broader TD program.

CTD Policy on ADA Complementary Paratransit Services

CTC-transit entities that operate fixed route bus services are federally required to provide ADA complementary paratransit services in addition to the TD non-sponsored services. For an individual who is determined dual eligible for TD non-sponsored and ADA complementary paratransit services, CTD authorizes the CTC’s use of TDTF dollars to:

- Purchase paratransit trips not covered under the ADA, including origins and destinations outside the fixed route corridors or during days/times outside the service hours of the fixed route; and
- Subsidize the rider’s fare for an ADA complementary paratransit trip, if the individual demonstrates a financial hardship that inhibits his or her ability to access ADA complementary paratransit services.

Notwithstanding these exceptions, CTD determined ADA complementary paratransit not eligible for reimbursement under the TDTF. This decision was based on the TDTF Eligibility Criteria established by CTD in 1997, as authorized under s. 427.0159(3), F.S., which directs CTCs to identify available transportation options (including public transit services) available to the individuals prior to determining them eligible for TDTF non-sponsored transportation. For individuals with disabilities who qualify for ADA complementary paratransit services, they are guaranteed access to transportation within the fixed route corridor under federal law, regardless of the availability of TDTF dollars to subsize their trips.

CTD Public Workshops

Beginning in 2016, CTD notified certain CTCs through their quality assurance reviews that TDTF dollars may not be used to supplant ADA complementary paratransit trips as these services are not eligible for reimbursement under the TDTF. In response to these findings, the Florida Public Transportation

Page | 1
Association (FPTA) and some CTCs contested this policy, citing that this was not a formal decision adopted by the Commission board but a change in interpretation made by CTD staff. FPTA provided several written letters and public testimonies requesting the Commission rescind this policy and allow CTCs to invoice TDTF non-sponsored trips for ADA eligible individuals within the fixed route corridor.

In response to these requests, CTD contracted with Thomas Howell Ferguson (THF) to assist in conducting public workshops and a thorough review of the policies governing TDTF non-sponsored services to determine whether CTD’s policy should be maintained or revised to comply with its statutory responsibilities. CTD hosted two virtual public workshops on February 25 and May 7, 2021. CTD provided presentations on its policies and eligibility criteria for non-sponsored services, including the reasons ADA paratransit services were determined ineligible for TDTF dollars, and invited stakeholders to provide public input on the information presented in the workshops. Summaries of both public workshops and the public input received from stakeholders, including letters and email correspondence submitted to CTD, are included within the appendixes of this report.

**Recommendations**

This report provides a comprehensive overview of the statutes and policies governing the Transportation Disadvantaged program, specifically how they relate to the delivery of non-sponsored services. It examines the impacts of the ADA on the TD program, particularly for CTC-transit entities that are required to provide complementary paratransit services to dual (TD-ADA) eligible individuals. The report discusses the public feedback received during the public workshops, including responses on some of the concerns raised by FPTA and CTCs that contest CTD’s position on ADA paratransit. It concludes with recommendations for the full Commission to consider in its policy decision.

Based on a thorough review of Chapter 427 and the policies governing non-sponsored transportation services purchased under the Transportation Disadvantaged Trust Fund, this report recommends:

1. **CTD maintain its policy on ADA complementary paratransit to ensure TDTF dollars are used in a way that maximizes cost-effectiveness and rider access to both ADA and non-ADA transportation.**

2. **The Commission should codify this policy explicitly within its TDTF Eligibility Criteria, where ADA paratransit is identified as a service option under “Public Transit” that must be explored prior to determining a TD individual eligible for non-sponsored services.**

3. **Regarding the equity and fair application of this policy, the Commission should also consider strategies to assist CTCs in implementing this policy, including training and technical assistance, quality assurance, and collection and analysis of program data on eligibility and services provided.**
Introduction of the Transportation Disadvantaged Program

*At the heart of this report is the question of whether the costs of complementary paratransit transportation, or trips, guaranteed under the Americans with Disabilities Act should be eligible for reimbursement under CTD’s Trip & Equipment Grant program.*

To answer this question above, a thorough understanding of both the Transportation Disadvantaged Trust Fund (TDTF) – specifically the funds distributed through the Commission’s grant programs – and the Americans with Disabilities Act (ADA) are necessary.

In 1979, the Florida Legislature created¹ the Transportation Disadvantaged (TD) program within Chapter 427, Florida Statutes, to support the coordination of transportation services for individuals who are “transportation disadvantaged.” The Legislature specifically defined the TD population as “persons who because of physical or mental disability, income status, or age are unable to transport themselves or to purchase transportation and are, therefore, dependent upon others to obtain access to health care, employment, education, shopping, social activities, or other life-sustaining activities.”² The TD population is comprised of individuals falling into one or a combination of the following four groups:

- Persons with Disabilities
- Individuals with Low-Income
- Older Adults
- At-Risk Children³

The Legislature recognized that there were state and federal programs that provided funding “to aid in the development and support of transportation services” to these individuals; however, there was no state policy guiding the coordination of these programs “required to produce transportation services fully responsive to the needs” of the TD population.⁴ Thus, the Legislature created the Commission for the Transportation Disadvantaged (CTD) to administer the TD program and “accomplish the coordination of transportation services provided to the transportation disadvantaged.”⁵

**Overview of the Florida Coordinated System**

---

¹ Chapter 427 was created through the passage of HB 1574 (Chapter 79-180, Laws of Florida).  
² Section 427.011(1), Florida Statutes.  
³ Defined in Section 411.202, Florida Statutes.  
⁴ Chapter 79-180, Laws of Florida.  
⁵ Section 427.013, Florida Statutes.
CTD is an independent state agency administratively assigned to the Florida Department of Transportation (FDOT) that reports directly to the Governor. CTD oversees the “Florida Coordinated System,” which is responsible for the arrangement of transportation services provided to the TD population across all 67 counties in the State of Florida. CTD contracts with a provider network designated within each county, known as “Community Transportation Coordinators” (CTCs). The Coordinated System also consists of Local Coordinating Boards (LCBs) and Designated Official Planning Agencies (DOPAs) that assist the CTCs in implementing the TD program within the local designated service area.

CTD is guided by a philosophy of centralized policy development and decentralized local implementation. To fulfill its statutory obligations, CTD develops policies and procedures for the coordination of transportation services for the TD population, which are implemented through Rule Chapter 41-2, Florida Administrative Code. CTD contracts with CTCs, typically for up to 5 years, to ensure the provision of transportation services within their designated service areas. While CTD establishes guidelines for TD eligibility within the parameters laid out in Florida Statutes, specific eligibility policies are ultimately determined at the local level (between the CTC and LCB) within such guidelines.

CTCs plan, administer, monitor, coordinate, arrange, and deliver coordinated TD services originating in their designated service areas. Designated service areas for a CTC consist of one or multiple counties, but never parts of any county. The majority of TD services consist of “paratransit” or “demand-responsive operations that are characterized by their nonscheduled, nonfixed route nature.”

---

6 A CTC may be a transit agency, governmental entity (such as a board of county commissioners), a not-for-profit organization, or private (for-profit) company.
7 Each of these entities have responsibilities outlined in Chapter 427: CTCs (s. 427.0155, F.S.), LCBs (s. 427.0157, F.S.), and DOPAs (s. 427.015, F.S.).
8 Chapter 427 defines “paratransit” as a service “between specific origins and destinations selected by the individual user with such service being provided at a time that is agreed upon by the user and provider of the service. Paratransit service is provided by taxis, limousines, ‘dial-a-ride,’ buses, and other demand-responsive operations that are characterized by their nonscheduled, nonfixed route nature” (s. 427.011(8), F.S.).
response” trips, which are provided between specific origins and destinations at a time scheduled between the individual rider and provider of service. If the CTC is a transit entity and/or provides TD services within a county with an urbanized area, it may also issue bus passes for TD eligible individuals to access the fixed route system. The funding structure for these services is discussed later in this section.

The Coordinated System encompasses multiple federal, state, and local government programs that fund (i.e., “sponsor”) transportation services to various segments of the TD population, in addition to what is funded by CTD. A CTC may work with these “purchasing agencies” to provide sponsored transportation to TD individuals who are enrolled in these programs. Some of these programs include Florida’s Medicaid Managed Medical Assistance (MMA) program, the Agency for Persons with Disabilities (APD) and the Department of Elder Affairs. CTCs may also receive other “transportation disadvantaged funds” to support the delivery of services to the TD population, such as grant funding to purchase vehicles under the Federal Transit Administration (FTA). All of these programs are captured within the county’s annual operating report (AOR), which is compiled by the CTC and submitted to CTD for publication in its statewide Annual Performance Report.

Transportation Disadvantaged Trust Fund “Non-Sponsored” Services

In 1989, the Legislature established the Transportation Disadvantaged Trust Fund (TDTF) in Section 427.0159, Florida Statutes. The TDTF is administered by CTD, where the majority of funds are used to purchase transportation services for TD eligible individuals to access activities that are not otherwise funded or provided by any other agency. These are defined as “non-sponsored transportation disadvantaged services,” which “are not sponsored or subsidized” by any other funding source. Section 427.0159(3), Florida Statutes, establishes the parameters of non-sponsored services:

Funds deposited in the trust fund may be used by the commission to subsidize a portion of a transportation disadvantaged person’s transportation costs which is not sponsored by an agency, only if a cash or in-kind match is required. Funds for nonsponsored transportation disadvantaged services shall be distributed based upon the need of the recipient and according to criteria developed by the Commission for the Transportation Disadvantaged.

From the perspective of state law, any individual who is part of the TD population is eligible to receive “non-sponsored” transportation services funded by the TDTF, although more stringent criteria may be set at the local level. However, an individual’s eligibility to receive such services is different from a service being eligible for reimbursement from the TDTF. In 1992, the Legislature amended Chapter 427 to address the funding limitations in meeting the needs of the TD population. It specifically directed CTD to develop “needs-based criteria” for CTCs to prioritize the delivery of non-sponsored transportation purchased with TDTF dollars. Rule 41-2.013, Florida Administrative Code, provides

---

9 “Purchasing agencies” are defined in s. 427.011(8), F.S., as agencies that purchase transportation services for the transportation disadvantaged. Several of these agencies are represented as ex officio, non-voting advisors to the Commission for the Transportation Disadvantaged, including FDOT.

10 This may include “funds for planning, Medicaid transportation, administration, operation, procurement, and maintenance of vehicles or equipment and capital investments” (s. 427.011(10), F.S.). These funds are separate from dollars used to purchase non-sponsored transportation under the TDTF.

11 The TDTF was established through the passage of CS/HB 1730 (Chapter 89-376, Laws of Florida).

12 Section 427.011(12), Florida Statutes.

13 Chapter 92-152, Laws of Florida (sections 82-88).

14 Section 427.013(23), Florida Statutes.
specific guidance on the use of TDTF dollars to purchase non-sponsored services through CTD’s grant programs:

Funds available through the Transportation Disadvantaged Trust Fund for non-sponsored transportation services and planning activities shall be applied only after all other potential funding sources have been used and eliminated. Grant funds shall not be used to supplant or replace funding of transportation disadvantaged services which are currently funded to a recipient by any federal, state, or local governmental agency.

CTD adopted the eligibility criteria\(^\text{15}\) for TDTF non-sponsored services in 1997. In order for a transportation service provided to a TD eligible individual to be eligible for TDTF reimbursement, the individual must, at minimum, meet the following criteria:

1) No availability of other funding or reimbursement (including self-pay) to support their transportation needs;
2) No other means of transportation available in their home or community, such as a family member, friend, etc.; and
3) No ability to access public transit fixed route services, if available in their community.

In other words, it is not enough for an individual to be eligible for TDTF-funded services in order for the TDTF to reimburse the costs associated with one of said individual’s trips, because the same individual may be simultaneously eligible for another program (e.g., Medicaid) that will provide access to the service. Alternatively, the trip may be made available through a family member or friend, or a public fixed route. CTCs, in collaboration with the LCB, are responsible for determining both eligibility and the need for TDTF non-sponsored services within their designated service area, based on the criteria established by CTD.

The majority of non-sponsored transportation services are paratransit trips funded through the Trip & Equipment (T&E) Grant program. Each year, CTD allocates T&E Grant funding to each CTC to support the

\(^{15}\) The criteria can be accessed at: http://ctd.fdot.gov/docs/AboutUsDocs/TDTrustFundEligibilityCriteriaAdoptedMay1997andFS427.pdf
delivery of non-sponsored services for its designated service area. CTD negotiates a rate to reimburse the CTC for delivering non-sponsored paratransit trips (ambulatory, wheelchair, etc.). The CTC is reimbursed with the allocated funds after such services are rendered for the month and certain documentation is submitted to CTD through invoices. CTD funds 90% of the costs of non-sponsored trips, with 10% of the costs matched by local funds, such as rider fares, local tax revenues, etc.

*It should be noted that “paratransit” here refers to demand-response (non-fixed route bus) trips purchased under the TDTF. This is not the same as “ADA complementary paratransit,” which refers to a specific type of paratransit trip provided under the fixed route system. The next section discusses ADA complementary paratransit services in more detail.*

In addition to paratransit trips purchased under the T&E Grant, CTCs may use TDTF dollars to issue bus passes for TD eligible individuals to access the fixed route system, if available in their community. Bus passes subsidize the individual’s fare to ride the fixed route system, which is a more cost-effective alternative to non-sponsored paratransit services. The rate of reimbursement for bus passes are usually based on the number of days for the individual to ride the fixed route (one day, one week, 10-day, one month, etc.).

For individuals with disabilities who live in a community with a fixed route system and cannot access it due to their disability, transit entities are required to provide “ADA complementary paratransit” services covered under the fixed route system. Many individuals who qualify for ADA complementary paratransit may be considered “dual eligible” for TDTF services. Ultimately though, the question of whether the costs of ADA complementary paratransit should qualify for TDTF reimbursement is one of the trip’s eligibility for reimbursement, not the rider’s eligibility to receive the trip.

Currently, ADA complementary paratransit services are not eligible for reimbursement for TDTF dollars (i.e., the CTD rate for non-sponsored paratransit trips); however, some CTCs use TDTF dollars to subsidize the individual’s fare for ADA paratransit trips, similar to how bus passes subsidize the fare for the fixed route system. CTD’s policy on ADA paratransit services is examined further in the “ADA Impacts on TD Program” section, which is discussed on page 18.

**TD Eligibility Groupings**

As the Coordinated System is made up of various programs that intersect in serving the needs of the TD population, the chart below provides a visual breakdown of eligible groups being served by these programs.
The “TD Population” represents the broadest eligibility group being served by the Coordinated System. It encompasses four groups of individuals (persons with disabilities, older adults, individuals with low-income, and at-risk children), who have transportation barriers that inhibit their access to various activities within the community. Individuals who are eligible for “TDTF non-sponsored” services represent a subset within the TD population. These individuals specifically require trips and/or financial subsidies to access public transportation that are otherwise not available in their community. The CTC must demonstrate that these individuals have: 1) no other funding source “sponsoring” their trips; 2) no other means of transportation available in their home or community; and 3) no ability to access public transit fixed route services to qualify for non-sponsored services.

Individuals with disabilities are one of the four groups identified within the TD population. For individuals with disabilities who live within a community that provides fixed route services to the general public, they may be eligible to receive “ADA Complementary Paratransit” if they cannot access the route itself due to their disability. This group is examined further in the next section. For individuals who are dual eligible for ADA and non-sponsored services, TDTF dollars may be used to purchase paratransit trips not covered under the ADA, such as destinations outside of the fixed route corridor.

Finally, TD eligible individuals may qualify for transportation services under other “sponsored” programs. This represents the smallest group within the TD population because these programs usually have very specific eligibility criteria. “Sponsored” trips tend to support access to specific activities, such as medical appointments or day care programs. Some of these programs may contract with the CTCs to purchase “sponsored” transportation to their constituents.
Overview of ADA Complementary Paratransit Services

The U.S. Americans with Disabilities Act (ADA) of 1990 is a comprehensive civil rights law that affords individuals with disabilities the right to access all areas of public life, including public transportation. It laid out national goals for creating equal access and opportunities for individuals with disabilities, including assuring they have an equal chance to fully participate in society, are able to live independently, and can be economically self-sufficient. Title II of the ADA specifically impacts public transportation, which prohibits discrimination against individuals with disabilities in all public services.

In 1991, the U.S. Department of Transportation published the regulations to implement the provision of the ADA pertaining to public transportation (49 CFR Part 37). The regulations included:

- General requirements on non-discrimination and definitions.
- Accessibility requirements for transportation facilities and vehicles (by both public and private entities).
- Requirements for the provision of transportation services.
- Requirements for paratransit services provided as a complement of the fixed route system.

This report focuses primarily on the ADA requirements pertaining to “complementary paratransit” services that are provided to individuals with disabilities who live within a fixed route system (Sections 37.121 – 37.155). Specifically, this section discusses the extent to which these requirements impact transit entities responsible for providing ADA complementary paratransit services. This report later discusses the impacts these requirements have had on Florida’s Coordinated System in serving individuals with disabilities who are dual eligible for TDF non-sponsored services.

*It should be noted that this section refers to “paratransit” and “eligibility” within the context of “ADA complementary paratransit” services required by the federal government, which is separate from what is required by CTD and other programs. These paratransit services are specifically defined as “complementary” to indicate they function as a complement to fixed route transit services – “complementary” does not mean “free” transportation.*

Eligibility Requirements

The Federal Transit Administration (FTA) is the federal entity responsible for implementing the provisions of the ADA pertaining to complementary paratransit services. Sections 37.123 and 37.125 define the eligibility criteria for individuals with disabilities who qualify for ADA paratransit services. FTA clarifies that “disability alone does not determine paratransit eligibility; the decision is based on the applicant’s functional ability to use the fixed route bus and is not a medical decision.” The following individuals are identified as “ADA paratransit eligible” under 49 CFR 37.123(e):

- An individual with a disability who is unable, as a result of a physical or mental impairment (including a visual impairment), to board, ride, or disembark from any vehicle on the fixed route system, without the assistance of others;

---

16 These regulations can be accessed at: [https://www.law.cornell.edu/cfr/text/49/part-37/subpart-F](https://www.law.cornell.edu/cfr/text/49/part-37/subpart-F)
• An individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device to board, ride, or disembark from any vehicle; and/or
• An individual with a disability who has a specific impairment-related condition that prevents the individual from traveling to a boarding location or from a disembarking location on the fixed route system.

Transit entities are also required to permit at least one person to accompany the ADA paratransit rider, such as a family member or personal care attendant.\(^{18}\) If an individual is eligible for ADA paratransit in his or her place of residence, that same individual has the right to use ADA complementary paratransit services in another U.S. city where he or she is traveling.\(^{19}\)

Section 37.125 outlines the process that all transit entities must use in determining ADA paratransit eligibility, including:

• The determination must be made within 20 days after receipt of a complete application.
• Written notification of the determination must be sent to the individual, including (if applicable) the reason why the individual was determined ineligible.
• An administrative appeal process must be established through which individuals who are denied eligibility can obtain review of the denial.
• The transit entity is permitted to require recertification of the eligibility from individuals at reasonable intervals. The transit entity is also permitted to establish an administrative process to suspend, for a reasonable period of time, paratransit services to ADA eligible individuals who establish a pattern or practice of missing scheduled trips.

Service Requirements

Section 37.3 defines “paratransit” as a “comparable transportation service required by the ADA for individuals with disabilities who are unable to use fixed route transportation systems.” Paratransit is further defined as an “origin-to-destination service” that can be provided in a curb-to-curb or door-to-door mode.

Section 37.131 provides the requirements for transit entities to deliver ADA complementary paratransit services. These requirements fall within the following six categories:

Service Area – The entity shall provide complementary paratransit service to origins and destinations within corridors with a width of \(\frac{3}{4}\) of a mile on each side of each fixed route. Outside the core service area, the entity may designate corridors with widths from \(\frac{3}{4}\) of a mile up to \(1\frac{1}{2}\) miles on each side of a fixed route, based on local circumstances.

Response Time – The entity shall schedule and provide ADA paratransit services to any eligible person at any requested time during at least all normal business hours of the entity’s administrative offices, as well as during times, comparable to normal business hours, on a day when the entity’s offices are not open before a service day. The entity may negotiate pickup times with the individual, but the entity shall not require the individual to schedule a trip to begin more than one hour before or after the individual’s desired departure time. The entity

\(^{18}\) 49 CFR 37.123(f).
\(^{19}\) 49 CFR 37.127.
may also permit advance reservations to be made up to 14 days in advance of an eligible individual’s desired trips.

**Fares** – The fare for an ADA paratransit trip charged to a rider shall not exceed twice the fare that would be charged to an individual paying full fare (i.e., without regard to discounts) for a trip of similar length, at a similar time of day, on the entity’s fixed route system. However, the entity may charge a higher fare to a social service agency or other organization that purchases ADA paratransit trips (i.e., trips guaranteed to the agency).

**Trip Purpose Restrictions** – The entity shall not impose restrictions or priorities based on trip purpose.

**Hours and Days of Services** – ADA complementary paratransit services shall be available throughout the same hours and days as the entity's fixed route service.

**Capacity Constraints** – The entity shall not limit the availability of ADA complementary paratransit services to eligible riders based on the number of trips, waiting lists, or any operational pattern or practice that limits the availability of service to the individual (such as a substantial number of trip denials or missed trips).

**Funding**

Though transit entities are ultimately responsible for a large portion of the costs of ADA complementary paratransit trips, the services may be funded through a combination of revenue sources. At the federal level, transit entities may use a portion of funds received through FTA’s grant programs to support some of the operating expenses related to ADA paratransit services. These programs include:

**Formula Funding for Urbanized Areas (5307)**\(^{20}\) – The program provides federal resources to urbanized communities, with populations of 50,000 or more, to support a variety of transportation-related activities, including capital investments and operating assistance for transit-related expenses. Transit entities may use a portion of 5307 funds to support some of the operating expenses related to ADA complementary paratransit services. The federal share of grant funding may not exceed 80% of the net project costs of capital expenditures.

**Enhanced Mobility of Seniors and Individuals with Disabilities (5310)**\(^{21}\) – The program provides resources to private nonprofit organizations to assist in serving older adults and persons with disabilities “when public transportation is insufficient, unavailable or inappropriate”\(^{22}\) in meeting their needs. Eligible projects funded under 5310 may include purchase of vehicles, preventative maintenance, and capital costs in contracting for the provision of services to seniors and persons with disabilities. Additionally, up to 45% of 5310 funds may be used for transportation projects that exceed the minimum requirements of the ADA, improve access to fixed route services, and provide alternative transportation options to individuals with disabilities and seniors.

---

\(^{20}\) More information on the 5307 grant program can be accessed at: [https://www.transit.dot.gov/funding/grants/urbanized-area-formula-grants-5307](https://www.transit.dot.gov/funding/grants/urbanized-area-formula-grants-5307).


\(^{22}\) *Id.*
Formula Funding for Rural Areas (5311) – The program assists rural communities, with populations less than 50,000, to support a variety of operating and capital projects. Operating projects may include provision of ADA complementary paratransit, with a maximum federal share of 50% of net operating deficit. Capital projects may include purchase of accessible vehicles and modification of equipment or facilities to improve accessibility. The maximum federal share for 5311 capital projects is usually 80%

In addition to the federal resources available, transit entities may receive local and state revenues to supplement some of the costs of delivering ADA complementary paratransit services. As discussed in the previous subsection on “Service Requirements,” transit entities are limited in charging ADA riders no more than twice the fare of the fixed route. However, a transit entity may charge higher rates to agencies that “sponsor” paratransit trips beyond what is covered under the ADA. These agency “sponsored” services are discussed further below.

Reporting

The offering of ADA complementary paratransit services is a federal civil rights requirement of all transit systems in the U.S., and therefore the services are seen as a form of public transportation just like fixed route services. As part of their annual reporting requirements to FTA’s National Transit Database (NTD), all transit systems must—to an extent—break out both trip and financial data specific to their compliance with ADA requirements. Reviewing this data helps to get a sense of:

1) What trips are taking place and where;
2) How ADA trips fit within public transportation more broadly; and
3) How public transportation, including ADA complementary paratransit, is supported financially.

Unlinked Passenger Trips

According to the 2018 NTD Policy Manual, unlinked passenger trips, or UPT, “is the number of boardings on public transportation vehicles during the fiscal year. Transit agencies must count passengers each time they board vehicles, no matter how many vehicles they use to travel from their origin to their destination.” Put more simply UPT reported in the NTD are just data on trips delivered through public transportation, and there are three types of trips reported: Total UPT, ADA UPT, and Sponsored UPT.

The NTD Policy Manual’s description of ADA UPT mirrors that for Total UPT: “ADA UPT is the number of passenger boardings on public transportation vehicles for complementary paratransit services associated with or attributed to the ADA compliance requirements.” The manual clarifies that ADA UPT is to be included in total UPT, but excluded from sponsored UPT:

23 More information on the 5311 grant program can be accessed at: https://www.transit.dot.gov/rural-formula-grants-5311.
24 https://www.transit.dot.gov/ntd
Note: Transit agencies should make sure to include the ADA UPT in Total UPT as well. Transit agencies should not include ADA UPT under Sponsored UPT. ADA-related UPT should not include any sponsored services.

As for Sponsored UPT, the NTD Policy Manual describes this type of trip as “paid in whole or in part by a third party who, in many cases, handles trip arrangements,”28 and lists the following “common” examples of such third parties:

- Medicaid
- Meals-On-Wheels
- Head Start
- The Arc of the United States
- Shelter Workshops
- Independent living centers

The NTD “considers these [sponsored] services as public transportation if they are part of a coordinated human services transportation plan and there is attempt to group rides. Local areas develop coordinated plans to identify transportation needs and assist individuals with disabilities, older adults, and people with low incomes.”29 As with ADA UPT, the NTD Policy Manual clarifies: “Transit agencies must include sponsored UPT in their total regular UPT.”30

Below is a table of Total, ADA, and Sponsored UPT reported by transit agencies in Florida for 2019. “UPT-Other” is calculated by subtracting the ADA and Sponsored UPT from the Total UPT.

---

The costs associated with providing unlinked passenger trips are reported by transit agencies to the NTD as “Operational Expenses,” and expenses related to operating ADA complementary paratransit must be broken out.\(^{31}\)

Transit agencies must identify the portion of total expenses directly related to operating complementary paratransit services in compliance with the ADA requirements. Transit agencies must report total operating expenses for demand response and demand response-taxi modes. However, agencies may estimate ADA related expenses using a reasonable approach, such as the proportion of ADA trips to total trips.

The costs associated with providing unlinked passenger trips are covered by revenues, or what the NTD refers to as “Funds Earned.” In addition to “Non-Added Revenues” which are minimal and rare, the NTD Policy Manual identifies four major sources of funds:\(^{32}\)


### Expenses and Funds Earned

<table>
<thead>
<tr>
<th>Transit Agency</th>
<th>UPT-ADA</th>
<th>UPT-Sponsored</th>
<th>UPT-Other</th>
<th>Total UPT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pinellas Suncoast Transit Authority</td>
<td>324,736</td>
<td>0</td>
<td>13,290,898</td>
<td>13,615,634</td>
</tr>
<tr>
<td>Lakeland Area Mass Transit District</td>
<td>79,926</td>
<td>0</td>
<td>2,144,845</td>
<td>2,224,771</td>
</tr>
<tr>
<td>Central Florida Regional Transportation Authority</td>
<td>410,210</td>
<td>0</td>
<td>26,610,308</td>
<td>25,020,518</td>
</tr>
<tr>
<td>City of Tallahassee</td>
<td>96,758</td>
<td>66,163</td>
<td>3,480,510</td>
<td>3,643,431</td>
</tr>
<tr>
<td>Jacksonville Transportation Authority</td>
<td>329,777</td>
<td>47,386</td>
<td>11,237,289</td>
<td>11,614,527</td>
</tr>
<tr>
<td>Hillsborough Area Regional Transit Authority</td>
<td>196,897</td>
<td>0</td>
<td>12,910,703</td>
<td>13,107,500</td>
</tr>
<tr>
<td>Council on Aging of St. Lucie, Inc.</td>
<td>18,033</td>
<td>0</td>
<td>733,660</td>
<td>751,693</td>
</tr>
<tr>
<td>Indian River County</td>
<td>32,947</td>
<td>0</td>
<td>1,226,631</td>
<td>1,259,578</td>
</tr>
<tr>
<td>Lake County Board of County Commissioners</td>
<td>20,235</td>
<td>0</td>
<td>452,460</td>
<td>472,695</td>
</tr>
<tr>
<td>Martin County</td>
<td>3,798</td>
<td>0</td>
<td>101,698</td>
<td>105,496</td>
</tr>
<tr>
<td>Manatee County Board of County Commissioners</td>
<td>40,467</td>
<td>25,434</td>
<td>1,508,395</td>
<td>1,574,306</td>
</tr>
<tr>
<td>Lee County</td>
<td>140,593</td>
<td>0</td>
<td>3,040,309</td>
<td>3,180,902</td>
</tr>
<tr>
<td>Broward County Board of County Commissioners</td>
<td>604,912</td>
<td>209,460</td>
<td>26,486,083</td>
<td>27,300,565</td>
</tr>
<tr>
<td>City of Gainesville, FL</td>
<td>56,719</td>
<td>0</td>
<td>919,388</td>
<td>925,107</td>
</tr>
<tr>
<td>County of Volusia</td>
<td>256,370</td>
<td>0</td>
<td>3,236,355</td>
<td>3,492,725</td>
</tr>
<tr>
<td>County of Miami-Dade</td>
<td>1,777,925</td>
<td>0</td>
<td>77,800,693</td>
<td>79,578,618</td>
</tr>
<tr>
<td>Board of County Commissioners, Palm Beach County</td>
<td>812,773</td>
<td>0</td>
<td>9,290,018</td>
<td>10,102,791</td>
</tr>
<tr>
<td>Escambia County Board of County Commissioners, FL</td>
<td>55,425</td>
<td>5,302</td>
<td>1,443,898</td>
<td>1,504,625</td>
</tr>
<tr>
<td>Sarasota County</td>
<td>152,176</td>
<td>0</td>
<td>2,471,969</td>
<td>2,624,145</td>
</tr>
<tr>
<td>Brevard Board of County Commissioners</td>
<td>6,334</td>
<td>0</td>
<td>2,328,950</td>
<td>2,335,284</td>
</tr>
<tr>
<td>Pasco County Board of County Commissioners</td>
<td>14,540</td>
<td>8,336</td>
<td>903,895</td>
<td>926,771</td>
</tr>
<tr>
<td>Collier County</td>
<td>79,635</td>
<td>0</td>
<td>834,092</td>
<td>913,727</td>
</tr>
<tr>
<td>Flagler County Public Transportation</td>
<td>15,471</td>
<td>0</td>
<td>87,668</td>
<td>103,139</td>
</tr>
</tbody>
</table>

* Source: Urban Integrated National Transit Database Form S-10; Accessed at: https://ftis.org/urban_iNTD.aspx

For more explanation of unlinked passenger trips (UPT) data, including ADA and Sponsored UPT, see pages 126 - 128 of the https://ftis.org/NTD-Urban/S10-2018.pdf
Directly Generated Funds
Local Government Sources of Funds
State Government Sources of Funds
Federal Government Sources of Funds

These four major sources of funds must cover, or match, operational and capital expenses, reported by transit agencies in other parts of the NTD. To take the example of Hillsborough Area Regional Transit Authority (HART) in 2019:

<table>
<thead>
<tr>
<th>EXPENSES</th>
<th>FUNDS EARNED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Operational Expenses</td>
<td>$ 84,770,381</td>
</tr>
<tr>
<td>ADA-Related Operational Expenses</td>
<td>$ 6,737,961</td>
</tr>
<tr>
<td>All Other Operational Expenses</td>
<td>$ 78,032,420</td>
</tr>
<tr>
<td>Total Capital Expenses</td>
<td>$ 14,565,935</td>
</tr>
<tr>
<td>TOTAL EXPENSES</td>
<td>$ 99,336,316</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FUNDS EARNED</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Directly Generated Funds</td>
<td>$ 14,585,234</td>
</tr>
<tr>
<td>Local Government Funds</td>
<td>$ 51,366,009</td>
</tr>
<tr>
<td>State Government Funds</td>
<td>$ 9,267,197</td>
</tr>
<tr>
<td>Federal Government Funds</td>
<td>$ 24,117,876</td>
</tr>
<tr>
<td>TOTAL FUNDS EARNED</td>
<td>$ 99,336,316</td>
</tr>
</tbody>
</table>

Similar to other transit agencies, HART derives the bulk of its Directly Generated Funds from passenger fares, and Local Government Funds from sales and property taxes. State Government Funds tend to comprise the smallest category. Federal Government Funds can vary more from one transit agency to another, depending on the receipt of different federal grant monies. Detail on HART’s Federal Government Funds in 2019 is provided below, showing that the bulk of funding came from FTA Urbanized Area Formula Program Funds ($5307).

2019 Hillsborough Area Regional Transit Authority

<table>
<thead>
<tr>
<th>FEDERAL GOVERNMENT FUNDS</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>FTA and ARRA Urbanized Area Funds ($5307)</td>
<td>$ 21,452,193</td>
</tr>
<tr>
<td>FTA and ARRA Other Than Urbanized Area Funds ($5311)</td>
<td>$ -</td>
</tr>
<tr>
<td>FTA Enhanced Mobility of Seniors and Individuals with Disabilities ($5310)</td>
<td>$ 701,145</td>
</tr>
<tr>
<td>$5307, $5311, and $5310: Total</td>
<td>$ 22,153,338</td>
</tr>
<tr>
<td>FTA Job Access and Commute ($5316)</td>
<td>$ -</td>
</tr>
<tr>
<td>FTA New Freedom Program ($5317)</td>
<td>$ -</td>
</tr>
<tr>
<td>FTA Capital Program Funds ($5309)</td>
<td>$ 17,828</td>
</tr>
<tr>
<td>Bus and Bus Facilities Formula Funds ($5339)</td>
<td>$ 1,226,108</td>
</tr>
<tr>
<td>State of Good Repair ($5337)</td>
<td>$ 67,778</td>
</tr>
<tr>
<td>$5309, $5339, and $5337: Total</td>
<td>$ 1,311,714</td>
</tr>
<tr>
<td>FTA Metropolitan Planning $5303</td>
<td>$ -</td>
</tr>
<tr>
<td>FTA Clean Fuels Program $5308</td>
<td>$ -</td>
</tr>
<tr>
<td>ARRA TIGGER Greenhouse Gas and Energy Reduction</td>
<td>$ -</td>
</tr>
<tr>
<td>Other FTA Funds</td>
<td>$ 110,000</td>
</tr>
<tr>
<td>Other USDOT Grant Funds</td>
<td>$ 542,824</td>
</tr>
<tr>
<td>Other Federal Funds</td>
<td>$ -</td>
</tr>
<tr>
<td>Other FTA, USDOT Grant, and Federal Funds: Total</td>
<td>$ 652,824</td>
</tr>
<tr>
<td>ARRA TIGER Multimodal Discretionary Funds</td>
<td>$ -</td>
</tr>
<tr>
<td>TOTAL FEDERAL GOVERNMENT FUNDS</td>
<td>$ 24,117,876</td>
</tr>
</tbody>
</table>
The NTD Policy Manual specifically states that “Transit agencies may use §5307 for

- Capital projects
- Planning
- Operating assistance in UZAs\(^{33}\) with populations less than 200,000
- Preventative maintenance (capital funds spent on operations)
- Complementary paratransit services operated to meet ADA requirements.”\(^{34}\)

Both preventative maintenance and ADA complementary paratransit are operational expenses that the FTA will consider as capital costs, which makes some of these expenses eligible for enhanced matching rates under the grant.\(^{35}\)

All preventive maintenance and some Americans with Disabilities Act complementary paratransit service costs are considered capital costs . . . The federal share is not to exceed 80 percent of the net project cost for capital expenditures. The federal share may be 90 percent for the cost of vehicle-related equipment attributable to compliance with the Americans with Disabilities Act and the Clean Air Act. The federal share may not exceed 50 percent of the net project cost of operating assistance.

The NTD does not break out to a level where it is possible to make a direct link between Funds Earned spent on ADA-related operational expenses, but it does break out “capital assistance spent on operations” on Form F10.

Below is a table of ADA-Related and Other Operational Expenses, Funds for Capital Assistance Expended on Operations, All Other Funds Expended on Operations, and Funds Expended in Capital. Total Operational Expenses are supposed to always equal Total Funds Expended on Operations, though submission errors do (rarely) sometimes happen.

---

\(^{33}\) Urbanized Areas


\(^{35}\) https://www.transit.dot.gov/funding/grants/urbanized-area-formula-grants-5307
## Transit Agency

### 2019

<table>
<thead>
<tr>
<th>Transit Agency</th>
<th>ADA-Related Operational Expenses</th>
<th>All Other Operational Expenses</th>
<th>Total Operational Expenses</th>
<th>Funds for Capital Assistance Expended on Operations</th>
<th>All Other Funds Expended on Operations</th>
<th>Total Funds Expended on Operations</th>
<th>Funds Expended on Capital</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pinellas Suncoast Transit Authority</td>
<td>$5,802,338</td>
<td>$75,440,483</td>
<td>$81,298,821</td>
<td>$2,628,215</td>
<td>$78,670,606</td>
<td>$81,298,821</td>
<td>$21,755,304</td>
</tr>
<tr>
<td>Lakeland Area Mass Transit District</td>
<td>$6,379,439</td>
<td>$11,820,900</td>
<td>$18,200,339</td>
<td>$979,409</td>
<td>$17,221,300</td>
<td>$18,200,339</td>
<td>$1,954,146</td>
</tr>
<tr>
<td>Central Florida Regional Transportation Authority</td>
<td>$15,406,772</td>
<td>$125,848,860</td>
<td>$141,255,632</td>
<td>$13,567,435</td>
<td>$127,688,197</td>
<td>$141,255,632</td>
<td>$17,902,503</td>
</tr>
<tr>
<td>City of Tallahassee</td>
<td>$3,153,842</td>
<td>$17,658,047</td>
<td>$20,811,889</td>
<td>-</td>
<td>$20,811,889</td>
<td>$20,811,889</td>
<td>$11,573,594</td>
</tr>
<tr>
<td>Jacksonville Transportation Authority</td>
<td>$8,850,143</td>
<td>$105,430,905</td>
<td>$114,281,048</td>
<td>-</td>
<td>$108,187,679</td>
<td>$114,281,048</td>
<td>$23,639,997</td>
</tr>
<tr>
<td>Hillsborough Area Regional Transit Authority</td>
<td>$6,737,961</td>
<td>$78,032,420</td>
<td>$84,770,381</td>
<td>$6,093,369</td>
<td>$114,281,048</td>
<td>$84,770,381</td>
<td>$14,565,935</td>
</tr>
<tr>
<td>Council on Aging of St. Lucie, Inc.</td>
<td>$641,793</td>
<td>$5,358,817</td>
<td>$6,000,610</td>
<td>$13,407,666</td>
<td>$71,362,715</td>
<td>$84,770,381</td>
<td>$1,285,450</td>
</tr>
<tr>
<td>Indian River County</td>
<td>$1,088,728</td>
<td>$3,007,526</td>
<td>$4,096,254</td>
<td>$700,671</td>
<td>$5,299,939</td>
<td>$6,000,610</td>
<td>$366,177</td>
</tr>
<tr>
<td>Lake County Board of County Commissioners</td>
<td>$450,061</td>
<td>$7,033,228</td>
<td>$7,483,287</td>
<td>$626,704</td>
<td>$3,465,550</td>
<td>$4,096,254</td>
<td>$845,646</td>
</tr>
<tr>
<td>Martin County</td>
<td>$300,974</td>
<td>$2,036,453</td>
<td>$2,337,427</td>
<td>-</td>
<td>$2,337,427</td>
<td>$2,337,427</td>
<td>$181,136</td>
</tr>
<tr>
<td>Manatee County Board of County Commissioners</td>
<td>$1,862,884</td>
<td>$13,235,429</td>
<td>$15,098,313</td>
<td>$1,932,865</td>
<td>$13,165,448</td>
<td>$15,098,313</td>
<td>$4,957,361</td>
</tr>
<tr>
<td>Lee County</td>
<td>$6,894,577</td>
<td>$17,495,390</td>
<td>$24,385,967</td>
<td>$1,176,714</td>
<td>$22,671,514</td>
<td>$24,900,967</td>
<td>$5,329,039</td>
</tr>
<tr>
<td>Broward County Board of County Commissioners</td>
<td>$20,164,385</td>
<td>$133,656,003</td>
<td>$153,820,388</td>
<td>$10,347,990</td>
<td>$146,172,398</td>
<td>$153,820,388</td>
<td>$7,860,553</td>
</tr>
<tr>
<td>City of Gainesville, FL</td>
<td>$2,043,610</td>
<td>$27,461,325</td>
<td>$29,504,935</td>
<td>-</td>
<td>$29,504,935</td>
<td>$29,504,935</td>
<td>$2,385,870</td>
</tr>
<tr>
<td>County of Volusia</td>
<td>$8,380,573</td>
<td>$18,563,723</td>
<td>$26,942,296</td>
<td>$3,599,748</td>
<td>$23,342,548</td>
<td>$26,942,296</td>
<td>$8,313,868</td>
</tr>
<tr>
<td>County of Miami-Dade</td>
<td>$59,100,022</td>
<td>$575,564,709</td>
<td>$634,664,731</td>
<td>$54,112,898</td>
<td>$580,551,833</td>
<td>$634,664,731</td>
<td>$235,194,027</td>
</tr>
<tr>
<td>Board of County Commissioners, Palm Beach County</td>
<td>$26,823,005</td>
<td>$71,329,463</td>
<td>$98,152,468</td>
<td>$4,280,865</td>
<td>$93,871,603</td>
<td>$98,152,468</td>
<td>$7,923,272</td>
</tr>
<tr>
<td>Escambia County Board of County Commissioners, FL</td>
<td>$1,793,661</td>
<td>$11,335,360</td>
<td>$13,127,021</td>
<td>$1,273,402</td>
<td>$11,535,360</td>
<td>$13,127,021</td>
<td>$388,599</td>
</tr>
<tr>
<td>Sarasota County</td>
<td>$4,648,453</td>
<td>$24,932,761</td>
<td>$29,581,214</td>
<td>$2,696,114</td>
<td>$26,885,100</td>
<td>$29,581,214</td>
<td>$956,611</td>
</tr>
<tr>
<td>Brevard Board of County Commissioners</td>
<td>$99,460</td>
<td>$14,248,070</td>
<td>$14,347,530</td>
<td>$3,364,515</td>
<td>$10,983,015</td>
<td>$14,347,530</td>
<td>$306,114</td>
</tr>
<tr>
<td>Pasco County Board of County Commissioners</td>
<td>$431,729</td>
<td>$8,600,407</td>
<td>$9,032,136</td>
<td>$1,394,976</td>
<td>$7,637,160</td>
<td>$9,032,136</td>
<td>$3,375,421</td>
</tr>
<tr>
<td>Collier County</td>
<td>$3,442,282</td>
<td>$7,597,585</td>
<td>$11,040,067</td>
<td>$1,075,161</td>
<td>$9,964,426</td>
<td>$11,040,067</td>
<td>$1,611,161</td>
</tr>
<tr>
<td>Flagler County Public Transportation</td>
<td>$224,327</td>
<td>$1,271,187</td>
<td>$1,495,514</td>
<td>-</td>
<td>$1,495,514</td>
<td>$1,495,514</td>
<td>$344,258</td>
</tr>
</tbody>
</table>

* Source: Urban Integrated National Transit Database Forms F-40 and F-10; Accessed at: [https://ftis.org/urban_iNTD.aspx](https://ftis.org/urban_iNTD.aspx)

For more explanation of operating expenses data, including ADA-related expenses, see page 100 of the 2018 NTD Policy [https://ftis.org/NTD-Urbn/P-10-2018.pdf](https://ftis.org/NTD-Urbn/P-10-2018.pdf)

For more explanation of funds earned/ expended, see pages 69-85 of the 2018 NTD Policy Manual at: [https://ftis.org/NTD-Urbn/P-10-2018.pdf](https://ftis.org/NTD-Urbn/P-10-2018.pdf)
Impact of ADA Paratransit on the TD Program

This section examines the impacts of ADA paratransit services on the TD program, particularly on the CTC-transit entities responsible for delivering services to dual eligible individuals. It also discusses the reasons CTD determined ADA complementary paratransit services ineligible for reimbursement under the TDTF.

As mentioned in the previous sections of this report, individuals with disabilities who live within communities with fixed route bus services may be dually eligible for ADA complementary paratransit and non-sponsored services under the Transportation Disadvantaged Trust Fund (TDTF). These services are similar in that both programs support the delivery of "paratransit" (demand-response) trips to individuals with disabilities who cannot access the fixed route; however, these programs have different sets of eligibility criteria, geographic areas of coverage, and operational requirements of paratransit providers. The table in appendix A provides a comparison of the similarities and differences between the two programs.

The map below provides a breakdown of the Community Transportation Coordinators (CTCs) that are impacted by ADA complementary paratransit services. The blue counties represent CTCs that operate fixed route services (referred to in this report as “CTC-transit entities”), which are required to provide both ADA complementary paratransit and TDTF non-sponsored services. These entities are the most affected by CTD’s policy pertaining to ADA paratransit (discussed further in this section). The red counties represent CTCs that are not transit entities but provide TDTF services within a community where fixed route/ADA paratransit services are provided by another entity. The counties that are not color coded do not have fixed route/ADA paratransit services within their communities, but have a CTC providing paratransit services under the TDTF.

---

36 Some of these CTCs may coordinate with the transit entity in delivering ADA paratransit services to TD eligible individuals or directly provide ADA paratransit services as a subcontracted transportation provider for the transit entity.
The timeline above provides historical context of the creation and implementation of the TD program and ADA. As mentioned in the introduction section, the TD program was established by the Florida Legislature in 1979. Between 1979 and 1989, the “Coordinating Council on the Transportation Disadvantaged” was responsible for fostering the coordination of TD services across the state. During this period, Florida’s Coordinated System was charged with reducing the “fragmentation and duplication of service provision among all the state and federally funded programs” serving the TD population.\(^{37}\) In 1989, the Legislature established the Transportation Disadvantaged Trust Fund, transitioned the Coordinating Council into the Commission, and defined the roles and responsibilities of Community Transportation Coordinators and Local Coordinating Boards (LCBs).\(^{38}\)

On July 26, 1990, President George H.W. Bush signed the U.S. Americans with Disabilities Act. On September 6, 1991, the U.S. Department of Transportation published its regulations to implement the provisions of the ADA pertaining to public transportation, including the requirements for fixed route systems to provide complementary paratransit services. Local transit systems were required to develop and submit “complementary paratransit plans” to the Federal Transit Administration (FTA) to help begin implementing these provisions in 1992. FTA annually reviewed these plans and provided guidance to assist transit systems to come into full compliance with the ADA provisions in 1997.

As the ADA was beginning to be implemented in 1992, the Florida Legislature amended Chapter 427 to define the parameters of TDTF dollars toward the purchase of non-sponsored transportation disadvantaged services.\(^{39}\) The Legislature defined the term “nonsponsored” as TD services that are “not sponsored or subsidized by any funding source”\(^{40}\) other than the TDTF and clarified that the funds “shall be distributed based upon the need of the recipient.”\(^{41}\) It directed the Commission to develop “needs-based criteria that must be used by all community transportation coordinators to prioritize the delivery

---

\(^{37}\) Section 1, Chapter 79-180, Laws of Florida.

\(^{38}\) Chapter 89-376, Laws of Florida.

\(^{39}\) Sections 82-88, Chapter 92-152, Laws of Florida.

\(^{40}\) Section 427.011(12), Florida Statutes.

\(^{41}\) Section 427.0159(3), Florida Statutes.
of nonsponsored transportation disadvantaged services that are purchased"42 by the TDTF. And it directed CTCs to work with LCBs to “establish priorities with regard to the recipients”43 of non-sponsored services as part of the implementation of the Commission’s needs-based criteria. The Commission officially adopted the eligibility criteria of TDTF non-sponsored services on May 22, 1997.

CUTR Impact Study44

In 1993, CTD contracted with the University of South Florida-Center for Urban Transportation Research (CUTR) to conduct a study of the initial impacts of the ADA on the TD program. The study examined the extent to which CTCs and TDTF monies were involved in the provision of ADA paratransit. It also assessed the general impact of ADA paratransit services on TDTF non-sponsored services, including the effects on eligibility, funding, and demand. The study was based on CUTR’s review of the ADA paratransit service plans produced by transit systems and interviews with CTCs and transit entities.

Below is a summary of the findings and keys insights from the CUTR study:

**Coordination Between Transit Systems and CTCs** – Prior to the passage of the ADA in 1990, many transit systems were providing some level of paratransit services to individuals with disabilities.45 Because CTCs were also coordinating paratransit services to individuals with disabilities under the TD program, some transit systems contracted with CTCs to provide paratransit services as part of their fixed route system, while others served as transportation operators of the CTC. The implementation of the ADA increased the coordination of paratransit services between CTCs and transit systems.

**Impact on CTC Operations** – Several CTCs (particularly CTC-transit entities) altered their TD services to accommodate the requirements of the ADA, including the reservation hours, rider fares, and hours/days of service operation. Generally, transit systems tightened service parameters (e.g., decreased service area, restricted eligibility, raised fares, etc.) to align ADA paratransit with fixed route services and ensure sufficient capacity for ADA demand.

**Demand** – The study anticipated the demand for ADA paratransit service would continue to grow, especially after 1997, when transit entities would not be allowed to limit services due to capacity constraints. The most influential factor contributing to the initial growth in ADA ridership was the availability of other transportation, particularly “where the funding for non-sponsored trips is insufficient to meet demand.”46 Many systems reported a shift in demand, where ADA captured certain types of trips over others. For example, in some areas, ADA service would carry more employment, recreation and weekend trips, while a greater portion of TD trips would occur “outside of the transit service area, creating some longer average trip lengths.”47

---

42 Section 427.013(23), Florida Statutes.
43 Section 427.0155(7), Florida Statutes.
44 The full study can be accessed on the CTD website at: https://ctd.fdot.gov/docs/MeetingPackages/2021Meetings/1993_CUTRReportCTDADAParatransit.pdf.
45 Prior to the ADA, transit entities were required to provide a certain level of access under Section 504 of the U.S. Rehabilitation Act of 1973.
47 Id, page 22.
The Fixed Route – The issuance of bus passes increased to encourage riders (who have the functional ability) to access the fixed route when possible, “freeing paratransit capacity for other TD and ADA eligible persons who cannot” ride the fixed route.48

Sponsorship – The “more coordinated CTCs” would identify and assign the most appropriate funding source to the rider’s trip: If the trip does not meet a specific “sponsored” program’s eligibility criteria, “the second choice is generally ADA services, followed by TD Trust Fund-sponsored service... Because the TD Trust Fund is the most flexible funding source and is applied last, CTCs are becoming better able to meet most requests for service up to the limits of funding.”49 Although the study recognized demand would continue to consume all available resources, “TD Trust Fund monies are being used to sponsor needed trips that would otherwise be unfunded.”50

Funding – In 1993, the study reported nearly every transit system assumed full responsibility and funding of ADA paratransit services. In one service area where ADA ridership was low, the CTC provided ADA paratransit services under its TD grant program: “Although uncommon, neither ADA nor TD regulations seem to prevent this arrangement, provided that TD Trust Fund allocations do not supplant or replace any financial contributions of the transit systems to TD service.”51 Though the study estimated the demand for ADA paratransit would continue to grow, it would be less than the estimated demand for TD services: “Current funding levels will continue to be far short of what is needed to meet the demand for TD services, even if ADA paratransit is fully funded for eligible trips.”52

The study concluded that the future role of CTD and “future role of ADA paratransit in the Florida Coordinated TD System should be carefully considered.”53 The study provided recommendations to CTD, including consideration of specifically identifying ADA paratransit services within uniform data collection efforts. It recommended CTD carefully consider addressing the role of ADA through its various activities with the Coordinated System, including “training, quality assurance, information sharing, technical assistance, standards development, and reporting.”54 The study also recommended CTD consider the roles of CTCs, LCBs, and DOPAs in the coordination of ADA paratransit services.

CTD Policy on ADA Paratransit Services

In 1997, the Commission adopted the eligibility criteria required55 of CTCs to determine individuals eligible for non-sponsored transportation purchased with TDTF dollars. Though the criteria did not specifically identify “ADA complementary paratransit” as ineligible for reimbursement under the TDTF, CTCs were required to exhaust “public transit” and “other means of transportation” options before determining an individual eligible for non-sponsored services. The criteria also required CTCs to maintain

48 Id, page 17.
49 Id, page 21.
50 Id, page 22.
51 Id, page 23-24.
52 Id, page 24.
53 Id, page 25.
54 Id.
55 Sections 427.013(23), 427.0155(7), and 427.0159(3), Florida Statutes.
documentation to verify how an individual is determined eligible for TDTF non-sponsored transportation.

CTD has not adopted a formal policy on ADA complementary paratransit services, in terms of action taken by the Commission board. However, CTD did authorize the use of TDTF dollars to:

- Purchase paratransit trips not covered under the ADA, including origins and destinations outside the fixed route corridors or during days/times outside the service hours of the fixed route; and
- Subsidize the rider’s fare for an ADA complementary paratransit trip, if the individual demonstrates a financial hardship that inhibits his or her ability to access ADA complementary paratransit services.

Notwithstanding these exceptions, CTD determined ADA complementary paratransit services as “sponsored” trips under the federal government and ineligible for reimbursement under the TDTF. This decision was based on Section 427.0159(3), Florida Statutes, which provides that TDTF dollars “shall be distributed based upon the need of the recipient.” CTD determined individuals who are eligible for ADA complementary paratransit are guaranteed access to transportation within the fixed route corridor under federal law, regardless of the existence of the TDTF. In other words, TDTF dollars are intended to purchase trips for eligible individuals who have “no other means of transportation” to afford them access to services that would otherwise not exist.

Regarding CTD’s policy to only subsidize the rider fare for ADA complementary paratransit trips, this is consistent with the Commission’s long-standing practice of purchasing bus passes for TD eligible individuals to access the fixed route public transit system in their community. Bus passes only subsidize the cost incurred on the individual to ride the fixed route (based on a certain number of days or trips) – NOT the full cost of a fixed bus route trip incurred on the transit entity. Under the ADA regulations, transit entities are permitted to deny trips to eligible individuals who are not able to pay the fare. CTD’s policy to subsidize the fare for these trips ensures dual eligible individuals continue to have access to ADA complementary paratransit trips, which would otherwise be denied without the subsidy.

CTD’s policy of subsidizing rider fares for ADA complementary paratransit is intended to reserve TDTF dollars for trips that otherwise would not take place. The example of Hillsborough County’s HARTPlus program below demonstrates how this policy maximizes access to transportation for CTD and ADA riders.

Maximizing Access for Both CTD and ADA Riders – HARTPlus Example

HARTPlus is the Hillsborough Area Regional Transit Authority’s ADA complementary paratransit service line. In 2018-2019, Hillsborough County “Sunshine Line” (the CTC) was reimbursed $447,680 by CTD for 11,192 separate 10-trip HARTPlus passes, or $40 per pass.
Looking at this in reverse, CTD, in effect, bought access to 111,920 ADA complementary paratransit trips for $447,600, since each pass provides access to 10 trips.

What if CTD had not reimbursed the riders’ fares, in this instance, but instead reimbursed the same number of trips at the ambulatory rate in Hillsborough for 2018-2019? CTD’s ambulatory rate for Hillsborough at the time was $35.73. This means that, for the same amount of money, CTD would have bought access to just 12,530 ADA complementary paratransit trips.

To purchase access to the same number of ADA complementary paratransit trips at $35.73 a trip, CTD would have had to pay $3,998,901.60 in total, or an additional $3,551,221.60 over the original amount of $447,680.

What about non-ADA trips in Hillsborough in 2018-2019? An additional $3.5 million far exceeds the annual allocation for Hillsborough County, which in recent years falls between $2 million and $2.5 million annually. Therefore, reimbursing the ADA complementary paratransit trips at the ambulatory rate would have exhausted all monies that otherwise went to supporting non-ADA Ambulatory, Wheelchair, and Group trips in the Trip & Equipment Grant program.
By subsidizing riders’ fares for ADA complementary paratransit in Hillsborough in 2018-2019, CTD guaranteed access to both more ADA complementary transit trips and more non-ADA trips for its riders.

**CTD Quality Assurance Findings**

Beginning in State Fiscal Year 2015-16, CTD discovered through its quality assurance review process that certain CTC-transit entities were using TDTF dollars to subsidize a portion of their ADA complementary paratransit trips, which were not authorized by CTD. Some of these invoiced trips did not include sufficient documentation to demonstrate how these individuals were determined eligible for TDTF non-sponsored services beyond their eligibility for ADA complementary paratransit services. As a result of these quality assurance findings, CTD notified the CTCs under review that these services were ineligible for reimbursement under the TDTF and provided guidance on changes that needed to occur within the CTCs’ policies and procedures to comply with this policy.

In response to these quality assurance findings, the Florida Public Transportation Association (FPTA) and some CTC-transit entities contested CTD’s decision of determining ADA complementary paratransit trips as “sponsored” and ineligible for TDTF dollars, citing that this was not a formal policy adopted by the Commission board. FPTA provided several written letters and public testimonies requesting the Commission rescind this policy and allow CTCs to invoice for TDTF non-sponsored trips for ADA eligible individuals within the fixed route corridor, which are included in the appendixes of this report. The next section discusses these concerns in more detail.
CTD Public Workshops

In State Fiscal Year 2020-21, CTD contracted with Thomas Howell Ferguson (THF) to facilitate public workshops and conduct a thorough review of the statutes and policies governing non-sponsored transportation purchased under the Transportation Disadvantaged Trust Fund (TDTF). The purpose of the workshops was to assist the Commission in determining whether its policy on ADA complementary paratransit services should be maintained or revised to comply with Chapter 427, Florida Statutes. The specific objectives were to:

1) Provide an overview of the statutes and policies governing TDTF non-sponsored transportation;
2) Examine the implications of ADA complementary paratransit services on the TD program; and
3) Gather public input on the service impacts of CTD’s policy pertaining to ADA complementary paratransit services (as ineligible for TDTF reimbursement) on dual eligible individuals.

CTD hosted two public workshops via GoToMeeting webinar and teleconference on February 25 and May 7, 2021. In preparation for these workshops, CTD posted a series of questions for stakeholders to address the specific impacts of this policy. A summary of both workshops is included in the appendixes of this report. The Commission also invited stakeholders to provide public input via email to CTD Executive Director David Darm by May 14, 2021, which is also included within the appendixes of this report. This section provides an overview of the public input received during the public workshops.

In January 2021, CTD also established a workgroup to oversee the research gathered for this report and content presented during the public workshops. The workgroup was chaired by Commissioner Robin Tellez and included representatives from CTD staff, the FDOT-transit office, and THF. The workgroup met on a bi-weekly basis and discussed information gathered pertaining to CTD’s policy on ADA complementary paratransit services.

Summary of Public Input

The majority of the public comments received during the workshops were in opposition of CTD’s policy. Most of the opposing comments were presented by FPTA, including CTCs represented by FPTA. The public comments opposing this policy included:

- The ADA is not a “sponsored” program but a comprehensive civil rights act. The availability of ADA paratransit should not be used to deny access to eligible recipients of TD state dollars.
- If CTD reversed its policy, TDTF funds would not “subsidize” ADA paratransit services. Rather, dual eligible riders should be able to utilize either TD or ADA services anywhere in the county.
- ADA complementary paratransit services are an “unfunded mandate” on transit entities to provide – there is no federal funding source for agencies to pay for them.
- Under the ADA, paratransit functions as a “safety net” for persons whose disabilities prevent them from using the regular fixed route system some or all of the time. It is not intended to meet all the transportation needs of all persons with disabilities, all the time.
- The fiscal impact of reversing this policy is zero – CTCs receive a fixed amount in TDTF funding and cannot invoice beyond that allocation.
- The CTD policy is unequally applied across the state – CTCs (non-fixed route systems) that operate in an urban environment have not been told to follow this policy. Further, 5311 grant recipients (in rural service areas) have not been told about this policy.
• CTD’s definition of “sponsored” trips may endanger the CTCs’ ability to draw down TDTF dollars as well as the coordination of other federal funding (such as 5311) that support the delivery of services to the TD population.

• Transit entities are permitted to charge more than the maximum paratransit fare to a social service agency or other organization for agency trips (i.e., trips guaranteed to the organization) under 49 CFR 37.131(c)(4). CTCs should be compensated at a rate higher than the rider’s fare for CTD-sponsored trips.

• A transit agency is not required to provide an ADA paratransit trip to an eligible rider who is not able to pay the fare. Section 37.131 allows transit agencies to charge ADA paratransit customers up to double the fare for a comparable non-discounted fixed route fare. If an ADA customer does not pay the fare, the transit agency can deny the trip, typically referred to as a “no-show.” Thus, to only allow a CTC to be reimbursed for the rider’s ADA fare is not an equitable solution to CTCs that do not have an ADA paratransit service area.

• The CTD policy is considered “Trip Shedding,” where an agency denies “sponsored” trips if the individual lives within the ADA paratransit service area. Medicaid attempted to do this in the 1990s and may do it again, following the CTD’s precedent.

• Let the CTCs use their own local eligibility guidelines, approved by the Local Coordinating Board (LCB) and identified within the Transportation Disadvantaged Service Plan (TDSP), regardless of where the individual lives.

• The intricacies of coordination agreements, bus passes, and the use of TD dollars within ADA corridors have been cornerstones of urban political support for Chapter 427 and the TD program. Continuing with this policy may risk diminishing the political support of urban systems.

In addition to these comments, one public comment was submitted by the CTC of Hillsborough County in support of the CTD policy, which is also included in the appendixes of this report.

Response to Opposing Comments

ADA is not a “sponsored” program but a comprehensive civil rights act. The availability of ADA complementary transportation should not be used to deny access to eligible recipients of TD state dollars.

ADA is a comprehensive civil rights act that encompasses many areas of society. In the case of public transportation, the ADA requires that complementary paratransit services must be offered alongside fixed route services, with the idea that a person should have no more difficulty accessing public transportation due to their disability than any non-disabled person experiences. In other words, the ADA exists to remove, or overcome, the barrier to public transportation an individual’s disability may impose. A person with a disability can still be denied access to ADA complementary paratransit, however, if they cannot afford the fare, just like any person can be denied access to fixed route (e.g., bus) services by not paying the required fare. In this case, therefore, the “needs of the recipient” are determined by their ability to afford the fare, hence the similarity between CTD’s policies of subsidizing ADA complementary paratransit fares and bus fares.

If ADA is not “sponsored” as interpreted through Florida Statutes, then neither are fixed route services. Still, access to fixed route services has been identified by CTD as a prohibitive eligibility criteria for TDTF reimbursement since 1997, alongside access to “sponsored” services and rides available through friends and family.
Finally, CTD’s policy does not leverage the availability of ADA paratransit services to deny access to any eligible recipient. As the HARTPlus example in Hillsborough County demonstrates, CTD’s policy maximizes access for both ADA and non-ADA riders alike.

**If CTD reversed its policy, TDTF funds would not “subsidize” ADA paratransit services. Rather, dual eligible riders should be able to utilize either TD or ADA services anywhere in the county.**

TDTF dollars should follow riders’ needs and factor in the transportation available to them; that is, their needs vary based on the means of transportation available to them. When ADA complementary paratransit is available to them, then the “needs of the recipient” in that case are based on their ability to afford the fare. By contrast, when no other means of transportation are available to them, then they may need for the TDTF to reimburse the full cost of a trip.

**ADA complementary paratransit services are an “unfunded mandate” on transit entities to provide – there is no federal funding source for agencies to pay for them.**

ADA complementary paratransit services are only an “unfunded mandate” in the sense that these services must be offered as part of a local transit fixed route system. This is analogous to any other voluntary enterprise, whether public or private. The federal government does not mandate the existence of a local transit fixed route system any more than it mandates the existence of a particular private business—the decision to have a fixed route system is one made at the local government level.

However, in the event that either type of voluntary enterprise is established, then the enterprise must comply with ADA accommodations to ensure that people with disabilities do not experience discrimination. Private businesses cover the costs of these accommodations using their typical revenue sources. Data from the NTD indicate that local transit systems cover the cost of these accommodations using their typical revenue sources as well. There clearly is federal funding available for “complementary paratransit services operated to meet ADA requirements,” as evidenced by NTD data, the NTD Policy Manual, and FTA guidance on various formula grants.

Beyond what is available through the federal government, local government agencies are responsible for the funding of these services as part of the planning of the fixed route system. As “local government” is identified in Chapter 427 and Rule 41-2 as a funder of transportation disadvantaged services, TDTF dollars should not be used to replace these services as well as those funded by any other federal or state governmental agency.

As the NTD data demonstrates, ADA-related operational expenses are part of a transit agency’s total operational expenses, which are covered by funds earned from directly generated funds, local government funds, state government funds, and federal government funds.

**Under the ADA, paratransit functions as a “safety net” for persons whose disabilities prevent them from using the regular fixed route system some or all of the time. It is not intended to meet all the transportation needs of all persons with disabilities, all the time.**

---

That is correct: ADA paratransit eligibility is based on the individual’s functional ability to use the fixed route. The Commission recognizes that ADA paratransit cannot meet all the needs of persons with disabilities, both in and outside of the fixed route corridor, all of the time. For individuals who are determined dual eligible, TDTF non-sponsored services are intended to meet the needs that are not addressed by the ADA/fixed route system.

However, the CTC must demonstrate, through its TDTF enrollment process, how the ADA/fixed route system cannot be used by the individual, where non-sponsored paratransit is more appropriate in meeting their needs. A rider’s dual eligibility for CTD and ADA alone does not qualify a paratransit trip as “non-sponsored.” The CTC has a responsibility to consider all the needs of its TD population – not just of the recipients of the fixed route system – when prioritizing TDTF dollars to purchase non-sponsored paratransit trips.

*The fiscal impact of reversing this policy is zero – CTCs receive a fixed amount in TDTF funding and cannot invoice beyond that allocation.*

If the fiscal impact is zero because the funding is fixed, then the impact of reversing the policy would be felt in other ways. As CTCs receive a fixed amount of TDTF dollars each year, Chapter 427 directs them to use the CTD eligibility criteria in prioritizing funding where most needed. ⁵⁷ Though ADA-eligible riders may still qualify for TDTF non-sponsored services, TDTF funding should be prioritized to support their trips to activities not covered under the ADA. In contrast, TD eligible individuals (including persons with disabilities) who are not ADA eligible or do not have access to the fixed route have limited transportation options to access critical activities within their community. A reversal of this policy would reduce the availability of funding for CTCs to deliver non-sponsored trips to these TD (non-ADA) eligible individuals, as the example with the HARTPlus program in Hillsborough County demonstrates. At the same time, the HARTPlus example demonstrates how reversing the policy would also harm access to ADA complementary paratransit for those riders least able to afford the fare. So regardless of whether a rider is ADA or non-ADA, reversing the policy would harm access to transportation.

*The CTD policy is unequally applied across the state – CTCs (non-fixed route systems) that operate in an urban environment have not been told to follow this policy. Further, 5311 grant recipients (in rural service areas) have not been told about this policy.*

Though non-fixed route and rural systems may provide some level of public transportation within their community using FTA grant funding (such as 5310 and 5311), individuals with disabilities living in these communities are not guaranteed the same level of access afforded to individuals with disabilities who live within a fixed route corridor under the ADA. Absent a fixed route, ADA complementary paratransit does not exist. Therefore, the CTD policy on ADA complementary paratransit only applies to communities where such services exist.

The TDTF eligibility criteria for non-sponsored services are intended to be used by all CTCs (urban and non-urban systems alike) to prioritize TDTF monies to purchase trips that would otherwise be unavailable in their community. Absent the TDTF, these trips would otherwise not exist.

---

⁵⁷ Sections 427.013(23) and 427.0155(7), Florida Statutes.
CTD's definition of “sponsored” trips may endanger the CTCs' ability to draw down TDTF dollars as well as the coordination of other federal funding (such as 5311) that support the delivery of services to the TD population.

ADA complementary paratransit does not have to be interpreted as “sponsored” to be determined ineligible for reimbursement, as sponsored services are just one prohibitive eligibility criterion. The FTA letter to FPTA dated January 8, 2020 (Appendix B) essentially articulates that ADA complementary paratransit is not “sponsored” in the same way that fixed route services are not sponsored, and yet access to fixed route services has been used to determine eligibility since 1997:

I agree with your point that paratransit under the Americans with Disabilities Act (ADA) is not a “sponsored program” as characterized. The ADA is a comprehensive civil rights act ensuring that people with disabilities are afforded the same rights and responsibilities as all citizens. The right to use public transportation is covered by Title II, which, among other things, requires public operators of fixed route transit to provide complementary paratransit for those persons whose disabilities prevent them from independently using the accessible fixed route system. The cost of providing a paratransit trip is typically funded partly by passenger fares, and partly by funds from various levels of governmental entities. This is also true of trips taken by passengers riding the fixed route system (bus or rail). Neither trip can be said to be in any way “sponsored” by any of these agencies . . .

The statutory definition of “non-sponsored” transportation has been established for almost 30 years.58 Throughout its three-decade existence, the Transportation Disadvantaged Trust Fund has distributed funding to purchase these services to meet the needs of its eligible recipients. Neither the definition of non-sponsored transportation, nor the TDTF eligibility criteria, preclude a CTC from utilizing other federal funding to support the delivery of transportation disadvantaged services. However, the CTC’s ability to “draw down” the allocated share of TDTF funding is based on the demand for and performance of delivering non-sponsored services to eligible recipients.

Beyond trips purchased with TDTF dollars, Chapter 427 identifies “transportation disadvantaged funds” from other local, state, and federal programs that can be used to support the delivery of transportation services to the TD population. This may include “funds for planning, Medicaid transportation, administration, operation, procurement, and maintenance of vehicles or equipment and capital investments.”59 No evidence has been presented during the public workshops to demonstrate how CTD’s policy on ADA paratransit services has “endangered” the use of 5311 or other funding in coordination with the delivery of TDTF non-sponsored services.

Transit entities are permitted to charge more than the maximum paratransit fare to a social service agency or other organization for agency trips (i.e., trips guaranteed to the organization) under 49 CFR 37.131(c)(4). CTCs should be compensated at a rate higher than the rider’s fare for CTD-sponsored trips.

---

58 Chapter 92-152, Laws of Florida.
59 Section 427.011(10), Florida Statutes.
Another way of saying this is that transit entities are permitted to charge more than the maximum paratransit fare for a trip “paid in whole or in part by a third party,” 60 or a “sponsored” trip as that term is understood by the FTA according to criteria laid out in the NTD Policy Manual. Such “sponsored” trips, as defined by the federal government, must be reported separately from ADA trips:61

Transit agencies should not include ADA UPT under Sponsored UPT. ADA-related UPT should not include any sponsored services.

Non-ADA rides that are eligible for reimbursement under the Trip and Equipment Grant can be charged at a rate more than the maximum paratransit fare, and these rides would be considered “sponsored” as the term is understood according to the FTA/NTD definition, since these would be sponsored by CTD (a third party entity in this case) in such event.

A transit agency is not required to provide an ADA paratransit trip to an eligible rider who is not able to pay the fare... If an ADA customer does not pay the fare, the transit agency can deny the trip...

If a TD rider is determined eligible for ADA complementary paratransit but not able to pay the fare for that trip, then the “needs of the recipient” are determined by the fare, and TDTF dollars may be used to subsidize that fare to ensure that individual is not denied access to that service. This policy is consistent with the use of TDTF to purchase bus passes, which only subsidize the fare and not the full cost of a fixed route trip – for TD eligible individuals to access the fixed route system.

The CTD policy is considered “Trip Shedding,” where an agency denies “sponsored” trips if the individual lives within the ADA paratransit service area. Medicaid attempted to do this in the 1990s and may do it again, following the CTD’s precedent.

The CTD policy is intended to promote the most cost-effective delivery of transportation disadvantaged services in order to maximize access to transportation for the TD population. The HARTPlus example in Hillsborough County demonstrates how cost-effectiveness and access function as two sides of the same coin in this regard.

This is a key tenet of “coordination” under Chapter 427. As mentioned earlier, Rule 41-2.013 provides that TDTF dollars for non-sponsored services must be applied “only after” all other funding sources have been used and eliminated. In 1993, the CUTR study indicated the “more coordinated CTCs” assigned the most appropriate funding source to the rider’s trip, where ADA services were generally applied prior to TDTF non-sponsored services: “Because the TD Trust Fund is the most flexible funding source and is applied last, CTCs are becoming better able to meet most requests for service up to the limits of funding.”62

---

62 Supra Note 49.
Medicaid is a joint federal-state program that requires states to provide health care coverage to certain “mandatory eligibility groups,” including low-income families and individuals receiving Supplemental Security Income (SSI).\(^6\) Individuals who are enrolled in the Florida’s Manage Medical Assistance (MMA) program are entitled to receive Non-Emergency Medical Transportation (i.e., “sponsored” trips), if approved on their managed care plans. In contrast, the Transportation Disadvantaged Trust Fund is entirely funded by the State of Florida. Unlike Medicaid and ADA, which are entitlement/civil rights programs, the TD program affords access to TDTF services to eligible recipients only to the extent funding is available.

Let the CTCs use their own local eligibility guidelines, approved by the Local Coordinating Board (LCB) and identified within the Transportation Disadvantaged Service Plan (TDSP), regardless of where the individual lives.

Though CTCs and LCBs are authorized to develop their own eligibility guidelines and priorities for non-sponsored services,\(^6\) those guidelines must comply with the Commission’s eligibility criteria. The LCB is an advisory body to the Commission on developing the “local service needs” of the area;\(^6\) however, the LCB has no oversight or accountability for the distribution of TDTF dollars. That authority is assigned to the Commission under Section 427.0159, Florida Statutes.

The intricacies of coordination agreements, bus passes, and the use of TD dollars within ADA corridors have been cornerstones of urban political support for Chapter 427 and the TD program. Continuing with this policy may risk diminishing the political support of urban systems.

Chapter 427 was established in 1979 to provide a state policy that would “develop the essential level of coordination of available funding programs required to produce transportation services fully responsive to the needs of the elderly, handicapped, and other disadvantaged.”\(^6\) The TD program and its state Trust Fund are intended to support the delivery of transportation disadvantaged services in the most cost-effective manner.

Though TDTF dollars may be used to support access to public transit (through bus passes and fare subsidies), the funding is not intended to supplement existing operations of urban transit systems. A transit entity that elects to become the “Community Transportation Coordinator” assumes a larger role in coordinating the delivery of public transportation. The CTC-transit entity is awarded grant funding from the Commission (in addition to what it receives from other funding sources through its “CTC” status) to broaden its services beyond what is provided through the fixed route system.

---

6\(^3\) Medicaid.gov website: [https://www.medicaid.gov/medicaid/eligibility/index.html](https://www.medicaid.gov/medicaid/eligibility/index.html).

6\(^4\) Sections 427.0155(7) and 427.0157(4), Florida Statutes.

6\(^5\) Section 427.0157, Florida Statutes, and Rule 41-2.012, Florida Administrative Code.

6\(^6\) Chapter 79-180, Laws of Florida.
Recommendations

Based on a thorough review of Chapter 427 and the policies governing non-sponsored transportation services purchased under the Transportation Disadvantaged Trust Fund, this report provides the following three recommendations:

Recommendation 1 — The Commission should maintain its policy on ADA complementary paratransit to: 1) ensure TDTF dollars are used in a way that maximizes cost-effectiveness and rider access to both ADA and non-ADA transportation.

Recommendation 2 – In response to concerns raised by the Florida Public Transportation Association (FPTA) that this policy has not been formalized, the Commission should codify this policy explicitly within its TDTF eligibility criteria, where ADA paratransit is identified as a service option under “Public Transit” that must be explored prior to determining a TD individual eligible for non-sponsored services.

Recommendation 3 – Regarding the equity and fair application of this policy, the Commission should also consider strategies to assist CTCs in implementing this policy, including training and technical assistance, quality assurance, and collection and analysis of program data on eligibility and services provided.
Appendices
Appendix A
Comparison of Terms and Definitions:
TD Program vs ADA Paratransit Requirements
## Comparison of Terms and Definitions: TD Program vs ADA Paratransit Requirements

<table>
<thead>
<tr>
<th>Term</th>
<th>TD Program</th>
<th>ADA Paratransit</th>
<th>Cross-Over</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eligible Individuals</td>
<td>Individuals are eligible for Transportation Disadvantaged (TD) services if they are “unable to transport themselves or to purchase transportation” based on their: • Disability; • Age (older adults or at-risk children); or • Income (i.e., living below poverty)</td>
<td>Individuals with disabilities are eligible for ADA complementary paratransit services if they live in a community with a fixed route system and cannot access the route due to their disability. The ADA is a civil rights law, which means eligible individuals cannot be denied paratransit services covered by the fixed route corridor.</td>
<td>Individuals with disabilities could be eligible to receive both ADA and TD services if they cannot access the fixed route in their community (if available) and demonstrate they cannot access certain activities due to being “TD.” Though an individual can be served by both programs, the ADA is a civil rights program that guarantees access, regardless of availability of funding or capacity limits.</td>
</tr>
<tr>
<td>Covered Services</td>
<td>The Transportation Disadvantaged Trust Fund (TDTF) can be used to purchase “non-sponsored” paratransit services for TD eligible individuals who demonstrate they have: • No available funding or reimbursement (including self-pay) to purchase trips; and • No means of any other transportation available (such as a family member). TDTF funds may also be used to purchase bus passes for individuals to access the fixed route, if available and appropriate.</td>
<td>ADA complementary paratransit is a scheduled, “origin-to-destination” service provided in a door-to-door or curb-to-curb mode. The service is “complementary” because it must be provided at a level comparable to the fixed route service provided to individuals without disabilities (i.e., the general public).</td>
<td>Both programs support the delivery of paratransit services. However, the ADA prescribes the service as a “complement” to the fixed route system, whereas TDTF “non-sponsored” trips are intended to support individuals who have no other funding or transportation available. CTD currently does not use TDTF to purchase ADA paratransit trips, except to subsidize the rider fare or purchase trips not covered by the ADA (e.g., outside the fixed route corridor).</td>
</tr>
<tr>
<td>Funding</td>
<td>CTD allocates TDTF funding each year to the CTCs, through the Trip &amp; Equipment Grant program, to deliver “non-sponsored” transportation within their service area. The CTC is reimbursed up to 90% of the costs of a non-sponsored trip, with a 10% local match.</td>
<td>Transit entities are required (i.e., mandated) to provide ADA paratransit services as part of the operation of the fixed route. The transit entity is responsible for the costs of delivering this service. However, transit entities may use a portion of their 5307 FTA grant funds to supplement some of the operating expenses of ADA paratransit services.</td>
<td>The TDTF subsidizes a portion of the costs of a non-sponsored trip, whereas the ADA mandates transit entities to provide complementary paratransit services as part of the fixed route.</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
</tbody>
</table>
| Provider of Service | The Community Transportation Coordinator (CTC) is responsible for delivering (or contracting for) transportation services (including “non-sponsored” trips) to the TD population within its designated service area. A CTC can be a:  
- Transit entity  
- Not-for-profit organization  
- Local government entity  
- For-profit company | A public entity that operates a fixed route system is responsible for providing ADA complementary paratransit services to individuals with disabilities who cannot access the fixed route. A public entity may include a “state or local government” or a department or agency of a state or local government (defined in 49 CFR 37.3). | A CTC that operates a fixed route system is responsible for providing both TD services and ADA paratransit services. Such an entity is responsible for serving the general public (fixed route), persons with disabilities (ADA paratransit), and other members of the TD population (CTC role). |
<p>| Service Area | The CTC is responsible for ensuring the availability of TD services (including “non-sponsored” services) within its designated service area. A “designated service area” is a county or multi-county area, determined by the designated official planning agency and approved by CTD. The TD Program has a CTC designated in every county within the State of Florida. | The transit entity is responsible for delivering ADA complementary paratransit within ¾ of a mile of the fixed route corridor. The transit entity may expand its “core service area” up to 1½ of a mile, depending on local circumstances. | A CTC is responsible for serving the needs of the TD population across the entire county (or multi-county area), whereas the transit entity is responsible for serving its ADA paratransit customers (at minimum) within ¾ of a mile of the fixed route corridor. |</p>
<table>
<thead>
<tr>
<th>Rider Fare</th>
<th>In consultation with the LCB, the CTC is permitted to set the rider fare for TDTF “non-sponsored” services on a sliding scale (i.e., based on the individual’s income and/or assets status). If a fixed route system is available and the TD rider is able to access the system, the CTC is encouraged to issue bus passes, which subsidize the rider’s fare to access the route.</th>
<th>Transit entities are <strong>not</strong> permitted to charge ADA paratransit riders more than twice the fare of the fixed route service. However, the transit entity may negotiate a higher fare to charge social service agencies that purchase paratransit trips for their constituents pursuant to 49 CFR 37.131(c)(4).</th>
<th>The TD Program provides flexibility for CTCs in setting the rider fare for “non-sponsored” trips, whereas transit entities are confined to setting fares for ADA trips based on the fixed route system. Currently, TDTF can be used to subsidize the rider fare for ADA paratransit trips, similar to the bus pass program; however, FPTA and other CTC-transit entities contest this policy based on 49 CFR 37.131(c)(4).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trip Purpose</td>
<td>The TD Program supports transportation to a variety of activities, including health care, employment, education, and other life-sustaining activities. However, CTCs and LCBs are permitted to establish trip priorities and limit TDTF funding to certain activities, such as medical or employment.</td>
<td>The ADA affords eligible individuals to access any activity within the fixed route corridor and during the times of operation of the bus service. Transit entities are <strong>not</strong> permitted to limit ADA paratransit services to specific activities or deny a certain number of trips within the core service area or during hours of operation.</td>
<td>Both programs support trips to a variety of activities. However, while the TD Program permits local systems to prioritize and limit trips to certain activities, the ADA does not allow transit entities to deny or limit trips to specific activities.</td>
</tr>
</tbody>
</table>
Appendix B
Stakeholder Letters Received
David,
FYI, I had lots of problems trying to get off of mute, both when calling in and online with GoTo Meeting that I never have with Teams or Zoom, if you can switch platforms, I’m sure that will help everyone.

Sponsored CAN be ADA: Bay Pines VA reimburses vets for ADA fare, thus this NTD separation is fluid and artificial, as is “sponsored” since sponsors outside of the coordinated system, whether NEMT, Medicare, or VA, are not known to CTC and protected by HIPAA.

- “non-sponsored” applied in determining an individual’s eligibility for TD funding?
  - Is the definition applied differently to different segments of the TD population (i.e., persons with disabilities, older adults, etc.)?
  - How does this eligibility process differ from determining an individual eligible for ADA complementary paratransit services?

PSTA: “Non-sponsored” should be defined in terms of the trip, not the individual. TD funding is for trips which would be an undue hardship for the individual to complete without TD funding it. Trip-by-trip eligibility should be used to determine if it should be TD-funded = is an undue hardship without it. ADA Paratransit eligibility is very different, looking solely at being unable to use fixed route due to disability = NOT SAME! “Non-sponsored” needs to be re-interpreted, either at state or local level: $0.50 subsidy of $4.50 fare’s still undue hardship on low-income, so still needs TD funds.

- Are there underserved populations or geographic areas within or around fixed route service areas that could be better served with TD Funding?
  - How would those communities be impacted if CTD purchased ADA complementary paratransit services?

PSTA: Some areas only have fixed route & ADA during rush hour, leaving pax waiting for hours for trip home – but not in P. Co., so TD trip eligibility must be locally-defined. STOP

- If CTD purchased ADA trips (beyond what is covered for the rider’s fare), what would be the budget impact on the TD Trust Fund?
  - How would the rate of an ADA paratransit trip be determined?

PSTA: The rate the CTD would pay for an ADA para trip is the same rate they would pay for a TD ambulatory or wheelchair trip. if the TD-eligible resident gets a TD-eligible trip within the coordinated system, the CTC should be able to get T&E reimbursement at the rate model-based rate. While fare

- How does the coordinated system evaluate a CTC in meeting the needs of the TD population within its designated service area?
Is the service distribution (i.e., coverage) centralized or spread across the service area (county or multi-county area)?

What is preferable: increased frequency (i.e., number of trips delivered) or increased coverage (i.e., more individuals served)?

PSTA: CTC Annual Evaluation & regular CTC reports. TD service area is greater than ADA service area, so this would not change. Trips/person (volume) & unduplicated passengers (coverage) are both important, and TDSP is the vehicle for the LCB & DOPA to set appropriate limits on each to best meet needs in each community: Trip Priorities determine volume, and eligibility criteria determine coverage. What everyone is trying to do is the best we can do within the environment and resources available – differs by county, so let LCB & DOPA work with CTC & coordinated system to best meet TD eligibles’ priority trip needs with available resources.

- How do CTCs use other federal grant programs (such as 5310) to support the coordination of services to the TD population?
  - How does the TD eligibility criteria impact this coordination?

PSTA: PSTA uses 5310 like any other grant: to fund the mobility needs of the community: bus securement, 501©3, salary of Mobility Manager who has overseen MANY TD reports, site visits, audits, inspections, invoice rejections that make TD funding the most burdensome of any funding source.

CTD needs to support the LCB’s & DOPA’s as they use the TDSP, CTC Evaluation, Rate Model, and other requirements to best meet the needs of their TD community – a trip is a trip is a trip, if it gets a person who meets the TD definition to a priority destination & avoiding undue hardship they’d otherwise face – the name of the service, whether ADA para, TD, 5310, ISD….has no bearing on the success or failure of this.
Hillsborough County Sunshine Line management concurs with the Commission for Transportation Disadvantaged’s (CTD) current position on the relationship between ADA paratransit service and the Transportation Disadvantaged (TD) program, and eligibility for TD funding.

Transportation Disadvantaged funding was intended to increase access to transportation, not to fund access that is otherwise available, and it should not be used to fund ADA paratransit trips.

ADA paratransit is a required part of providing transit service and has been for more than twenty years. As such, it is an available means of transportation for those who are eligible and traveling within the transit service area. Providing this service logically requires the use of a portion of whatever funding is being used to provide overall transit service. Planning for a fixed route, requires planning for paratransit service which is part of that route. Using TD funds to cover the ADA paratransit portion of a route(s) is clearly not appropriate; neither is using TD funds to cover those costs trip by trip. Covering client fares, in the same way that other transit fares are covered through bus pass programs, is appropriate to assist TD client access by removing eligible riders’ inability to “self-pay” so they can access transportation.

ADA paratransit trips would exist (and do exist in other states), regardless of the availability of TD funding. TD funding is clearly intended to increase transportation access where transportation is inaccessible; a stop gap for those who have no other means of transportation.

TDTF eligibility criteria requires an eligible rider to “not have access to a fixed bus route…”, and ADA paratransit service is part and parcel of all fixed route service as pointed out in the February 25 workshop presentation.

There were public comments during the February workshop stating that this topic has been a very recent decision by the CTD. This has not been our experience. At the direction of CTD staff, for at least ten years, our eligibility process has included screening applicants to determine if they have access to fixed route service, including ADA paratransit, referring those with access to the local transit agency for service, and assisting with bus fare only for such trips. Eligibility for TD services for anyone with access to either standard fixed route or ADA paratransit service is for fare assistance for transit trips, or for door to door trips outside of the transit system.

Karen Smith
Business & Compliance Coordinator
Hillsborough County Sunshine Line

P: (813) 276-8126
E: smithk@HCFLGov.net
W: HCFLGov.net
May 26, 2021

Mr. David Darm  
Executive Director  
Commission for the Transportation Disadvantaged  
605 Suwannee St., MS 49  
Tallahassee, FL  32399

Dear Mr. Darm,

Thank you for taking the time to discuss the Commission’s policy on the use of Transportation Disadvantaged Trust Fund (TDTF) dollars to support Americans with Disabilities Act (ADA) complementary paratransit service with Secretary Thibault and the rest of our team this morning. The Florida Department of Transportation (FDOT) recognizes the Commission for the Transportation Disadvantaged (CTD) for allowing a transparent review of this issue, including soliciting public comments and holding two public workshops. The CTD has engaged the FDOT Transit Office through the process and this letter serves as the FDOT’s official response superseding all previous communications on this matter.

First, the CTD uses a combination of National Transit Database definitions to support prohibiting the use of TDTF dollars for ADA complementary paratransit. We believe this position should also consider the language in Federal Transit Administration (FTA) Circular C4710.1 Americans with Disabilities Act Guidance, Chapter 8.5.5 stating, “FTA encourages transit agencies to coordinate their complementary paratransit services with their other services available for individuals with disabilities, as well as transportation services provided and/or funded by other public agencies and private organizations.”

Second, the CTD’s current approach is based on its position that the TDTF must be the funding of last resort. We are concerned that the CTD’s position, if applied consistently, would adversely impact rural Community Transportation Coordinators (CTC). Therefore, we should continue to focus on ways to provide flexibility to support rural communities which often lack the resources to match federal funds. Rural CTCs currently use TDTF as local match for federal rural public transportation (FTA 5311) dollars. These trips cannot be prioritized by federal law; therefore, they cannot be used only for transportation disadvantaged clients. A policy that does not allow for the use of TDTF to support ADA complementary paratransit service for fixed route systems, would not allow for the use of TDTF to support non-prioritized demand response public transportation. Additionally, CTCs use vehicles, fuel, and personnel funded by other federal and state programs to provide trips which TDTF dollars purchase. These services likely would no longer be covered under the CTD’s narrow view of “non-sponsored transportation.”
Third, the Department very much disagrees with the view that ADA complementary paratransit is a sponsored service. The ADA is an unfunded federal mandate that guarantees access but does not provide funding for trips.

Finally, each community in Florida is unique. Some highly dense counties may be wholly covered by fixed route service and the ¼ mile ADA buffer, while many rural counties have no fixed route and solely operate demand response or flex route services. These rural services are highly dependent on state and federal funding. We believe the CTD should seek to provide greater flexibility to allow CTCs to shape the solutions that best fit their community. Conversely, we recommend the CTD avoid narrow interpretations of key definitions and one-size-fits-all policies that limit such flexibility.

The CTD has a well-designed operational structure including Community Transportation Coordinators, Local Coordinating Boards, and Designated Official Planning Agencies tasked with ensuring funds are managed to provide optimal levels of service for eligible clients. The Department believes decisions on resource allocation should rest with these partners. This structure ensures the flexibility to provide and pay for services that best meet the needs of transportation disadvantaged clients in each community. The Department is concerned that a strict prohibition of the use of CTD resources for ADA complementary paratransit could harm the delicate balance of resources used in the providing the coordinated system.

FDOT is pursuing an update of the 1993 study performed by CUTR titled, The Effects of ADA Paratransit on CTD Services. This study will provide additional opportunity to evaluate the impacts of policy changes and make appropriate refinements.

FDOT looks forward to collaborating with CTD on this issue to ensure we can provide a recommended solution that continues to support our partner agencies’ ADA transportation services. If you have any questions regarding these comments, please do not hesitate to contact me.

Respectfully,

Brad Thoburn
Assistant Secretary for Strategic Development

cc: Kenyatta Lee
    Liz Stutts
August 25, 2016

Steve Holmes, Executive Director
Florida Commission for the Transportation Disadvantaged
605 Suwannee Street, MS 49
Tallahassee, FL 32399-0450

Dear Mr. Holmes:

The Florida Public Transportation Association (FPTA) greatly appreciates the guidance and support the Florida Commission for the Transportation Disadvantaged (CTD) provides to all of the transit systems across the state. The Transportation Disadvantaged (TD) Program is a key component to keeping individuals safe and mobile within our communities.

Several policy changes have occurred recently that have had an effect on the ability of our larger transit systems to not only pull down the TD dollars that have been allocated to their respective counties, but the changes have also reduced their trip counts that can be included in the AOR. A few of these changes are as follows:

- Lack of TD eligibility for passengers living within the ADA service area and/or near fixed route service (unless they are traveling after hours or their origin/destination is outside the fixed route/ADA service area).
- Allowing only the passenger fare to be billed to the CTD if the customer lives within the ADA service area and/or near fixed route and cannot pay the fare.
- Altering the number of trips per TD Bus Pass down to 12 from 40 (if the CTC does not receive approval for an alternative method of calculation).
- Removing Personal Care Attendants as an allowable expense.
- Requiring ADA passengers to be in the same vehicle as TD passengers in order to report ADA paratransit trips.

Unfortunately, many of these changes above appear to have been made with little to no input from CTC’s and/or after the grant agreement has been executed. I’d like to schedule a meeting to discuss these items with you and several of our transit system members. Please send me your available times to meet over the next few weeks. Thank you for your continued support.

Sincerely,

Lisa M. Bacot
Executive Director
April 5, 2017

Steve Holmes, Executive Director
Florida Commission for the Transportation Disadvantaged
605 Suwannee Street, MS 49
Tallahassee, FL 32399-0450

Dear Mr. Holmes:

The Florida Public Transportation Association (FPTA) greatly appreciates the guidance and support the Florida Commission for the Transportation Disadvantaged (CTD) provides to all of the transit systems across the state. The Transportation Disadvantaged (TD) Program is a key component to keeping individuals safe and mobile within our communities.

Several policy changes have occurred recently that have had an effect on the ability of our larger transit systems to not only pull down the TD dollars that have been allocated to their respective counties, but the changes have also reduced their trip counts that can be included in the AOR. A few of these changes are as follows:

- Lack of TD eligibility for passengers living within the ADA service area and/or near fixed route service (unless they are traveling after hours or their origin/destination is outside the fixed route/ADA service area).
- Allowing only the passenger fare to be billed to the CTD if the customer lives within the ADA service area and/or near fixed route and cannot pay the fare.
- Altering the number of trips per TD Bus Pass down to 12 from 40 (if the CTC does not receive approval for an alternative method of calculation).
- Removing Personal Care Attendants as an allowable expense.

It is our understanding that the Federal Transit Administration has already provided guidance that ADA service is not a sponsored program, but is considered civil rights legislation. Other funding agencies have been told that they could not push their ridership onto the ADA system, and should negotiate a fair rate with transit systems, in lieu of paying only for the rider’s fare.

Our Association has a concern with these provisions and we’d like to schedule a meeting to discuss these items with you and several of our transit system members. Please send me your available times to meet via conference call. Thank you for your continued support.

Sincerely,

Lisa M. Bacot, Executive Director
November 20, 2019

Selene Dalton-Kuminos
Civil Rights Associate Administrator
Federal Transit Administration
Region 4 Office 230 Peachtree NW, Suite 1400
Atlanta, Georgia 30303

Dear Ms. Dalton-Kuminos:

The Florida Public Transportation Association (FPTA) represents 45 public transit systems in the State of Florida and acts as the “voice” of public transit in our state. We are seeking guidance from the Federal Transit Agency (FTA) on the actions of one of our state agencies.

It has come to our attention that the Florida Commission for the Transportation Disadvantaged (CTD), which is a state agency that oversees the Transportation Disadvantaged Trust Fund (TDTF), has been utilizing a policy that we feel is problematic to those fixed route agencies who are charged with implementing the American’s with Disabilities Act (ADA) of 1990. The CTD has informed our fixed route transit systems that they can no longer use their allocated TDTF dollars within the ADA corridor because the trip a person would be taking within the corridor is already “sponsored by an agency”, as individuals with disabilities can use the ADA paratransit services.

Chapter 427.0159(3) of Florida Statutes does indeed state that TDTF dollars should only be used for trips that are “not sponsored by an agency”; however, it is our understanding that ADA paratransit service should not be considered a sponsored program, since it is a civil rights law. In addition, only 10% of 5307 funds can be used towards paratransit service costs, which does not nearly cover the expenses of implementing the federally mandated ADA law.

It is also our understanding that in the early to mid-90’s the Medicaid agency in several states also attempted to deem their clients that lived within the ADA corridor to be ineligible for Medicaid transportation. I believe FTA provided a statement specifying that since the ADA is a piece of civil rights legislation, it is therefore not considered a “sponsored program.” Consequently, the Medicaid agency was informed that it should work with the local transit provider to provide the trips for Medicaid utilizing state Medicaid transportation dollars and that the
agency should negotiate a fair rate with the transit system to provide the service. It was determined that the state Medicaid Agency could not shift the financial burden to the local transit provider.

We are asking your office to reconfirm that the ADA services provided by transit providers are still meeting a civil right as required by Federal law and that it is not considered a sponsored program. This clarification will be helpful for our state as we work with the Florida Commission for Transportation Disadvantaged to ensure that all Floridians are provided with the mobility they need and that the financial burden is appropriately placed.

If there are any other questions or more information that you require, please feel free to reach out to me via phone, (850) 445-8329, or email, lisabacot@floridatransit.org.

Thank you for your attention and guidance to this important manner.

Sincerely,

Lisa M. Bacot
Executive Director

cc:
Dee Foster, FTA
Sarah Majdiak, FTA
Robert Sachnin, FTA
Marion Hart, Chair, CTD
Murriah Dekle, Chair, FPTA
David Darm, Executive Director, CTD
January 8, 2020

Lisa M. Bacot
Executive Director
Florida Public Transportation Association
P.O. Box 10168
Tallahassee, FL 32302

Dear Ms. Bacot:

I am writing in response to your November 20, 2019 letter expressing concern regarding recent decisions by the Florida Commission for the Transportation Disadvantaged (CTD) and their effect on your members’ ability to operate paratransit services. You stated that the CTD has indicated it will no longer use its Transportation Disadvantaged Trust Fund to pay for passenger trips taken via complementary paratransit because such trips are “sponsored by an agency.”

I agree with your point that paratransit under the Americans with Disabilities Act (ADA) is not a “sponsored program” as characterized. The ADA is a comprehensive civil rights act ensuring that people with disabilities are afforded the same rights and responsibilities as all citizens. The right to use public transportation is covered by Title II, which, among other things, requires public operators of fixed route transit to provide complementary paratransit for those persons whose disabilities prevent them from independently using the accessible fixed route system. The cost of providing a paratransit trip is typically funded partly by passenger fares, and partly by funds from various levels of governmental entities. This is also true of trips taken by passengers riding the fixed route system (bus or rail). Neither trip can be said to be in any way “sponsored” by any of these agencies, unless one regards trips taken in private automobiles on public highways constructed using Federal, state, and local tax dollars as “sponsored” in the same manner.

In fact, 49 CFR 37.131(c)(4) permits public transit operators to charge more than the maximum paratransit fare to a social service agency or other organization for agency trips (i.e., trips guaranteed to the organization). To the extent that CTD is relying on local transit operators’ paratransit systems to transport its constituents according to CTD’s requirements, DOT ADA regulations permit Florida Public Transportation Association members to negotiate a fare that covers the cost of a CTD-sponsored trip.

I hope this information is helpful to you. If you have any questions, please contact John Day of my staff at (202) 366-1671 or by email at john.day@dot.gov.

Sincerely,

Selene Faer Dalton-Kumins
Associate Administrator for Civil Rights
February 3, 2020

David Darm, Executive Director
Florida Commission for the Transportation Disadvantaged
605 Suwannee Street, MS 49
Tallahassee, FL 32399-0450

Dear Mr. Darm:

The Florida Public Transportation Association (FPTA) greatly appreciates the guidance and support the Florida Commission for the Transportation Disadvantaged (CTD) provides to all of the transit systems across the state. The Transportation Disadvantaged (TD) Program is a key component to keeping individuals safe and mobile within our communities.

**Issue Statement**

In 2016, it was brought to the FPTA board’s attention that several policy changes had been implemented that had a major effect on the ability of our larger transit systems to pull down the TD dollars that have been allocated to their respective counties. The two major changes were as follows:

- Lack of TD eligibility for passengers living within the Americans with Disabilities Act (ADA) service area and/or near fixed route service (unless they are traveling after hours or their origin/destination is outside the fixed route/ADA service area).
- Allowing only the passenger fare to be billed to the CTD if the customer lives within the ADA service area and/or near fixed route and cannot pay the fare.

Unfortunately, these changes above appear to have been made with little to no input from CTC’s, no formal policy or procedure was sent to the CTC’s for guidance, and no discussion at the CTD Board level.

**FPTA and FTA’s Response**

After several verbal discussions with the CTD staff, over the course of 3 years, FPTA decided to seek guidance from the Federal Transit Administration (FTA). The FTA Associate Administrator for Civil Rights responded stating that the ADA is not a sponsored program, but is to be considered a comprehensive civil rights act. Therefore, the availability of ADA complementary transportation should not be used to deny access to eligible recipients of state TD dollars. Further, FTA cited 49 CFR 37.131(c)(4), which states that public transit operators may negotiate a fare that covers the cost of transporting a trip that should be sponsored by the CTD Program.
Chapter 427.017, F.S.
Chapter 427.017, F.S. clearly states that “Upon notification by an agency of the Federal Government that any provision of this act conflicts with federal laws or regulations, the state or local agencies involved may take any reasonable steps necessary to assure continued federal funding.” While the CTD may not be at risk of losing federal funding, if the CTD continues to require that the Community Transportation Coordinators (CTCs) enforce this policy, the individual transit systems are indeed at risk of losing federal dollars.

Implications of This Policy Continuing Forward
Many of our fixed route systems have been struggling with the implementation of this policy due to the federal implications of the loss of federal funding and a decrease in the ability to pull down TDTF funding. Now that FTA has issued the January 8, 2020 letter, it is a high priority that this issue be resolved immediately.

Further, if the CTD is allowed to continue with this policy, this sets a precedent for other state agencies. According to Federal Guidelines, the Medicaid agency is the “funder of last resort”, and has previously been told by FTA to not deny eligible riders access to Medicaid transportation when they live within the ADA service area. This is referred to as “trip shedding” to other agencies. Since the CTD is allowing this to happen for TD trips, Medicaid could quite easily state that they agree with the CTD’s policy and begin denying eligible riders in the ADA service area. It could also go a step further and Medicaid could require TD funding be used for all other Medicaid clients who do not have a disability or live outside of the ADA service area, prior to the use of Medicaid funding. Medicaid clients who do not have transportation are indeed eligible for TDTF funding. This scenario could then affect every county in the State of Florida and have a devastating impact on the use of TDTF funding and coordination as we know it.

Allocation Formula
We are pleased that the CTD staff is currently exploring changes to the formula used to allocate funds for the Trip and Equipment Grant within the Transportation Disadvantaged Trust Fund (TDTF). However, this issue is a separate and distinct subject from the issue statement above and the policy that has been enforced for over 3 years. The dollars that are allocated to the CTC’s are a finite amount, there are no more dollars that could be spent on TD services, once the CTC reaches the cap allocated to them, they no longer provide services.

Request to Rescind the Policy
FPTA respectfully requests that the CTD rescind this informal policy at the CTD Board meeting on February 10. Further, we do indeed understand the hesitation of the CTD that allowing TD trips to
be used within the ADA service area would limit the types of riders and the location of where the TD dollars are spent; however, the CTC’s that operate the fixed route transit service are there to serve the entire community and provide as much service as possible. They are monitored by both the Local Coordinating Board and a separate oversight board, which is usually made up of locally elected officials. We do not believe this would occur and would be supportive of asking our CTC’s to amend their Transportation Disadvantaged Service Plan (TDSP) to address how the TD Trust Fund dollars will be spent within their community and ensuring fair coverage of the entire county and fair access to the dollars by all types of TD eligible recipients.

**Conclusion**

We have tried for several years to resolve this issue, to no avail. The policy is not related to the allocation methodology, is inconsistent with Federal guidelines, and should be rescinded at the February 10 board meeting.

We thank you for your continued open dialogue on this subject and we hope to find a mutually beneficial solution that ensures fixed route transit systems are not at risk of losing federal dollars, and that other state agencies, who often serve clients who are eligible for multiple funding sources, do not begin to “prioritize” which funding sources should be used first for their clients.

Please feel free to reach out to me at 850.445.8329 for any further information. Thank you.

Sincerely,

Lisa M. Bacot
Executive Director

**Attachments:**
- Letter dated November 20, 2019 from FPTA
- Letter dated January 8, 2020 from FTA

**CC:**
- All CTD Commissioners
- FPTA General Managers/Board Members
May 7, 2021

David Darm, Executive Director
Florida Commission for the Transportation Disadvantaged
605 Suwannee Street, MS 49
Tallahassee, FL 32399-0450

Dear Mr. Darm:

The information below is in response to your email requesting input on the CTD Workshop that is being held today, May 7, 2021.

**Questions from David Darm on April 22, 2021:**

- **If CTD is authorized under Chapter 427, Florida Statutes, to subsidize a portion of ADA complementary paratransit services, what is the benefit to riders if these trips are currently available?**
  - This question is not relevant, the funds are not being used to “subsidize” ADA services. Riders are often dually eligible for both types of service, and therefore should be able to utilize either TD or ADA services anywhere in the county. The CTD is unreasonably excluding individuals who are fully eligible for TD funding.
  - There are situations where ADA eligible riders who are low income and are indeed eligible for TD funding and being disenfranchised, as they are required to pay the higher copay on ADA, rather than utilized TD funds for their trip.

- **If the budget impact of supplementing ADA trips is zero, then would funding these trips take funding away from non-ADA (i.e., TD “non-sponsored”) trips?**
  - This question is not relevant. ADA is a civil rights law, and is not a sponsored program. The CTD allocates dollars to CTC’s, the amount of money that is allocated to the county is not exceeded and should be allowed to be spent in accordance with the local eligibility guidelines, and local service areas identified by the CTC and LCB, regardless of where the individual lives.

- **ADA complementary paratransit services function as an extension of the fixed route system to ensure individuals with disabilities have access to the same level of services afforded to the general public:**
  - Are non-fixed route public transportation systems subject to the same federal requirements to provide a comparable service to persons with disabilities as is offered to the general public?
    - Only eligible individuals with disabilities have access to ADA/paratransit. Eligibility is based on an individual’s functional ability. Under the ADA, paratransit functions as a “safety net” for persons whose disabilities prevent
them from using the regular fixed route system (bus or rail) some or all of the time. It is not intended to meet all of the transportation needs of all persons with disabilities, all of the time.

- No, non-fixed route public transportation systems are not subject to the guidelines of the ADA complementary transportation law.

- How would maintaining the current CTD policy, where ADA trips are not eligible for reimbursement under the Transportation Disadvantaged Trust Fund (TDTF), impact the coordination of other funding to deliver paratransit services to the TD population?
  - The definition of a CTC is “to ensure that coordinated transportation services are provided to the transportation disadvantaged population in a designated service area”. Let the CTC utilize their own approved eligibility guidelines to ensure the most efficient delivery of services.
  - Again, this question is not applicable as we are not requesting ADA trips be reimbursed. CTC’s who have determined an individual is TD eligible should be able to provide TD service as defined in the TDSP and invoice for that TD trip regardless of where it occurs in the county.

- If the TDTF is statutorily designed to be the “payor of last resort,” how does this endanger the use of other federal funding sources to provide the most transportation possible?
  - Nowhere in Chapter 427, F.S. does it say that the TDTF is the “payor of last resort”, it states that “nonsponsored transportation disadvantaged services means transportation disadvantaged services that are not sponsored or subsidized by any funding source other than the Transportation Disadvantaged Trust Fund.” ADA transportation is NOT sponsored or subsidized by any funding source, it is civil rights legislation. FTA agreed with this assertion and in their letter dated January 8, 2020 to FPTA, they clearly stated: “under the Americans with Disabilities Act (ADA) is not a ‘sponsored program’ as characterized. The ADA is a comprehensive civil rights act ensuring that people with disabilities are afforded the same rights and responsibilities as all citizens.”
  - Medicaid is indeed the payor of last resort, and could use this unwritten policy of the CTD to start telling their clients that both ADA and TD funds need to be used prior to utilizing their Medicaid dollars. This is called “Trip Shedding” and has been deemed by the federal government to be improper. The CTD is doing the same thing and should immediately rescind their unwritten policy.

- Are there examples where the CTD policy resulted in “unraveling” coordination of other funding sources?
  - The CTD policy is not, on the surface, “unraveling” coordination, it is significantly prohibiting coordination by deeming a potential recipient ineligible due to where they live or where they are traveling.
The exclusion of Transportation Disadvantaged service in ADA corridors does not promote efficient coordination of transportation services.

- The Federal Transit Administration (FTA) requires transit entities to separate ADA complementary paratransit trips from “sponsored” unlinked passenger trips within the National Transit Database (NTD):
- If CTD purchases ADA trips, would that make them “sponsored” (within the NTD) and no longer considered “ADA” under the FTA?
  - The CTD would NOT be purchasing ADA trips, individuals are potentially dually eligible for the services. Reporting to the NTD by our fixed route transit systems would continue to follow the guidelines outlined by FTA.
- Would CTD paying for ADA trips reduce the availability of enhanced match federal funding for ADA paratransit service costs?
  - The CTD would NOT be purchasing ADA trips, individuals are potentially dually eligible for the services. There are no federal dollars specifically provided for ADA paratransit services.
  - Paratransit service is an unfunded mandate in the American Disabilities Act. Therefore, while it is required for transit agencies to provide these services, there is no federal funding source for agencies to pay for them.
- If CTD purchases ADA trips (beyond the rider’s fare), how would the rate of reimbursement be determined?
  - This question is not relevant, the CTD would NOT be purchasing ADA trips. Riders may be eligible for both. The rider would either take ADA or CTD for their services. The rate of reimbursement is clearly listed in the TDSP.
  - A transit provider is not required to transport someone who does not have money for the fare at pickup. Riders, like agencies, have responsibilities under the regulations. Section 37.131 allows agencies to charge paratransit customers up to double the fare for a comparable nondiscounted fixed route fare—there is no requirement that they transport people for free. These customers would typically be treated as “no-shows” and subjected to the agency’s no-show process. Thus, to only allow a CTC be reimbursed for the rider’s ADA fare is not an equitable solution to those CTC’s who do not have an ADA Paratransit service area.
- Would Community Transportation Coordinators (CTCs) that are not transit agencies be expected to reimburse the full cost of ADA trips?
  - This question is not relevant, CTCs who are not fixed route transit agencies are not required to obligated under FTA to provide ADA services.
- If the cost of an ADA-trip is to be covered, should the cost of a bus trip also then be covered?
  - This question is not applicable, the cost of a door-to-door trip is outlined in the TDSP and the cost of a bus trip is billed as the cost of the bus pass.
We also feel there are continued issues that have been mentioned several times that have not been addressed. They are:

- This unwritten policy seems to change when our transit systems begin to bill out the amount that was allocated to them.
- This unwritten policy continues to be applied unequally across the state:
  - CTCs who operate in an urban environment who are not fixed route transit systems are not told to follow this informal policy.
  - Some urban CTC’s who are the fixed route transit provider have not been told to follow this informal policy.
  - 5311 Funds are not treated the same way.
- This informal policy is considered “Trip-Shedding”, there is no difference with what the CTD is doing today than what Medicaid (and other agencies) tried to do in the early 1990’s.
- Several larger CTC’s who operate in very urbanized areas can now only bill for bus passes, which ultimately will limit the amount of dollars allocated to them in the new funding formula.
- The exclusion of Transportation Disadvantage service in ADA corridors does not promote coordination of transportation.
- Invoicing policies that conflict with language in the Trip and Equipment grant document that prevent the CTC from including all trips performed in a month, including those that exceed the monthly disbursement amount, and are paid for by the CTC, prevents those trips from being utilized in that allocation formula for future years of service thus addressing the unmet need of the Transportation Disadvantaged population in the County.

We still continue to hope to find a mutually beneficial solution that ensures the CTD follows FTA guidelines and that the “trip shedding” halts immediately. Please feel free to reach out to me at 850.445.8329 for any further information. Thank you.

Sincerely,

Lisa M. Bacot
Executive Director
DATE: May 7, 2021

Commission for the Transportation
Disadvantaged

PUBLIC COMMENT FORM

Instructions:
1. Complete comment form, including your address. PLEASE TYPE OR PRINT
2. Email comment card to David.Darm@dot.state.fl.us
3. The meeting facilitator will first call on webinar speakers, followed by conference call
   speakers. Instructions will be provided on unmuting webinar audio and phone lines.
4. Comments must be limited to five (5) minutes per speaker.

How will you be participating in the public workshop? Webinar_____Phone_____

Name____Boyd Thompson______________________________

E-Mail____boyd@theridesolution.org_____________________

Phone____386.937.4902_______________________________

Address____Ride Solution, 220 N. 11th Street__________________

City____Palatka________________________________

Zip Code____32177_________County_Putnam__________________

Representing____Ride Solution, Inc. ______________________

Subject____CTD policy to prohibit use of TD funds in ADA
corridors______________________________
Support______  Oppose X______  Neutral_______

Dear Executive Director Darm,

I am unable to make this afternoon’s workshop but wanted to submit the following as testimony:

In 1986, seven years after the passage of Chapter 427, and the year I was first employed by Ride Solution, there were still a number of counties, predominantly urban, that did not have Community Transportation Coordinators. It was not until the early 90’s, after the establishment of the TD Trust Fund in 1989, and the workshops for urban transit systems, given by Sheila Winitzer, that there was finally a CTC in each county in Florida. That Chapter 427 had a slow start would be an understatement. Sheila’s workshops were an educational effort that explained to urban transit systems how TD funding could benefit urban transit. The Intricacies of Coordination Agreements, bus passes, and the use of TD funds in ADA corridors were the main discussion points, thus, since the formative years of Coordination, the use of TD funding in ADA corridors has been a cornerstone of urban political support for Chapter 427 and TD. With the relatively recent changes in how bus passes and Coordination Contractor trips are handled in the AOR, and therefore in the TD funding formula, the use of TD funds within the ADA corridor is the last undiminished remaining draw that brought urban systems into TD. In the materials posted on the CTD website, the potential political fallout of further alienating the urban systems does not seem to be taken into consideration. Given the political vulnerability of Chapter 427 since the exit of Medicaid from the Coordination in 2014, I feel that the Commission should publically weigh the risk of this proposed policy diminishing the political support that the continuation of Chapter 427 depends upon.

Beyond that, this proposed policy, which would potentially reduce funding to urban counties, needs to be considered within the greater funding context of regional Coordinated transportation. The tunnel vision inherent in the stove
piping of funds was one of the obstacles to inter-agency Coordination that Chapter 427 was intended to overcome. Rural CTCs receive about a third the state and federal funding of urban CTCs on a per capita basis, thus, there is a greater long term institutional context that this proposed action is occurring within. The current deliberation also lacks the necessary immediate scope as there is no overarching sense of how this action relates to other funding initiatives, currently in play within FDOT and the human service agencies, that are also affecting both urban and rural CTCs. How this proposed action impacts the goal of regional Coordinated transportation is unknowable because there is currently no plan for regional Coordinated transportation. The lack of a comprehensive plan for Florida regional public transportation deprives the CTD of the appropriate context within which to consider the use of TD Funds in ADA corridors. Before committing to the political risk inherent in this proposed policy, I would respectfully encourage the CTD to widen its scope of consideration by developing the much needed plan for regional Coordinated transit. Thank you for your consideration.

Sincerely,

Boyd Thompson
Executive Director
Ride Solution, Inc.
CTD Public Workshop: Americans with Disabilities Act (ADA) Transportation Services

February 25, 2021

Lisa M. Bacot, Executive Director
Florida Public Transportation Association
History of Informal Policy

**Early 2016:** SOME CTCs who are Transit Systems begin being told they can’t use TD funds within the ADA Corridor or can only bill the fare:

- Done through Quality Assurance Reviews
- Never discussed at the CTD Level
- Only given to SOME Urban CTC’s (those urban CTC’s that aren’t the Transit System have never been told to do this, not all urban CTC’s have been told this)
- Rural counties are still utilizing 5311 dollars, as normal

**August 25, 2016:** FPTA wrote our first letter to the CTD, with several issues, including the ADA/TD policy change.

**April 5, 2017:** FPTA wrote second letter to CTD

**September 16, 2019:** FPTA Members met with David Dam

**November 20, 2019:** FPTA sent letter to FTA for guidance

**January 8, 2020:** FTA Responded, agreeing with our position

**February 3, 2020:** FPTA sent letter to CTD outlining FTA’s position

**February 4, 2020:** FPTA met with Secretary Thibault

**October 2, 2020:** FPTA Members met with David Darm and Marion Hart

**February 25, 2021:** CTD Holds a Public Hearing
FTA Supports our Position

F DOT Supports our Position
Issues with CTD Informal Policy

- No formal guidance ever given to CTCs
- Inconsistent Enforcement
  - CTCs are told different things
  - CTCs with access to 5311 dollars are not being told to do the same
- Some counties are entirely covered by Fixed Route service and ADA services and thereby could NOT spend the allocated TDTF dollars
- ADA is a civil rights law, is not considered “sponsored”, and is being singled out to be misinterpreted as “access to transportation”
- Other State Agencies Could Follow
  - Precedent was set back in early 90’s that this was not allowed
  - Totally Against Coordination and Local Control
427.0155 Community transportation coordinators; powers and duties

- 427.0155(4): Approve and coordinate the utilization of public transportation services in accordance with the transportation disadvantaged service plan.

- 427.0155(7): Establish eligibility guidelines and priorities with regard to the recipients of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.

- 427.0155(8): Have full responsibility for the delivery of transportation services for the transportation disadvantaged...
Solution

- Require CTC’s in urbanized areas to address how their TDTF dollars are being spent within their community to ensure fair coverage to the entire county and fair access to the dollars by all types of TD eligible riders.
- Monitored and Approved by the Local Coordinating Board
**Question:** If CTD purchased ADA trips (beyond what is covered for the rider’s fare), what would be the budget impact on the TD Trust Fund?

- **NO impact whatsoever**, CTCs are given a set amount of money each month
- There was no concern from the TD staff when this informal policy went into place in 2016, which restricted several counties so much they had to return money to the TD Trust Fund
Appendix C
Public Workshop Meeting Summaries
MEETING SUMMARY

Commission for the Transportation Disadvantaged
February 25, 2021 Public Workshop

The Commission for the Transportation Disadvantaged (CTD) convened a public workshop on Thursday, February 25, 2021, at 2:00PM. The meeting was held via GoToMeeting webinar and telephone conference. The purpose of the workshop was to gather feedback from stakeholders on the use of CTD funding to serve individuals with disabilities who are also eligible for complementary paratransit services covered under the U.S. Americans with Disabilities Act (ADA).

Below is a summary of the information that was discussed at the workshop. Members of the public were invited to participate and speak on the information presented. This meeting summary includes the public input received during workshop.

Welcome and Meeting Objectives
Commissioner Robin Tellez provided the welcome and discussed the meeting objectives for the public workshop: 1) provide an overview of the current eligibility criteria for Transportation Disadvantaged (TD) “non-sponsored” services; 2) understand the implications of ADA complementary paratransit services on the TD program; and 3) gather public input from stakeholders on services for dual TD-ADA eligible customers.

Commissioner Tellez thanked Thomas Howell Ferguson for facilitating this workshop. She stated they will also be compiling all information pertaining to this issue, including public feedback received from public workshops and email correspondence, within a report to the Commission. Commissioner Tellez provided an overview of the Sunshine Law and informed participants that this meeting is being recorded. Megan Townsend, from Thomas Howell Ferguson, provided an overview of the features of the GoToMeeting webinar.

Presentation on TDTF “Non-Sponsored” Eligibility and ADA Complementary Paratransit Services
CTD Executive Director, David Darm, provided a presentation on the Commission’s current policies governing “non-sponsored” transportation services, which are funded under the Transportation Disadvantaged Trust Fund (TDTF). Individuals are eligible to receive TDTF non-sponsored services if they: are “transportation disadvantaged” due to disability, age, or income (s. 427.011(1), F.S.); need access to health care, employment, education, or other activities in their community; and have limited transportation options to participate in these activities. Mr. Darm began the presentation by posing questions for the workshop participants to consider addressing in their public feedback.

The TDTF was established in 1989, under Section 427.0159, Florida Statutes, where the majority of its funds are used to purchase trips for eligible individuals to access
activities “not sponsored” by another entity. TDTF eligibility criteria was adopted by the Commission on May 22, 1997. Mr. Darm cited the statutes and rule governing TDTF non-sponsored services: ss 427.011(12) and 427.0159(3), F.S., and Rule 41-2.013, F.A.C. He then provided an overview of the Commission’s TDTF eligibility criteria and process used to distribute funding for the delivery of non-sponsored services by Community Transportation Coordinators (CTCs).

The Americans with Disabilities Act (ADA) is a federal civil rights law that affords individuals with disabilities the right to access all areas of public life, including public transportation. Transit entities that operate fixed bus route systems are required to provide “ADA complementary paratransit” services to eligible individuals who: live within ¼ of a mile of a fixed route; and demonstrate they are unable to access the fixed route due to their physical or mental disability. Mr. Darm provided an overview of the federal regulations that govern ADA complementary paratransit services (49 CFR 37.131), which are administered by the Federal Transit Administration (FTA).

Mr. Darm provided an overview of the Commission’s position regarding the use of TDTF funding in relation to TD eligible individuals who also receive ADA complementary paratransit services. For individuals who are dual-eligible for TDTF and ADA services, CTD authorizes the use of TDTF to: purchase paratransit trips that are not covered under the ADA; and subsidize the rider’s fare for an ADA complementary paratransit trip. Notwithstanding these exceptions, CTD determined ADA complementary paratransit services not eligible for reimbursement under the TDTF. Mr. Darm presented the reasons for this decision:

- The ADA guarantees individuals with disabilities who live in a community with a fixed route access to complementary paratransit services, regardless of the existence of the TDTF. TDTF funding is intended to purchase trips for eligible individuals who have “no other means of transportation” to afford them access to services that would otherwise not exist.
- ADA paratransit serves as an extension of “public transit” fixed route services, which the CTC must explore as an option before determining an individual eligible for TDTF non-sponsored services.
- CTD’s decision to only subsidize the rider fare for an ADA paratransit trip is similar to purchasing bus passes, which only subsidizes the rider fare of fixed route services (not the full cost of fixed route trips).

Mr. Darm discussed additional federal grant programs that support the delivery of paratransit services to individuals with disabilities and other groups within the TD population: 5307 Formula Funding for Urbanized Areas; 5311 Formula Funding for Rural Areas; and 5310 Enhanced Mobility for Seniors and Persons with Disabilities. He concluded his segment of the presentation with a “cross-walk” table that provided a summary of both programs (TDTF and ADA), including their similarities and differences in requirements.

Casey Perkins, representing Thomas Howell Ferguson, provided an overview of data related to ADA complementary paratransit services within the National Transit Database (NTD). He explained the purpose of this presentation is to assist in identifying what trips
are taking place and where, how they more broadly fit within public transportation, and how they are financially supported.

Mr. Perkins presented a table of unlinked passenger trips (UPT), which identifies ADA complementary paratransit trips, “sponsored service” trips, and other trips provided by all transit agencies, reported in the NTD. The NTD manual defines UTP as “the number of boardings on public transportation vehicles during the fiscal year...” “Sponsored service” within the NTD, which are from the perspective of the federal government (not CTD), are trips that are “paid in whole or in part by a third party,” such as Medicaid, Meals-on-Wheels, Head Start, etc. So, from the perspective of the federal government, Mr. Perkins said a CTD funded trip might be considered a “sponsored service” trip. He noted that the NTD manual states: “Transit agencies should not include ADA UPT under Sponsored UPT. ADA-related UPT should not include any sponsored services.”

Mr. Perkins presented operating expense data reported in the NTD, which are the costs associated with providing UPT. For example, of the $11.5 million of total operating expenses reported by Manatee County Area Transit in 2015, $1.2 million was for ADA-related operating expenses. Mr. Perkins stated these operating expenses are covered with revenues termed as “funds earned.” According to the 2018 NTD Policy Manual, “Transit agencies must identify the portion of total expenses directly related to operating complementary paratransit services in compliance with the ADA requirements... agencies may estimate ADA related expenses using a reasonable approach, such as the proportion of ADA trips to total trips.” Mr. Perkins elaborated that the UPT data could be used to estimated ADA related expenses, which must not include costs associated with “sponsored service” trips.

The NTD identifies four revenue (i.e., “funds earned”) categories: 1) directly generated funds, such as passenger fares collected; 2) local government funds; 3) state government funds; and 4) federal government funds. Transit agencies may use the funding from federal grant programs, such as 5307, to support operating expenses related to ADA complementary paratransit services. Mr. Perkins stated that some of ADA related costs are included in the “Funds for Capital Assistance Expended on Operations” of the NTD, which receive about 80 percent enhance match from FTA grant programs. Mr. Perkins noted that the total operational expenses equal the total funds earned in the NTD table.

Mr. Perkins said all data presented in this workshop would be posted on the CTD website. He invited all feedback on this data as well as any other data sources that should be reviewed as part of the Commission’s report.

Public Input
Michelle Arnold, representing Collier Area Transit, spoke in support of utilizing TD funding for ADA eligible passengers. She said the information presented today is correct, but the ADA is an unfunded mandated program, so transit entities do not have the option to prioritize or make determinations outside of the ADA regulations. Ms. Arnold said transit entities are able to use 5307 funding to support operating expenses, but those funds are limited. She said the ADA places a financial burden on transit agencies that may limit services provided to the community overall. Ms. Arnold wanted
to see more consistency in the definition of “sponsored” trips – she was not aware of the federal definition prior to this workshop. She appreciated the Commission providing the opportunity to have this discussion.

Kelsey Peterson, representing Palm Beach Transportation Planning Agency, asked if there were specific examples of transit agencies that track TD expenses separately from ADA expenses. Mr. Darm said the Commission tracks Trip & Equipment Grant-related expenses through its invoice data and requires CTCs to report annual revenues/expenses through the Annual Operating Report (AOR). However, the AOR has not provided consistent or accurate data. Mr. Perkins said the NTD appears to be very high level, but it does not provide detailed data, such as expenses related to “sponsored services.”

Paul Strobis, representing Broward County Transit, said his agency only provides ADA paratransit trips to individuals who are eligible for such services. He did not support CTD’s policy for only reimbursing the rider’s fare for an ADA paratransit trip. For ADA paratransit customers who are not able to pay the fare, Mr. Strobis stated FTA provided guidance that transit properties are not obligated to provide those trips; therefore, those trips are not considered ADA paratransit services and should be eligible as TD “non-sponsored” services. He said it was not fair to CTCs to only draw down the fare value and not the full cost of a trip that would be reimbursed under the Trip & Equipment Grant. He asked the Commission to reconsider this policy and seek input from CTCs that provide a combination of ADA and TD non-sponsored services.

Lisa Bacot, representing Florida Public Transportation Association (FPTA), spoke in opposition of CTD’s current policy on ADA paratransit services. FPTA has been trying to work with CTD to address this issue since 2016. Ms. Bacot emphasized that this was not a formal policy approved by the Commission, but a change in interpretation that occurred in 2016 and, to her knowledge, was never sent out in writing to the CTCs. She said this policy has been unequally applied: some large urban CTCs were told through their quality assurance review that they had to start denying TD eligible riders services within the ADA corridor, while other CTCs that do not operate a fixed route have not been told of this policy in their quality assurance reports. Also, some urban CTCs that do provide ADA services on a smaller scale have not been told to do this, and CTCs that receive other funding for general public transportation, such as 5311, have not been told to deny TDTF trips to riders of those programs.

In 2019, FPTA sent a letter to FTA, requesting guidance on CTD’s position on ADA paratransit trips being considered as “sponsored” trips. FTA responded in agreement with FPTA’s position. Ms. Bacot stated she also met with Florida Department of Transportation Secretary Kevin Thibault in 2020 and it was her understanding that the Department also supported their position. These are the two major funders of transportation in the nation and state, so Ms. Bacot said it was somewhat incomprehensive to her why this policy continues to be enforced. She said FTA agrees that ADA should not and cannot be used to deny access to other forms of transportation that individuals are eligible for. It is not to be considered access to transportation, nor a sponsored program – it is a civil rights law. Ms. Bacot cited the FTA letter that these services are not “in any way ‘sponsored’ by any of these agencies, unless one regards
trips taken in private automobiles on public highways constructed using Federal, state and local tax dollars as 'sponsored' in the same manner."

Some counties are entirely covered by the fixed route, where ADA services the whole county. When this policy was implemented, Ms. Bacot said those counties were unable to spend their TDTF allocated dollars. She said this precedent was set back in the 1990s, when the Center for Medicare and Medicaid Services (CMS) tried to deny Medicaid-sponsored trips to individuals who were eligible for ADA paratransit services. FTA stopped CMS from enforcing that policy. If the Commission continues to enforce this policy, Ms. Bacot said other state agencies could follow, such as Medicaid.

Ms. Bacot stated this policy goes against coordination and local control under Chapter 427, F.S. She cited s. 427.0155, F.S., where CTCs are charged with utilizing public transportation funds, establishing eligibility guidelines and priorities, and having full responsibility for the delivery of services. For a solution, Ms. Bacot recommended the Commission ask each CTC how they are using TDTF dollars within their community (and how it relates to ADA) to ensure fair coverage to the entire county and fair access to the dollars by all types of TD eligible riders. The Transportation Disadvantaged Service Plan (TDSP) is monitored and approved by the Local Coordinating Board (LCB), which has much more experience in ensuring all areas are properly covered.

Ms. Bacot addressed one of the questions that was posed during the workshop: “If CTD purchased ADA trips (beyond what is covered for the rider’s fare), what would be the budget impact on the TD Trust Fund?” She said this was not correct: the Commission would not be purchasing ADA trips because these are two separate programs (ADA and TD). Rather, this is about changing the policy that was enforced in 2016. Ms. Bacot said there would not be a budget impact on the TD Trust Fund because CTCs are given a set amount each month, so once those dollars are spent the CTC gets no additional funding. She said there was no concern from the CTD when this policy was put in place, where some counties like Miami-Dade were restricted in spending their TD dollars and had to return them back to the trust fund. She requested the Commission rescind this policy immediately.

Liz Stutts, representing the Florida Department of Transportation (FDOT), spoke to some statements made during the presentations. If the Commission continues down this path, Ms. Stutts was concerned that this policy will be chipping apart at the coordinated system, which the Belles, Commissioner Marion Hart, and Jo Ann Hutchinson worked so many years to make effective in the state. The information presented by Thomas Howell Ferguson was the guidance language from the NTD reporting handbook but is not the language that is in the FTA circular, which transit systems are required to follow. She said that language states that only 10 percent of a transit system’s apportionment can be used to cover ADA expenses. For the smaller systems, such as Votran, RTS of Gainesville, and LeeTran, that amount equals (or is less than) about $400,000 a year. Ms. Stutts said that does not begin to cover the costs of ADA paratransit services.

In response to Mr. Darm’s presentation, Ms. Stutts stated the statutory definition of “sponsored transportation” led her to believe that it was referring to any kind of trip (or
transportation) that is paid for by any other agency, so that TD funding was the funding of last resort. If that is indeed the interpretation of the Commission, she said this will endanger the use of other federal funding sources to leverage the resources to provide the most transportation possible, which is what coordination is supposed to be all about. Agencies use their 5307 and 5310 funding to purchase vehicles that are delivered to serve the TD population. If the Commission considers those vehicles to be “sponsored” by another program or agency and prohibits the use to serve TD eligible riders (or TD funds cannot augment those trips because those vehicles are paid by another program), Ms. Stutts said that will hurt the urban and rural CTCs to serving their clients. Additionally, 5311 funding is used in conjunction with TD trip funding to serve rural customers across the state. Again, if the Commission takes the position that those trips are “sponsored” by another program (i.e., TD funding cannot be used for those trips), she said this will cut funding that could be used for those rural counties.

Ms. Stutts clarified that FDOT has not yet taken a position on this policy but has expressed these concerns to CTD staff about the potential unweaving of the coordinated system.

Mr. Darm appreciated Ms. Stutts sharing these concerns and stated the Commission would continue to work with FDOT as an advisor on this issue. Mr. Darm clarified that the statutory definition of “nonsponsored transportation” that was cited in the presentation was not an interpretation but the actual language in s. 427.011(12), F.S., which states that these services are “not sponsored or subsidized by any funding source other than the Transportation Disadvantaged Trust Fund.” He wanted to be cognizant of the concerns raised by Ms. Stutts, which is why they presented the NTD to serve as a starting point. But the statute is what the Commission must operate on because that is what the Legislature authorizes for the use of funds. Mr. Darm reiterated that this was the beginning of the discussion and that they would have a second workshop to further explore these issues. During the interim, he invited workshop participants and other stakeholders to submit their feedback to him via email (David.Darm@dot.state.fl.us), which will be compiled in the final report presented to the Commission.

Ross Silvers, representing Pinellas Suncoast Transit Authority (PSTA), spoke to some of the questions that were posed during the workshop. First, regarding the federal definition of “sponsored service” trips, Mr. Silvers said an ADA trip could be considered “sponsored.” For example, Bay Pines VA reimburses its veterans for the ADA fare (known as “travel funds”) to access the VA. So, if a trip occurs outside of the coordinated system and another entity is paying for it (such as Medicaid, Medicare or the VA), is that a “sponsored” trip that the CTC would know about and be able to disqualify the person under TD? Mr. Silvers said no: the CTC does not know what is “sponsored” and not. From the customer’s perspective, he said a trip is a trip, regardless of whether it is funded by TD or another entity.

In terms of “sponsored” vs “non-sponsored,” Mr. Silvers said there needs to be a separation of what applies to the individual’s eligibility and a trip. Even for the ADA, the common practice is to look at trip-by-trip eligibility. He believed the same approach should be used to determine “sponsored” vs “non-sponsored.” For example, if a city
government pays a person $1.00 for a trip, but the trip costs $4.50 total ($3.50 for the individual to pay), is that considered a “sponsored” trip that cannot be subsidized by TD funding?

In response to the question on underserved populations within fixed route service areas that could be better served by TD funding, Mr. Silvers said some areas only have fixed route and ADA during rush hour, leaving some people waiting for hours for a trip back home. For the question over how the rate for an ADA paratransit trip would be determined (if CTD purchased the trip beyond the rider’s fare), Mr. Silvers said the rate would be the same as a TD ambulatory or wheelchair trip. The rate of reimbursement is based on the rate model used by the CTC, regardless of whether it’s a TD “non-sponsored” trip or ADA paratransit trip.

Mr. Silvers said the Commission has a great system in place to ensure there is equitable coverage of services: the LCB, the Designated Official Planning Agency (DOPA), Commissioners on the boards, the CTC annual evaluation, etc. He said we need to find a way to use the TD Trust Fund dollars appropriately county-by-county, including ADA eligible trip reimbursement for TD eligible individuals. This can be done best by the LCB and DOPA setting eligibility guidelines on the use of existing funds.

Mr. Darm clarified the term “sponsored service” being distinguished from ADA was referring to the federal government definition with the NTD report – not the CTD’s definition in statute.

**Next Steps…**
Mr. Darm reiterated that all the feedback received on this topic will be compiled in a report to the Commission. He said the report will also address the statutory requirements and any potential recommendations to consider with this policy for the future. Mr. Darm said the next Commission Business Meeting is scheduled for March 30, but he emphasized that they will not be taking any action on this matter at that meeting. He said they will plan to hold a second workshop on this topic following the March 30 Commission Meeting. During the interim, Mr. Darm said the Commission will continue to research and gather data to gain a better understanding of the issues discussed in this workshop.

Commissioner Tellez thanked everyone for participating in the public workshop.

*Minutes compiled by David Darm.*

*Note: This meeting has been summarized to reduce paperwork in accordance with policies of State government. If an accessible format or more information than is provided herein is needed, please contact the Commission for Transportation Disadvantaged at (850) 410-5700 or 1-800-983-2435 for assistance. A copying or printing fee may be charged to the requesting party.*
MEETING SUMMARY
Commission for the Transportation Disadvantaged
May 7, 2021 Public Workshop

The Commission for the Transportation Disadvantaged (CTD) convened a public workshop on Friday, May 7, 2021, at 2:00PM. The meeting was held via GoToMeeting webinar and telephone conference. The purpose of the workshop was to gather feedback from stakeholders on the use of CTD funding to serve individuals with disabilities who are also eligible for complementary paratransit services covered under the U.S. Americans with Disabilities Act (ADA).

Below is a summary of the information that was discussed at the workshop. Members of the public were invited to participate and speak on the information presented. This meeting summary includes the public input received during workshop.

Welcome and Meeting Objectives
Commissioner Robin Tellez provided the welcome and introduced the purpose of this workshop. This is the second public workshop – the first was held on February 25, 2021 – to inform and gather input from stakeholders on the Commission’s policy on “non-sponsored” transportation and the impact of ADA complementary paratransit services on the TD program. The objectives of this second public workshop are to:

1) Provide a more in-depth overview of the policies governing TD non-sponsored transportation services, including the legislative history of Chapter 427;
2) Examine the impacts ADA complementary paratransit services have had on the TD program, including a discussion of a Commission study that was conducted by USF-Center for Urban Transportation Research (CUTR) in 1993-94; and
3) Respond to some of the public comments that were made during the February 25 Workshop and invite additional feedback from stakeholders to assist the Commission in considering the impacts of a decision on whether to maintain or revise its current policy on ADA complementary paratransit.

Commissioner Tellez thanked Thomas Howell Ferguson for facilitating this workshop. She stated they will also be compiling all information pertaining to this issue, including public feedback received from public workshops and email correspondence, within a report to the Commission. Commissioner Tellez provided an overview of the Sunshine Law and informed participants that this meeting is being recorded. Megan Townsend, from Thomas Howell Ferguson, provided an overview of the features of the GoToMeeting webinar.

Presentation on TDTF “Non-Sponsored” Eligibility and ADA Complementary Paratransit Services
CTD Executive Director, David Darm, provided a presentation on the Commission’s current policies governing “non-sponsored” transportation services, which are funded under the Transportation Disadvantaged Trust Fund (TDTF). Individuals are eligible to
receive TDTF non-sponsored services if they: are “transportation disadvantaged” due to
disability, age, or income (s. 427.011(1), F.S.); need access to health care,
employment, education, or other activities in their community; and have limited
transportation options to participate in these activities. Mr. Darm provided an overview
of the information that was presented in the first workshop – including the Commission’s
current policy pertaining to ADA paratransit services – and the public comments that
were received by stakeholders. Similar to the February 25 workshop, he posed a series
of questions for participants to consider addressing in their public feedback.

Mr. Darm provided an overview of the legislative history of the TD program. The
program was established in Chapter 427, Florida Statutes, in 1979. The original
legislation (Ch. 79-180, L.O.F.) included a series of “WHEREAS” clauses that
established the purpose of the program. It also established the “coordinating council”
and provider network, which would eventually become the CTCs. In 1989, the
Legislature established the TDTF (s. 427.0159, F.S.), transitioned the Council into the
Commission, and created the statutes governing the Community Transportation
Coordinators (CTCs) and Local Coordinating Boards (LCBs). In 1992 (two years after
the passage of the ADA), the Legislature established the definition of “non-sponsored”
transportation funded under the TDTF, directed the Commission to develop eligibility
criteria for TDTF services, and required CTCs and LCBs to use these criteria to
prioritize funding for non-sponsored services. The eligibility criteria directed by the 1992
legislation (Ch. 92-152, L.O.F.) was adopted by the Commission in 1997.

Mr. Darm highlighted some common themes across the legislative history of the TD
program. Individuals who are “transportation disadvantaged” have unique needs that
are not being addressed by government or other transportation programs. Many of
these individuals have limited or no access to public transportation (including fixed
route) within their community. The TD program was created to “coordinate” funding and
other resources to provide transportation to these individuals in a manner that is “cost-
effective.” The TDTF subsidizes a portion of the cost of trips to individuals who have no
other means or funding available to support their transportation needs. Chapter 427
directs the Commission and CTCs to develop criteria that prioritize TDTF dollars to
support the greatest needs. And the eligibility criteria adopted by CTD in 1997 direct
CTCs to explore “public transit” fixed route as a transportation option prior to
determining an individual eligible for TDTF non-sponsored services.

Mr. Darm presented an overview of a study that was conducted by the Commission in
1993-94, through USF-CUTR, to explore impacts of the ADA on the TD program during
its early implementation. The study explored the relationship between the two programs,
including the effects on eligibility, demand, and funding. The study identified individuals
who are eligible for ADA paratransit services as a “subset of the population” eligible for
TD services. It examined the extent changes were occurring within the Coordinated
Transportation System to accommodate the requirements of the ADA. Some of the key
insights of the study included:

- The most influential factor to the initial growth in ADA ridership was the availability
  of other transportation services, particularly “where the funding for non-sponsored
  trips [was] insufficient to meet demand.”
- The issuance of monthly bus passes increased to encourage riders to use fixed route when possible, “freeing paratransit capacity for other TD and ADA eligible persons who cannot” ride the fixed route.
- The “more coordinated CTCs” would assign the most appropriate funding source to the trip: If a trip does not meet a specific program (i.e., “sponsored”) criteria, “the second choice is generally ADA service, followed by TD Trust Fund-sponsored service… [b]because the TD Trust Fund is the most flexible funding source and is applied last…”
- Many systems experienced a shift in demand, where ADA captured certain types of trips over others. For example, ADA service would carry more employment, recreation and weekend trips, while a greater portion of TD trips would occur “outside of the transit service area, creating some longer average trip lengths.”
- Though the study estimated the demand for ADA paratransit would continue to grow, it would be less than the estimated demand for TD services: “Current funding levels will continue to be far short of what is needed to meet the demand for TD services, even if ADA paratransit is fully funded for eligible trips.”

Mr. Darm provided a state map that distinguished the CTCs that directly operate fixed route services (which means they are directly impacted by the ADA requirements) from the CTCs that do not operate a fixed route but provide TD non-sponsored services within a community that does have a fixed route. For example, Hillsborough County Board of County Commissioners serves as the CTC for Hillsborough County, called “Sunshine Line;” however, the fixed route system in Hillsborough is operated by a separate entity, Hillsborough Area Regional Transit (HART) Authority. He stated it is important to understand these distinctions as the Commission’s policies may impact these systems differently.

Mr. Darm discussed and responded to some of the public comments received during the first workshop. In terms of access to services, he stated individuals with disabilities who are determined eligible for ADA paratransit services are guaranteed access to transportation through the fixed route system, regardless of the existence of the TDTF. Though ADA riders may still qualify for TDTF non-sponsored services, he stated the funding should be prioritized to support trips not covered under the ADA (pursuant to ss 427.013(23) and 427.0155(7), F.S.). Mr. Darm said a reversal of this policy would reduce the availability of funding for non-ADA (TD) riders.

Casey Perkins, representing Thomas Howell Ferguson, provided an example to illustrate Mr. Darm’s point about the impact on funding if the policy were reversed. He demonstrated how Hillsborough Sunshine Line currently uses TDTF dollars to purchase fare subsidies for ADA complementary paratransit services (provided by HART) to enhance access for TD-ADA dual eligible riders. In FY 2018-19, Sunshine Line was reimbursed by CTD for 11,192 HARTPlus passes for a total of $447,680. According to HART’s website, Mr. Perkins said HARTPlus passes can be purchased at $4 per trip or $40 for 10 trips. All the passes purchased with TDTF dollars supported access to 10 trips per pass.

Mr. Perkins asked: What if CTD had not reimbursed the passes, but instead reimbursed the trips at the ambulatory rate? Ten trips per pass for 11,192 passes equals 111,920 trips. If CTD reimbursed these trips at Sunshine Line’s ambulatory rate in FY18-19 at
$35.73, the total amount would result in $3,998,901.60, or an increase of $3,551,221.60 (nine times the amount) compared to the cost of reimbursing the pass fares. Mr. Perkins said another way to look at this is: if CTD only allocated $447,680 for Sunshine Line to purchase ADA paratransit trips at the ambulatory rate of $35.73 per trip, Hillsborough County would provide access to 12,530 trips (as opposed to 111,920 trips by purchasing HARTPlus passes).

Mr. Perkins provided a table that illustrated how a $3.5 million increase to Hillsborough County would impact the number of trips provided by Sunshine Line compared to what was actually provided in FY18-19. For example, the number of ambulatory trips would increase from 9,664 to 99,390 (more than ten times that were provided in FY18-19) if Sunshine Line received an increase of $3.5 million. Mr. Perkins said this example illustrates how Sunshine Line has maximized access to trips by purchasing the fare for ADA paratransit trips (as opposed to only delivering non-sponsored trips).

Mr. Darm discussed the public comment pertaining to the application of the Commission’s policy. He stated ADA paratransit services are provided as a “complement” of the fixed route; absent a fixed route system, ADA paratransit services do not exist. Therefore, Mr. Darm said the Commission’s policy only applies to those systems where ADA complementary paratransit services are provided. In terms of coordination of other funding sources, Mr. Darm cited s. 427.011(10), F.S., which permits CTCs to use “transportation disadvantaged funds” (beyond what is covered under the TDTF) from other federal, state, and local sources to support the delivery of transportation, including the procurement of vehicles, capital investments, etc.

Regarding the definition of “sponsored” services, Mr. Darm stated both the state and federal governments have their own definitions. For the state, he cited s. 427.011(12), F.S., and Rule 41-2.013, F.A.C., which provide for the use of TDTF dollars to subsidize a portion of an individual’s trip that is “not sponsored” by any other federal, state, or local program. Under the National Transit Database, the Federal Transit Administration (FTA) defines “sponsored” as trips that are “paid for in whole or in part by a third party,” which would include CTD-funded trips. Mr. Darm stated these “sponsored” trips (under the FTA definition) are separate from ADA complementary paratransit trips.

Mr. Darm concluded by discussing the public comments pertaining to CTD’s policy to only reimburse the fare for an ADA paratransit trip. He stated this policy is consistent with the Commission’s practice of purchasing bus passes for TD eligible riders to access the fixed route, which only subsidize the rider’s fare – not the full cost – of a fixed route trip. However, if a TD eligible individual demonstrates a need to access an activity not covered under the ADA or other program, CTD will reimburse a non-sponsored trip at the rate negotiated between the Commission and CTC. Mr. Darm closed with a list of works cited for this presentation.

Public Input

Jeff Barbacci, representing Thomas Howell Ferguson, facilitated the public input segment of the workshop.
Lisa Bacot, representing Florida Public Transportation Association (FPTA), spoke in opposition to the Commission’s policy. She said FPTA provided a letter to CTD in response to the questions that were presented in the presentation. She had hoped this would be a more open discussion among the entities impacted by this policy and the commissioners, but instead it has been a one-sided discussion. She believed some of the information presented in the workshops have been inaccurate and just “checking the box” for public comments to be received, without fully responding to those comments.

Ms. Bacot said FPTA continues to have questions about the validity of this informal policy and disagrees with the assertions made in these presentations. FPTA continues to question numerous areas of this policy. There has not been a statewide explanation. In some cases, when the CTC figures out how to bill out their allocated dollars, the policy changes again. The policy continues to be unequally applied across the state. For example, CTCs that operate in an urban area but do not operate a fixed route have not been told to follow this policy. This policy has only been applied to certain CTC-transit entities in large urban areas. Ms. Bacot said 5311 grant funds are paid for, but ADA trips are not. She said none of the workshops have addressed the issue of “trip shedding.” Medicaid attempted to do this in the 1990s but stopped after being told to cease by FTA. She said the Commission is doing the same thing.

Ms. Bacot said many of the questions posed during the workshop were irrelevant: the ADA is a comprehensive civil rights law, not a “sponsored” program. TDTF dollars should be spent according to the local eligibility guidelines and the local service area identified by the CTC and Local Coordinating Board (LCB), regardless of where the individual lives. The Commission is utilizing “access to transportation” as a means of denying individuals, but “access” implies that the individual has a sponsored program paying for a trip. Ms. Bacot stated FTA agrees with FPTA’s position: ADA paratransit services are not sponsored. Ms. Bacot said this is disappointing that the Commission has refused to alter its policy to comply with FTA guidelines. Trip shedding goes against the policies of FTA.

Paul Strobis, representing Broward County Transit, agreed with many of the points made by Lisa Bacot. He commented on one issue discussed in the presentation related to the CTD’s policy of only reimbursing the fare for ADA paratransit trips. The Trip & Equipment (T&E) Grant requires a 90-10 split in reimbursing for the delivery of those trips. If the CTC is not obligated to provide that trip and it costs $30-$40 to provide that trip, CTD is not giving that money to the individual but the CTC. So, CTD is putting CTCs at a disadvantage in providing those trips. The CTC should be able to negotiate the trip rate based on the T&E Grant rate model for any TD eligible trip in the community. He hoped that these concerns would be shared with the commissioners and he looked forward to speaking at the June 3 Commission Meeting. Mr. Strobis said this is a dangerous policy that could potentially have unintended consequence of unfunding other programs to shift toward the TD program.

Jeff Barbacci informed participants that Boyd Thompson, representing Ride Solutions in Putnam County, was not able to attend today’s workshop, but provided public comments in writing to oppose the Commission’s policy on ADA paratransit services. Mr. Barbacci said Mr. Thompson’s written comments would be included in the final report presented to the Commission.
Next Steps…
Mr. Darm stated all the feedback received (both during the public workshops and provided in writing) will be compiled in a report to the Commission. He said the goal is to publish the draft report 7 to 10 days prior to the Commission Business Meeting on June 3, which will allow commissioners and members of the public an opportunity to review before that meeting. To meet this deadline, Mr. Darm requested stakeholders who wish to provide additional public input to send to him by May 14, at: David.Darm@dot.state.fl.us.

Commissioner Tellez thanked everyone for participating in the public workshop.

Minutes compiled by David Darm.
Note: This meeting has been summarized to reduce paperwork in accordance with policies of State government. If an accessible format or more information than is provided herein is needed, please contact the Commission for Transportation Disadvantaged at (850) 410-5700 or 1-800-983-2435 for assistance. A copying or printing fee may be charged to the requesting party.
Appendix D
1997 TD Trust Fund Eligibility Criteria
TD Trust Fund Eligibility Criteria
Adopted May 22, 1997

POLICY STATEMENT:

It is the intent of the Commission to set forth eligibility requirements for consumers of the Transportation Disadvantaged Program.

At a minimum, each CTC shall set the following criteria to determine eligibility for Transportation Disadvantaged Trust Fund (TDTF) (non-sponsored) monies:

- **No other funding available.** A customer would not be considered eligible for TDTF when another purchasing agency is responsible for such transportation.

- **No other means of transportation is available.** As specified by the LCB and CTC.

- **Public Transit.** If fixed-route public transit is available the customer must demonstrate why it cannot be used.

- **Physical or mental disability.** A disability as outlined in the Americans with Disabilities Act of 1990.

- **Age.** As specified by the CTC and the LCB.

- **Individual and household income status is a specified percent of the poverty level.** As specified by the CTC and LCB.

- **No self-declarations allowed.** The CTC will use an enrollment process that substantiates the individual’s ability to meet the criteria listed and any other CTC determined criteria.

- **Ability to pay.** The CTC and LCB may establish an ability to pay policy for “non-sponsored” customers using a sliding scale based on the customer’s income and/or assets status.
COMMISSION FOR THE TRANSPORTATION DISADVANTAGED
TRUST FUND ELIGIBILITY CRITERIA

Section 427.011(1), F.S., defines “transportation disadvantaged” as:

those persons who because of physical or mental disability, income status, or age are unable
to transport themselves or to purchase transportation and are, therefore, dependent upon
others to obtain access to health care, employment, education, shopping, social activities, or
other life-sustaining activities, or children who are handicapped or high-risk or at-risk as
defined in s. 411.202, F.S.

Section 427.0159(3), F.S., states that

Funds deposited in the trust fund may be used by the commission to subsidize a portion of a
transportation disadvantaged person’s transportation costs which is not sponsored by an
agency, only if a cash or in-kind match is required. Funds for nonsponsored transportation
disadvantaged services shall be distributed based upon the need of the recipient and
according to criteria developed by the Commission for the Transportation Disadvantaged.

In accordance with the definition of transportation disadvantaged, the Commission has established
eligibility criteria that must be met. To assure that individuals are eligible to have a portion of the
transportation costs subsidized by the Transportation Disadvantaged Trust Fund, an eligibility screening
process will be developed by each Community Transportation Coordinator and Local Coordinating Board.
This process will include the development of criteria by the CTC and LCB, a method by which the criteria
can be determined, a procedure for when and how often the screening process will occur and an
application for each person whose transportation is subsidized with TDTF.

The Operations Element of the Transportation Disadvantaged Service Plan, subsection of eligibility, should
be amended to include Commission and locally established eligibility criteria. This includes submitting a
copy of the application that will be used by the CTC when screening customers. This section should
identify all eligibility criteria as established by the Commission. This would include local eligibility criteria
jointly developed by the LCB and the CTC, and approved by the LCB. Each criteria must be addressed,
along with an explanation of how eligibility will be determined for each criteria. Also, it should include
what local record keeping procedures will be used to maintain customer eligibility screening and final
determination.

The eligibility screening process is, at a minimum, A TWO-STEP PROCESS. The first step of
the screening would be to determine (1) if the person is unable to transport his/her self or (2) if the
person is unable to purchase transportation. Once this has been addressed, the next step is to
establish why the person was unable to transport his/her self or unable to purchase transportation,
based on the eligibility criteria approved by the Commission. The individual does not have to meet
all of the criteria of the second step in order to be deemed eligible for nonsponsored transportation
services.

Listed below are the Eligibility Criteria as approved by the Commission. Under the heading of “Methods”
are examples of specific criteria and, examples of approaches that could be used to determine a person’s
eligibility. These “methods” are only provided as examples, and are not specifically what the Commission
has required to be adopted.

Criteria: No other funding available. A customer would not be considered eligible for TDIF when another purchasing agency is responsible for such transportation.

Method: Ask rider if they are currently a client of any other programs. Determine if the trip purpose is eligible to be funded as a service of another agency.

Criteria: No other means of transportation is available. As specified by the CTC and the LCB.

Example:
No other means of transportation is available, including relatives, friends, volunteers, free services provided by some agencies.

Method: Ask rider if a family member or friend could take them. Ask rider how they arrived to appointments before. Look into vehicle registry. Become familiar with agencies that provide free transportation, with volunteer services.

Criteria: Fixed Route Public Transit. If the fixed route public transit is available the customer must demonstrate why it cannot be used.

Example:
If individual is deemed eligible, utilize bus passes, tickets or tokens as appropriate.

Method: Utilize criteria to determine use of bus passes and paratransit services


Method: Ask the rider if they need any assistance or any special accommodations.

Criteria: Age. As specified by the CTC and the LCB.

Example:
Rider are eligible to access services if they under 17 or over 60, unless they meet another eligibility criteria.

Method: Ask for rider’s birth date.

Criteria: Individual and Household income status is a specified percent of the poverty level. As specified by the CTC and the LCB.

Examples:
- Rider are eligible for transportation services if their individual and household income status is 125% of poverty level.
- Look at income levels required by other programs and make Transportation Disadvantaged Trust Fund eligibility the same or a little higher to be able to transport for other purposes beyond program trips.

Method: Ask the rider the total household income.
Criteria: No self declarations allowed. The CTC will use an enrollment process that substantiates the individual’s ability to meet the criteria listed and any other CTC determined criteria.

Method: Have application on file for each rider of system, that will indicate why each rider was eligible for a portion of the transportation costs to be subsidized by the Transportation Disadvantaged Trust Fund. Application could simply indicate individual is eligible for TDTF by virtue of being eligible for Medicaid or any other agency funded transportation service. The application would reflect the name of the agency whose eligibility determination was used to determine TDTF eligibility.

Have client information in client database on computer with ability to access each client.

Criteria: Ability to pay. The CTC and the LCB may establish an ability to pay policy for “non-sponsored” customers using a sliding scale based on the customer’s income and/or assets status.

Examples:
- A sliding scale will be used for customers to pay for their transportation. This scale will be based on the customer’s income and/or assets. Those whose income/assets total more than $500 a month will pay $1.00 per trip.
- Currently the CTC and LCB do not feel it is necessary to establish a sliding scale passenger fare based on the customer’s income and/or assets status.
- Passenger fare will be $_______ for each one way trip.

Method: If using a sliding scale, ask rider what income and assets equal. Ask the rider what are they able to pay towards the cost of transportation.

STEPS:

1) No Self- Declarations
2) No other means of transportation
3) No other funding
4) Met age and/or income and/or physical or mental disability
5) If eligible, can use fixed route?
6) Determine fare if sliding scale.