



Mr. Eric Gleason
Director
TxDOT Public Transportation Division
6230 E. Stassney Lane
Austin, TX 78744
September 6, 2024

via email as directed to:
ptn_programmgmt@txdot.gov

Re: Objection to certification of no unmet intercity bus needs under 49 U.S.C. § 5311(f)

Dear Mr. Gleason:

Introduction

The State of Texas via the Texas Department of Transportation and particularly the Public Transportation Division has announced that it intends to request a governor's certification to take \$12.1M away from the intercity bus program and move it to the Rural Area Program. Its justification for removing this money from intercity bus is that there are no unmet intercity bus needs in the State of Texas. Greyhound Lines, Inc. objects to this reallocation of funds away from intercity bus because there are significant unmet needs in the State of Texas which are eligible for funding. These needs were presented to the State as requests for funding and even though eligible and specifically designed to serve existing intercity bus needs, the requests were subjected to onerous requirements and ultimately rejected. Greyhound, a Texas-based company for many years, asks the State to reconsider this designation and to fund these needs for the benefit of its citizens who rely on this lowest cost, environmentally friendly and sometimes only form of transportation.

FTA provides funds for the specific needs of intercity bus

Greyhound Lines, Inc. ("Greyhound"), a company with its corporate headquarters in Dallas, Texas, is the leading provider of intercity bus throughout North America. As the State is aware, intercity bus is the best way to provide necessary transportation services such as travel for medical care, employment and educational opportunities and other reasons, particularly to and from rural areas. These areas are not serviced by airlines nor are they serviced by most other modes of transportation due to the high cost of directly providing transportation to rural communities, of which there are many in the State of Texas.

Both the State of Texas and the United States government have recognized that there is a need to provide funding to subsidize rural transportation due the high cost, particularly of infrastructure, to service rural communities. This is the entire purpose of what is known as the Section 5311(f) Intercity Bus Program (herein the “Program”). Under the Program, a state is required to spend at least 15 percent of its apportionment for rural transportation needs on intercity bus. This funding is designed to support the connection between nonurbanized areas and the national system of intercity bus service specifically including “[t]o support the infrastructure of the intercity bus network through . . . capital investment in facilities and equipment.” U.S. Department of Transportation, Federal Transit Administration, Circular FTA C 9040.1G, *Formula Grants for Rural Areas: Program Guidance And Application Instructions*, November 24, 2014, Chapter VIII-Intercity Bus, Section 5.G(h).2, p. VIII-6. Despite the FTA directives, the State of Texas intends to remove over \$12M in funds from the intercity bus program in Texas when there are capital needs in both facilities and equipment which were identified and applied for by Greyhound. This should not be allowed.

Texas has identified unmet intercity bus needs

Texas last conducted an intercity bus needs assessment in 2021. One of the underpinnings of this required study is Texas’ policies and practices including its eligible project categories which expressly include both vehicle capital projects and facility capital projects. Vehicle capital projects include the “[p]urchase of lift-equipped vehicles with provisions for passenger luggage.” Texas Intercity Bus Study, November 2021, Ch. 1, p.1-13. Texas also acknowledged the importance of appropriate bus facilities in 2021 stating that “[n]odal connections are very important for the success of expanding access to the intercity network.” *Id.*, p. 5-8.

These priorities were reiterated in October 2023 when TxDOT issued its Coordinated Call for Projects. In this presentation, TxDOT restated the needs of the intercity bus program and explicitly stated as its priorities to continue funding on historically subsidized routes and to support new subsidized routes, in both cases to “[p]rovide funding for capital needs in support of these services.” (October 31, 2023 Coordinated Call for Projects, p. 11) Again, during its committee meeting in January 2024, the State specially called out connections as being vital to intercity bus: “[p]reserve priority rural area connections to national ICB network and other regional destinations”. During this same meeting, it called out the fact that many of the priority routes in the State are not subsidized. (Public Transportation Advisory Committee Meeting – January 25, 2024, pgs. 43-44)

Despite the admitted needs, including those raised by intercity bus operators including Greyhound, on August 23, 2024, TxDOT stated its intention to certify that all intercity bus

needs have been met and that the \$12.1M in uncommitted funds will be transferred to the Rural Area Program. During the webinar, it was incorrectly stated as a basis of this decision that “[a]ll ICB projects meeting the criteria defined in the application instructions, including some routes prioritized in the study received or will receive funding.” (Intercity Bus Program Stakeholder Consultation August 23, 2024, p. 3) This is not accurate. As discussed below, several capital projects that Greyhound applied for were eligible and would respond to intercity bus needs but were denied.

Greyhound applied for funds to meet rural transportation needs and was denied

As early as December 2022, Greyhound was in communication with TxDOT regarding its intercity bus needs. (See email dated December 15, 2022) Specifically, Greyhound submitted a detailed proposal to TxDOT for capital funding for its required Dallas and Houston terminals and its Dallas maintenance facility. Greyhound had been divested of the property at which it had operated both the terminal and maintenance operations in Dallas for a number of years and the Houston stop needed to be relocated. These needs were also based on the fact that Greyhound was conducting a responsible review of its infrastructure to determine if it was operating from locations priced and located appropriately for an intercity bus service. This and the need to operate from a location approved by local officials required these significant relocations so that Greyhound could maintain connectivity to the rural routes and national network in a meaningful way.

The funding requested by Greyhound in the December 2022 proposal was for capital needs to support existing services historically funded by 5311(f) via TxDOT. At the time, TxDOT had over \$13M in available funds as announced in November 2022 at its consultation with intercity bus providers. Greyhound communicated that these capital projects would provide critical support to the Texas and national bus systems. Dallas serves as a hub for many schedules operating throughout and beyond Texas and the Dallas maintenance garage provides essential maintenance services for buses traveling throughout the State. It was the largest maintenance facility in Texas. The cost of these projects would have exceeded the \$13M available in Texas and the capital request was an allowable use of 5311(f) funds.

The State refused to consider the proposal. Ultimately, Greyhound privately funded the new Dallas terminal and maintenance facility, which will support intercity bus services throughout the State, including rural areas. The needs in Houston are yet unmet. The existing terminal in Houston was originally developed with 5311(f) funding; hence, this is also clearly a permitted use of funds. The request for Houston was also denied.

Again, in March 2023, Greyhound explicitly communicated to TxDOT its need for funds, reiterating the terminal capital needs and also adding operating subsidies and bus capital needs. Specifically, Greyhound stated that it needed 18 coaches to operate its currently subsidized routes in Texas. Greyhound operates many more miles in Texas with rural connections, all with unsubsidized operations and capital, including coaches funded privately by Greyhound. In this communication, Greyhound reiterated its objection to certifying unmet needs and also called out the flaw in TxDOT's process of not even allowing intercity bus providers to apply for funds:

As your [sic] know, we strongly object to the certification of the funds without the opportunity to apply for them. We still believe it violates the intent of the program as well as specific program guidance to certify funds when significant unmet needs have been identified.

(See email dated March 28, 2023)

Per TxDOT's procedures, Greyhound was not allowed to submit an application until early 2024. Greyhound's application was submitted in January 2024 covering two years. The application included funding requests for operating on nine routes as well as for 20 buses and real estate planning funds. The real estate planning funds were for El Paso, San Antonio, Harlingen and other at-risk locations. The number of buses was 20 because that is the number needed to service the nine routes requested by Greyhound for funding.

TxDOT ultimately approved funding for all nine routes but only four buses. TxDOT simply "threw a dog a bone" when it agreed to fund four buses. The cost of the buses was very close to the refund that Greyhound paid to the State as a result of the disposition of property for which capital was awarded at a time when there were unamortized improvements on the property. It is unfortunate that the property was sold by Greyhound's former parent as part of the sale of Greyhound; however, Greyhound did not have a say in this but as required, notified the State of the disposition and repaid the funds, again, in the approximate same amount as the four buses that TxDOT agreed to fund. Thus, Greyhound's refund funded the buses "granted" by the State. Greyhound further notes that other intercity bus providers who likewise received capital funding but which divested or otherwise stopped using the capital for transportation services never repaid the unamortized amounts it owed.

TxDOT denied the request for infrastructure development saying that Greyhound applied for it incorrectly in the online system. TxDOT had included very unusual and new

requirements for the bus capital request and stated that failure to meet these requirements was the reason for not funding the residual 16 buses.

The application deficiencies alleged by TxDOT were addressed (exhibit 5 to application). However, after subsequent communications, TxDOT refused to fund more than one bus per funded route. TxDOT had imposed new conditions on the bus funding: it would only fund buses on (1) subsidized routes (2) which had already been funded for more than three years. These new conditions had the adverse impact of disqualifying most of Greyhound's request for buses. TxDOT had imposed parameters around the application process and use of the funds specifically designed to disqualify otherwise qualified uses of the intercity bus funds. This was done in order to satisfy its goal of moving funding out of the intercity bus program. This is precisely what is happening with the \$12.1M currently at issue.

TxDOT should not be allowed to certify no unmet intercity bus needs

There is no justification for TxDOT's conditions and denial of funding and the denial is inconsistent with use of 5311(f) funds. TxDOT argued that it should not fund buses which operate on unsubsidized routes. As Greyhound explained, rural citizens in Texas travel on both subsidized and unsubsidized routes, largely because **95% of passengers are by choice destined to an urban area** which is less likely to be subsidized but coming from a rural area which does not operate profitably. Greyhound explained to TxDOT that it is not efficient to use different equipment on rural vs. urban routes as opposed to linking them into one network which serves both rural and urban areas thus maximizing the efficiency of infrastructure by circulating buses through the system. This is precisely how the Greyhound network operates for both passenger movement and bus maintenance. There is no more efficient system and TxDOT's denial based on its position of only funding a small number of buses on subsidized routes leads to inefficiency and increased costs for passengers, the State of Texas, FTA and Greyhound.

The continued lack of an appropriate location for intercity bus in Houston is an independent reason not to certify no unmet needs. As discussed above, Greyhound specifically requested capital for a location in Houston. The 2021 Texas Intercity Bus Study specifically identified Houston as needing improved connectivity:

- Amtrak's station is located far from the Greyhound station in Houston, so connecting between them is difficult with no convenient access to Metro's transit system.
- The connection between Houston's Amtrak station, downtown Houston's transit network, and the Greyhound station in southern edge of downtown is a little disjointed. Houston METRO is presently funded, and is planning, a

new bus rapid transit line which will pass immediately by the Amtrak station on its way into downtown from the west. We understand there will be a few BRT stations in downtown. Perhaps TxDOT PTN would like to encourage METRO to study placing a station near Amtrak on the north end and a later station near Greyhound on the south end of downtown.

Texas Intercity Bus Study, p. 5-27. There are additional specific call outs for the need for stations and stops in the study:

- Currently Greyhound utilizes convenience stores which are not always easy for riders to access. It would seem more effective for rural transit providers and facilities to coordinate with intercity carriers in the area versus using the convenience stores.
- Park and ride options would benefit ICB riders as well as commuters.

Id., p. 5-31.

The Texas Intercity Bus Study goes on to acknowledge the federal law which provides that 5311(f) funds can be used for facilities in urban areas that serve rural passengers. Most significantly, in discussing the requirement of connectivity, the study recognizes that “maintaining or improving connectivity may require TxDOT to consider what happens to the existing investment in private intercity bus facilities, **and some role in supporting or facilitating local solutions.**” Id., p. 8-10 to 8-11 (emphasis added). By completely ignoring Greyhound’s requests for funding terminals during the planning and application process and then sending the money completely outside of the intercity bus program, TxDOT is contradicting its own findings as well as federal policy.

TxDOT predetermined that it would move funds from intercity bus to transit before properly assessing intercity bus needs

The documented sequence of events reveals that the reason for certifying no unmet needs is not that there are truly no unmet needs but instead that TxDOT intended all along to send the funds to transit. As early as February 2023 during the TxDOT Public Transportation Advisory Committee Meeting, the committee told everyone to “[s]tay tuned for funds to be redistributed back to the rural transit program once certification is in place.” (TxDOT Public Transportation Advisory Committee Meeting – April 18, 2023 presentation, p. 5)

In March 2023, the Program Services Director of the Public Transportation Division gave written notice of TxDOT’s intention to send part of its fiscal year 2022 and all of its fiscal year 2023 funds—totaling \$13M—to transit. (Email from Donna Roberts, 3.21.2023) In this

same email, TxDOT acknowledged that they had been informed by the intercity bus stakeholders of a need to have “funds available for capital.” Id.

During the July 2023 meeting, the Committee again explicitly stated its intention for “\$10,515,478 . . . to be reprogrammed for rural formula projects.” (TxDOT Public Transportation Advisory Committee Meeting – April 18, 2023 presentation, p. 11) This was done during the same meeting where the Committee acknowledged as a necessary next step “[r]estructuring ICB priorities for capital investments for future Coordinated Calls.” Id. Again, after acknowledging unmet intercity bus needs, the Committee decided that “[a]fter being in consultation with intercity bus stakeholders since November 2022, we are now ready to move forward with a recommendation to reprogram approximately \$10.5 mil of the \$13 mil.” (MINUTES FOR ADOPTION Public Transportation Advisory Committee – Webex Meeting July 18, 2023 - 10:00 A.M.).

As recently as June 2024, TxDOT and Greyhound were still communicating about Greyhound’s request to fund new buses. The State was debating the request by Greyhound for 45-foot over-the-road buses, as opposed to the smaller buses operated on some of the subsidy routes. Greyhound explained that it operates these larger buses in its fleet in general and is therefore best equipped to service and operate these coaches. Additionally, the buses have a longer useful life, accommodate better the loads transported by these coaches, include the needed restrooms for long trips and are more reliable, safer and more comfortable. TxDOT did not assert that the request was denied due to no unmet needs; instead, it was debating Greyhound’s choice of bus to service rural service in the State. The decision to certify that there are no unmet needs and to move the majority of intercity bus funding away from its designated purpose was predetermined. In fact, it had already been announced to transits that they would receive the money.

Greyhound’s request for over-the-road buses and for a Houston location should be funded

The unused 5311(f) funds are appropriate for funding intercity bus as opposed to moving the \$12M in funds out of the program they were designed by FTA to serve. Greyhound applied for 16 buses and capital for a Houston location, neither of which were funded. The buses are needed to support the connection between nonurbanized areas and the larger regional and national system of intercity bus. These buses will support the intercity travel needs and infrastructure of the intercity bus network through capital investment.

Houston is a major connection to rural communities in the state and a destination for rural residents seeking healthcare, education, employment and leisure and there is no appropriate facility for interconnections. Funding buses and a Houston location would not

only support FTA national objectives under U.S.C. 5311(f), but would also satisfy the State's stated priorities.

Conclusion

Greyhound currently serves 62 rural communities in Texas, many of which are served by schedules which are not subsidized. All schedules operated by Greyhound not only provide connections to rural locations nationwide, but also provide connectivity to urban locations, which is the destination for 95% of passengers, including those from rural Texas. This is consistent with the purpose of the 5311(f) program which is to connect rural and urban communities by providing transportation to such critical services as healthcare, employment, education and leisure activities.

The intercity bus industry is still recovering from COVID. Greyhound never stopped providing this critical service during COVID and the lower revenues plus increased bus and location infrastructure costs exacerbate the unmet needs in rural intercity bus in Texas. These needs should be funded with the money designated by FTA for these purposes.

The next funding opportunity in Texas for intercity bus is in 2026. While Greyhound is committed to serving the rural communities in Texas for the long haul, it will be difficult at depressed revenue, growing costs and lack of funding from the State that should otherwise be available to support the Program. Greyhound therefore respectfully requests that the state use the funds for their intended purpose under 5311(f), not certify that there are no unmet needs in the state and award the funds to a project such as Greyhound's request for new buses and a terminal in Houston to service rural Texas residents.

Sincerely,

A handwritten signature in blue ink that reads "Kadir Boysan". The signature is written in a cursive, flowing style.

Kadir Boysan
Chief Executive Officer

cc: FTA, Region 6

Stephanie Gonterman

From: Stephanie Gonterman
Sent: Thursday, December 15, 2022 1:38 PM
To: ptn_programgmt@txdot.gov
Subject: Greyhound Consultation Comments

Comments in response to TXDOT Consultation 11.16.2022

- The TXDOT coordinated call process requires identifying and forecasting operating and capital needs several years out. While it provides a stable and predictable funding commitment of historically funded services prior to implementation of the next coordinated call, it does not provide flexibility to address critical needs identified mid cycle. Greyhound has recently identified critical capital infrastructure projects required to support intercity bus service and is requesting TXDOT make the additional \$13.1 million in FTA Section 5311(f) funding available for those projects. Further, the company is requesting that funding be awarded mid-cycle, given the immediate and critical nature of the situation. Those projects represent a significant unmet need with regard to intercity bus service and infrastructure. Given the scope of these projects, there is a considerable timeline to fully develop these projects, so time is of the essence. This situation was not fully understood until after the last TXDOT coordinated call of November 18, 2021. The November 2021 KFH Intercity Bus Study, which informed the coordinated call, was largely completed before the October 21, 2021 sale of Greyhound to FLIX. The study recognized that the sale would have unknown impacts on Greyhound's future operations but could not draw any conclusions as to the scope of that impact.
- When does TXDOT anticipate making a decision with respect to the funding, and what process is required to allocate those funds?

*Stephanie Gonterman
Isaacs & Associates
Greyhound State Government Affairs Representatives
(214) 460-0152 (m)
(972) 239-4401 (o)*

Stephanie Gonterman

From: Stephanie Gonterman
Sent: Tuesday, March 28, 2023 2:24 PM
To: Donna Roberts
Cc: Blankenship, Bill; Roger Haynes
Subject: TXDOT Certification of Funds

Follow Up Flag: Follow up
Flag Status: Flagged

Donna,

Thanks for your time on the phone last week. You requested more detailed information regarding Greyhound's need for funding. As we've discussed, Greyhound has significant needs for capital funding. While a significant priority is for a maintenance facility and terminal in Dallas, full size coaches are equally important. I mentioned while TXDOT has provided small buses in the past, many of those buses are nearing the end of their useful life – which is much shorter than for full size coaches; new ones are almost impossible to procure in any reasonable time frame. Further, the passenger loads on the subsidized services currently using the smaller buses suggest that full size coaches are far more appropriate.

Given the timing of the next coordinated call and TXDOT's normal contracting process, a contract would not be effective until September 2024. Based on the current procurement, the price for full size coaches could be approximately \$800,000 assuming a PPI escalator of 5% per year. Greyhound requires 18 coaches to operate its current subsidized routes in Texas and many more to operate the unsubsidized service. Greyhound currently operates approximately 85 unsubsidized schedules in Texas. There is no reason to limit the buses to subsidy routes, as every route operated provides a connection to rural communities, and many routes not currently subsidized have rural stops in Texas. Greyhound would request toll credits if available for the local portion.

Based on the above rationale, the cost of 18 coaches would be approximately \$14,400,000. Obviously, the need for bus capital in Texas is significantly higher than that.

As you are aware, there are facilities projects for which assistance may be requested. We don't have a good feel for the financials at this time, but as previously discussed, both the Dallas terminal and maintenance facility are critical infrastructure supporting the TXDOT intercity bus program. A solution to those locations is expected to require financial support.

In addition to the capital needs, several routes that traditionally have been profitable currently operate at a deficit and/or lower frequency than pre-pandemic. There is a significant need to increase schedule frequency, however, the ramp up process requires financial support. Greyhound currently does not have the financial ability to do that. Greyhound will request funding to support increased frequency as well as some support for existing schedules; these routes serve rural communities. It gives us the opportunity to rebuild the network and provide appropriate levels of service for Texas. The need for subsidies should lessen over time, making the one time funding opportunity more appropriate. Right now, we estimate that the cost of additional services could be in excess of

\$3-5 million over 2 years, but those numbers are extremely preliminary. We will include detailed information in the next coordinated call. Overall, our expectation is that we will identify unmet needs well in excess of the available funding.

As your know, we strongly object to the certification of the funds without the opportunity to apply for them. We still believe it violates the intent of the program as well as specific program guidance to certify funds when significant unmet needs have been identified. We appreciate TXDOT's support for the 5311(f) intercity bus program and look forward to working with you to further the goals and objectives of the program.

Stephanie

Stephanie Gonterman

Isaacs & Associates

Greyhound State Government Affairs Representatives

(972) 239-4401 (office)

(214) 460-0152 (cell)