

# Guide to “Opting Out” of an Agency Safety Plan Developed by State Department of Transportation

## Overview

Operators of public transportation systems that are recipients and subrecipients of Urbanized Area Formula Program funds, under 49 U.S.C. § 5307, must comply with the Public Transportation Agency Safety Plan (PTASP) regulation, at 49 CFR Part 673, including the requirement to develop an Agency Safety Plan (ASP). State Departments of Transportation (DOTs) must draft and certify ASPs on behalf of small public transportation providers (§ 673.11(d)), defined as those providers that:

- Operate 100 or fewer vehicles in revenue service during peak regular service across all fixed route modes;
- Operate 100 or fewer vehicles in revenue service during peak regular service in each non-fixed route mode; and
- Do not operate rail fixed guideway public transportation (§ 673.5).

A small transit provider may develop its own ASP in lieu of adopting an ASP drafted by the State. Regardless of who drafts and certifies the ASP, **each transit provider must carry out and implement the ASP.**

## Notifying the State of Intent to Develop an Independent ASP

Should a small transit provider choose to opt out of the State-developed ASP, Part 673 requires that the small transit provider notify the State of its intent to draft and certify its own ASP (§ 673.11(d)), and that documentation of this notification be maintained, as described in § 673.31. Part 673 does not specify how the small transit provider should make this notification. FTA encourages, but does not require, States and small transit providers to coordinate on a notification process that meets both parties' needs.

A State and its small providers may want to establish a process that describes roles and responsibilities to document “opt out” determinations for the purpose of audits and compliance reviews.

*Sample Notification Text*

The sample text below can be used by a small transit provider to support development of a written notification to the State regarding the provider's decision to opt out of a State drafted ASP.

The Federal Transit Administration (FTA) Public Transportation Agency Safety Plan regulation, at 49 CFR Part 673, requires State Departments of Transportation (DOTs) to draft and certify Agency Safety Plans (ASPs) on behalf of small public transportation providers. However, a State DOT is not required to draft an ASP for a small public transportation provider if the small transit provider notifies the State that it will draft its own plan.

This letter serves to notify the [State] Department of Transportation that [small public transportation provider name] will draft (and certify, if applicable) its own ASP to address Part 673 requirements. The ASP will be signed by the Accountable Executive, [name and/or title], and approved by the [Board of Directors or Equivalent Authority].

Additional information on small public transportation providers and the PTASP regulation is available at: <https://www.transit.dot.gov/regulations-and-guidance/safety/public-transportation-agency-safety-program/small-bus-transit>.

**PTASP Technical Assistance Available Now**

- Access one-on-one Agency Safety Plan support
- Learn and share through the PTASP Community of Practice
- Explore the PTASP Resource Library

<https://www.transit.dot.gov/PTASP-TAC>