

ATTACHMENT T
SPECIAL WARRANTY AGREEMENT

Attachment T - Special Warranty Agreement

SPECIAL 5333(b) (formerly SECTION 13(c)) WARRANTY FOR APPLICATION TO THE SMALL URBAN AND RURAL PROGRAM

The following language shall be made part of the contract of assistance with the State or other public body charged with allocation and administration of funds provided under Rural General Public Transportation of the Act:

A. General Application

The Public Body _____ agrees that, in the absence of waiver by the Department of Labor, the terms and conditions of this warranty, as set forth below, shall apply for the protection of the transportation related employees of any employer providing transportation services assisted by the Project and the transportation related employees of any other surface public transportation providers in the transportation service area of the project.

The Public Body shall provide to the Department of Labor and maintain at all times during the Project an accurate, up-to-date listing of all existing transportation providers which are eligible Recipients of transportation assistance funded by the Project, in the transportation service area of the Project, and any labor organizations representing the employees of such providers.

Certification by the Public Body to the Department of Labor that the designated Recipients have indicated in writing acceptance of the terms and conditions of the warranty arrangement will be sufficient to permit the flow of Rural General Public Transportation funding in the absence of a finding of non-compliance by the Department of Labor.

B. Standard Terms and Conditions

1. The Project shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees of the Recipient and of any other surface public transportation provider in the transportation service area of the Project. It shall be an obligation of the Recipient and any other legally responsible party designated by the Public Body to assure that any and all transportation services assisted by the Project are contracted for and operated in such a manner that they do not impair the rights and interest of affected employees. The terms "Project," as used herein, shall not be limited to the particular facility, service, or operation assisted by Federal funds, but shall include any changes, whether organizational, operational, technological, or otherwise, which are a result of the assistance provided. The phrase "as a result of the Project," shall when used in this arrangement, include events related to the Project occurring in anticipation of, during, and subsequent to the Project and any program of efficiencies or economics related thereto; provided, however, that volume rises and fall of business, or changes in volume and character of employment brought about by causes other than the Project (including any economies or efficiencies unrelated to the Project) are not within the purview of this arrangement. An employee covered by this arrangement, who is not dismissed, displaced or otherwise worsened in his position with regard to his employment as a result of the Project, but who is not dismissed, displaced or otherwise worsened solely because of the total or partial termination of the

Project, discontinuance of Project services, or exhaustion of Project funding shall not be deemed eligible for a dismissal or displacement allowance within the meaning of paragraphs (6) and (7) of the Model agreement or applicable provisions of substitute comparable arrangements.

2. (a) Where employees of a Recipient are represented for collective bargaining purposes, all Project services provided by that Recipient shall be provided under and in accordance with any collective bargaining agreement applicable to such employees which is then in effect.
(b) The Recipient or legally responsible party shall provide to all affected employees sixty (60) days' notice of intended actions which may result in displacement, dismissals, or rearrangements of the working forces. In the case of employees represented by a union, such notice shall be provided by certified mail through their representatives. The notice shall contain a full and adequate statement of the proposed changes, and an estimate of the number of employees affected by the intended changes, and the number and classifications of any jobs in the Recipient's employment available to be filed by such affected employees.
(c) The procedures of this subparagraph shall apply to cases where notices involve employees represented by a union for collective bargaining purposes. At the request of either the Recipient or the representatives of such employees negotiations for the purpose of reaching an agreement with respect to the application of the terms and conditions of this arrangement shall commence immediately. If no agreement is reached within twenty (20) days from the commencement of negotiations, any party to the dispute may submit the matter to dispute settlement procedures in accordance with paragraph (4) of this warranty. The foregoing procedures shall be compiled with and carried out prior to the institution of the intended action.
3. For the purpose of providing the statutory required protections including those specifically mandated by Section 13(c) of the Act, the Public Body will assure as a condition of the release of funds that the Recipient agrees to be bound by the terms and conditions of the National (Model) section 13(c) agreement executed July 23, 1975, identified below 2, provided that other comparable arrangements may be substituted therefore, if approved by the Secretary of Labor and certified for inclusion in these conditions.
4. Any dispute or controversy arising regarding the application, interpretation, or enforcement of any of the provisions of this arrangement which cannot be settled by and between the parties at interest within thirty (30) days after the dispute or controversy first arises, may be referred by any such party to any final and binding disputes settlement procedure acceptable to the parties, or in the event they cannot agree upon such procedure, to the Department of Labor or an impartial third party designated by the Department of Labor for final and binding determination. The compensation and expenses of the impartial third party, and other jointly incurred expenses, shall be borne equally by the parties to the proceeding and all other expenses shall be paid by the party incurring them.

In the event of any dispute as to whether or not a particular employee was affected by the Project, it shall be his obligation to identify the Project and specify the pertinent facts of the Project relied upon. It shall then be the burden of either the Recipient or other party legally responsible for the application of these conditions to prove that factors other than the Project affected the employees. The claiming employee shall prevail if it is established that the

Project had an effect upon the employee even if other factors may also have affected the employee.

5. The Recipient will be financially responsible for the application of these conditions and will make the necessary arrangements so that any employee covered by these arrangements, or the union representative of such employee may file a claim of violation of these arrangements with the Recipient within sixty (60) days of the date he is terminated or laid off as a result of the Project, or within eighteen (18) months of the date his position, with respect to his employment is otherwise worsened as a result of the Project. In the latter case, if the events giving rise to the claim have occurred over an extended period, the 18-month limitation shall be measured from the last such event. No benefits shall be payable for any period prior to six (6) months from the date of the filing of any claim.
 - (a) Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (2) the continuation of collective bargaining rights; (3) the protection of individual employees against a worsening of their positions with respect to their employment; (4) assurances of employment to employees of acquired mass transportation systems and priority of re-employment of employees terminated or laid off; and (5) paid training and re-training programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to Section 5 (2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended.
 - (b) For purposes of this warranty arrangement, Paragraphs (1); (2); (5); (15); (22); (23); (26); (27); (28); and (29) of the Model Section 13 (c) Agreement, executed July 23, 1975 are to be omitted.
6. Nothing in this arrangement shall be construed as depriving any employee of any rights or benefits which such employee may have under existing employment or collective bargaining agreements, nor shall this arrangement be deemed a waiver of any rights of any other arrangement or provision of federal, state or local law.
7. In the event any employee covered by these arrangements is terminated or laid off as a result of the Project, he shall be granted priority of employment or re-employment to fill any vacant position within the control of the Recipient for which he is, or by training or re-training within a reasonable period, can become qualified. In the event training or re-training is required by such employment or re-employment, the Recipient or other legally responsible party designated by the Public Body shall provide for such training or re-training at no cost to the employee.
8. The Recipient will post, in a prominent and accessible place, a notice stating that the Recipient has received Federal assistance under the Urban Mass Transportation Act and has agreed to comply with the provisions of Section 13(c) of the Act. This notice shall also specify the terms and conditions set forth herein for the protection of employees. The Recipient shall maintain and keep on file all relevant books and records in sufficient detail as to provide the

basic information necessary to the proper application, administration and enforcement of these arrangements and to the proper determination of any claims arising thereunder.

9. Any labor organization which is the collective bargaining representative of employees covered by these arrangements may become a party to these and the Department of Labor. In the event of any disagreement that such labor organization represents covered employees, or is otherwise eligible to become a party to these arrangements, as applied to the Project, the dispute as to whether such organizations shall participate shall be determined by the Secretary of Labor.
10. In the event the Project is approved for assistance under the Act, the foregoing terms and conditions shall be made part of the contract of assistance between the federal government and the Public Body or Recipient of Federal funds; provided, however, that this arrangement shall not merge into the contract of assistance, but shall be independently binding and enforceable by and upon the parties thereto, and by any covered employee or his representative, in accordance with its terms, nor shall any other employee protective agreement merge into this arrangement, but each shall be independently binding and enforceable by and upon the parties thereto, in accordance with its terms.

C. Waiver

As a part of the grant approval process, either the Recipient or other legally responsible party designated by the Public Body may in writing seek from the Secretary of Labor a waiver of the statutory required projections. The Secretary will waive these protections in cases, where at the time of the requested waiver, the Secretary determines that there are no employees of the Recipient or any other surface public transportation providers in the transportation service area who could be potentially affected by the Project. A 30-day notice of proposed waiver will be given by the Department of Labor and in the absence of timely objection, the waiver will become final at the end of the 30-day notice period. In the event of timely objection, the Department of Labor will review the matter and determine whether a waiver shall be granted. In the absence of waiver, these projections shall apply to the Project.

D. Acceptance of Warranty

I, _____, _____, by the signatures on the following page, do hereby certify that the _____ has agreed to the terms and conditions of this Warranty and will accept this agreement as part of the contract of assistance with the Mississippi Department of Transportation.

Signature

(Seal)

Date

(Date)