



Matthew W. Daus, Esq.

President, International Association of Transportation Regulators

<http://iatr.global/>

*Transportation Technology Chair, City University of New York,
Transportation Research Center at The City College of New York*

<http://www.utrc2.org/>

Partner and Chairman, Windels Marx Transportation Practice Group

<http://windelsmarx.com>

Contact: mdaus@windelsmarx.com

156 West 56th Street | New York, NY 10019

T. 212.237.1106 | F. 212.262.1215

The CERTS Act Program: How Transportation Companies Can Apply for COVID-19 Relief Grants!

Deadline: July 19, 2021

In 2020, the impact of the COVID-19 pandemic was felt worldwide. Here, in the United States, many businesses and industries suffered immeasurable loss and are still looking for ways to recover.¹ With mandatory quarantines, stay-at-home orders, school shutdowns and curfews in effect throughout the U.S., the transportation industry suffered immensely.² Opportunities to provide passenger transportation services were limited to essential workers and many transportation service providers lost 80% or more of their revenue between 2019 and 2020.³ While the federal government jumped in to assist other industries with COVID-19 relief packages, the transportation industry was left waiting for relief.⁴ In the meantime, transportation service providers were limited to the Paycheck Protection Program (PPP) and Economic Injury Disaster Loans (EIDL) which had restrictive guidelines that limited the use of funds. Finally, on December 21, 2020, Congress passed the Bipartisan-Bicameral Omnibus COVID Relief Deal, a new COVID-19 relief bill which included the transportation industry under the Coronavirus Economic Relief for Transportation Services (CERTS) Act Program.⁵ Now, with shutdowns ending, COVID-19 vaccines available, and quarantine orders lifted, businesses and people are looking forward to returning to normal – and whatever that may be.

After being especially hit hard by the pandemic shutdowns, corporate transportation companies providing services with motorcoaches and school bus operators received some good news. Many have been waiting for the CERTS Act Grant Program funding information. On May 6, 2021, the U.S. Department of Treasury finally issued guidelines for the CERTS Act program, including eligibility, application requirements and grant funding information.⁶ With these companies facing such heavy losses in the past year due to the drop in business travel, these grants – not just another loan program – can provide needed funds to these operators as the economy slowly opens up. On June 17, 2021, the U.S. Department of Treasury updated the guidelines for the CERTS Act program and opened the portal for applications on June 21, 2021.

Under the CERTS Act Program, the U.S. Department of Treasury (hereinafter “Treasury”) will provide up to \$2 billion in grants to motorcoach companies, school bus companies, passenger vessel companies, and pilotage companies. The CERTS Act Program was initially projected to be a fund of \$8 billion; however, \$12 billion in funding for state departments of transportation were added to the plan and deducted from other areas, including CERTS Act funding.⁷ Now that the

¹ <https://www.usatoday.com/story/money/2020/03/20/us-industries-being-devastated-by-the-coronavirus-travel-hotels-food/111431804/>

² <https://www.metro-magazine.com/10112747/as-covid-19-lingers-motorcoach-industry-seeing-devastating-losses-report>

³ https://www.buses.org/assets/images/uploads/pdf/Covid_Impact_041420_FINAL.pdf

⁴ <https://www.businessinsider.com/covid-could-wipe-out-a-vital-transport-network-private-buses-2020-11>

⁵ <https://www.natlawreview.com/article/federal-covid-relief-bill-passed-congress-december-2020>

⁶ <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-american-industry/coronavirus-economic-relief-for-transportation-services>

⁷ <https://www.busandmotorcoachnews.com/we-have-a-deal-certs-act-funding-survives-at-2-billion-level/>

guidelines have been released, transportation service providers have more information about what they can expect from the CERTS Act program. The application process for the CERTS Act grants will be submitted to the Treasury Department via an online portal.⁸ **The online portal opened on June 19th and applicants will have only 4 weeks to submit their grant applications –the deadline being July 19th!** Applications will be reviewed and approved *in the order submitted*. In other words, the sooner companies submit their applications, the better. The CERTS Act program does not allow applicants to request specific grant award amounts. Instead, the grant award will be based on the total applicant pool. The great news is that CERTS Act grants are non-competitive, which means all eligible companies that submit an application by the deadline and are approved by Treasury will receive a grant award.⁹ This is a big deal for transportation service providers, as this is funding that companies will not have to pay back at any point in the future. The goal of the CERTS Act program is to make transportation service providers whole again after the unexpected and difficult circumstances faced in 2020 due to the pandemic.

Who is Eligible for CERTS Act Grants?

Based on the final language in the guidelines, the CERTS program is for motorcoach, school bus, passenger vessel, and pilotage vessel transportation service providers who were in business on March 1, 2020. The eligible transportation service provider must have experienced a revenue loss of 25% or more between calendar year 2019 and 2020 as a direct or indirect result of COVID-19.¹⁰

The eligible transportation service provider will have either:

- **500 or less employees** (full-time, part-time or temporary), and not be the affiliate, subsidiary or parent to any other entity with more than 500 employees; or
- **500 or more employees** (full-time, part-time or temporary), and not received a loan under the Airlines Loan Program or the National Security Loan Program under the CARES Act.

The CERTS Act grants are intended to restore companies, to the extent possible, to the revenue earned in 2019. Treasury will review and consider any COVID-19 federal assistance the company has received and subtract that amount from the overall revenue loss in 2020. A company is ineligible if the COVID-19 federal assistance already received exceeds or equals the total amount of revenue earned in calendar year 2019.¹¹ This includes assistance provided under the CARES Act, PPP or any other COVID-19 relief program funds. Participation in these federal assistance programs does not disqualify the company unless the other COVID-19 assistance amounts to more than the total revenue earned in 2019.

As an example, if “Bus Company A” made \$100,000 in 2019 and in 2020 the same company only made \$50,000 due to COVID-19 the amount of revenue lost from 2019 to 2020 is \$50,000, or 50%. During 2020, the same business received a PPP loan for \$20,000. When

⁸ <https://api.id.me/en/session/new>

⁹ <https://www.busandmotorcoachnews.com/progress-on-certs-grant-program-what-you-need-to-know/>

¹⁰ https://home.treasury.gov/system/files/136/CERTS_Guidelines_Issued_May_6_2021.pdf

¹¹ <https://home.treasury.gov/system/files/136/CERTS-Guidelines-Updated-June-17-2021.pdf>

considering eligibility for the CERTS Act Program, the Treasury will consider Company A's total loss in 2020 of \$50,000 minus the PPP loan of \$20,000, making the maximum grant consideration \$30,000. Under the current guidelines, Company A could not receive more than \$30,000 in CERTS Act grant funding. CERTS guidelines do not specify whether the Treasury will consider only the forgivable portion of any COVID-19 federal assistance received.

Motorcoach & School Bus Company Eligibility

In addition to meetings these financial requirements, each company must qualify as a transportation service provider under one of the four eligible industries. To qualify for the CERTS Act program as a motorcoach transportation service provider, a company must be registered as an interstate carrier at the federal level or an intrastate carrier at the state level and provide passenger transportation services. A company must have at least one over-the-road bus which it uses in its principal business operations. A company must operate its vehicles on a fixed route, commuter service, tour, or charter service model.¹²

Under the recently-released Treasury Department guidelines, the requirements to qualify as a school bus transportation service provider were significantly updated and changed. Under the May 6, 2021 guidelines, a school bus company was to provide its USDOT registration number, for the Treasury to validate the company with the Federal Motor Carrier Safety Administration (FMCSA).¹³ If the school bus company did not have a USDOT registration number, the Treasury was to review the State registration number or other unique identifying number issued by the State or local agency, for the purpose of validating the company against information from State departments and agencies that issue school bus registrations. A school bus company was also required to provide a copy of its primary or largest contract(s) with a school, school districts, or State department of education for which it provides school bus services to transport students to and from school and/or education-related events, activities and competitions. A school bus company might be required to submit additional information to help determine eligibility, such as the vehicle license plate numbers for its school buses and the customer names, points of contact, and contract service periods for the school bus contracts upon request by the Treasury.¹⁴

Under the June 17, 2021 guidelines, a school bus company must provide a current certificate of insurance with liability coverage as a school bus company, which describes operations as school bus transportation of students.¹⁵ The treasury will rely on this information to validate the school bus company in addition to a sampling of the Vehicle identification numbers (VIN), license plate numbers, and model years for a limited number of the company's school busses and the name of a school, school district, or State department of education which the company provided school bus services for. School bus services includes transporting students to and from school and/or for education-related events in or after 2019.¹⁶ These updated guidelines

¹² https://home.treasury.gov/system/files/136/CERTS_Guidelines_Issued_May_6_2021.pdf

¹³ https://home.treasury.gov/system/files/136/CERTS_Guidelines_Issued_May_6_2021.pdf

¹⁴ https://home.treasury.gov/system/files/136/CERTS_Guidelines_Issued_May_6_2021.pdf
<https://home.treasury.gov/system/files/136/CERTS-Guidelines-Updated-June-17-2021.pdf>

¹⁵ Insurance coverage must be pursuant to under SIC Code 4151 (School Buses), NAICS Code 485410 (School Bus Services), or other comparable school bus industry code. <https://home.treasury.gov/system/files/136/CERTS-Guidelines-Updated-June-17-2021.pdf>

¹⁶ <https://home.treasury.gov/system/files/136/CERTS-Guidelines-Updated-June-17-2021.pdf>

no longer require a USDOT registration number, although a company may still provide one if the company is registered with FMCSA. The updated guidelines no longer limit eligibility to school bus providers with long term contracts with a school or school district which in turn widens the applicant pool.

Each CERTS application must be linked to a federal tax return. All information reported on the application must match the information reported on the linked federal tax return. The primary factor in calculating the grant amount will be the difference in total annual revenues reported on the 2019 and 2020 tax returns.¹⁷ Companies that applied for and were granted an extension to file 2020 tax returns are also eligible to apply, these companies must provide a copy of their application for an extension to file or a copy of the IRS's electronic acknowledgement.¹⁸

Limousine and Black Car Companies May Also Be Eligible!

A limousine or black car company may also be eligible for a CERTS grant, if the company provides motorcoach or school bus services. If the company provides a mix of services, the Treasury will review the company's completed application and determine the principal business that the company is engaged in.¹⁹ The company is only eligible for a CERTS grant if the principal business is an eligible transportation service, meaning the company must generate the most revenue from either motorcoach services or school bus services.²⁰ If the application for CERTS is approved by Treasury, the CERTS grant can be used for allowable expenses in any part of the company's business including black car and limousine related expenses.²¹

Even Companies in Bankruptcy May Be Eligible for CERTS Act Grants

Federal assistance for the transportation industry has taken its time to arrive, and, during the past year, many transportation service providers had no choice but to file for bankruptcy as a result of the effects of the pandemic shutdown. Luckily, the CERTS Act Program does not immediately disqualify transportation service providers that have filed for bankruptcy.²² If a company remains operational, or is no longer operational but not out of business, has met all other CERTS Act requirements, and is in bankruptcy under Chapter 11, the company is eligible for CERTS Act funds so long as the bankruptcy was filed after March 1, 2021. If a company is out of business, dissolved, or filed for bankruptcy prior to March 1, 2021, the company is not eligible for CERTS Act grants. If the bankruptcy was filed under or converted to Chapter 7 at any point, the company is not eligible for CERTS Act grants.²³

How CERTS Act Grants Can Be Used

¹⁷ <https://home.treasury.gov/system/files/136/CERTS-FAQ-June-17-2021.pdf>

¹⁸ <https://home.treasury.gov/system/files/136/CERTS-FAQ-June-17-2021.pdf>

¹⁹ <https://home.treasury.gov/system/files/136/CERTS-FAQ-June-17-2021.pdf>

²⁰ https://home.treasury.gov/system/files/136/CERTS_Guidelines_Issued_May_6_2021.pdf

²¹ <https://home.treasury.gov/system/files/136/CERTS-FAQ-June-17-2021.pdf>

²² <https://home.treasury.gov/system/files/136/CERTS-Guidelines-Updated-June-17-2021.pdf>

²³ <https://www.credit.com/debt/filing-for-bankruptcy-difference-between-chapters-7-11-13/>

Unlike PPP loans, the CERTS Act grant funds have a wider range of allowed uses.²⁴ CERTS Act grants are intended to cover payroll costs, the acquisition of services, equipment, PPE and protection measures from COVID-19 for workers and customers, continued operations and maintenance of existing equipment and facilities, rent, leases, insurance, and interest on regular debt service.²⁵

The CERTS Act grant funds will be distributed equitably among the four eligible transportation industries based on an analysis of their industry size and cost structure. This analysis will be based on the actual applicant pool, meaning the number of companies from each industry that apply for the CERTS Act grants and the need identified based on these applications. Fund allocation will be determined after the application period closes on July 19, 2021 and based on actual data from eligible applicants in the pool.²⁶ Once the application period closes, the Treasury Department will publish the amount allocated to each of the four industries and use those allocations to determine the grant-sizing formula. The grant-sizing formula will set minimums and maximums for CERTS Act grant awards. The primary factor in grant-sizing will be the company's lost revenues from 2019 to 2020. The CERTS Act grant amount, when combined with any other COVID-19 Federal assistance, will not exceed the total revenue earned by the company in 2019.²⁷

Register & Get Prepared to Apply for CERTS Act Grants!

After months of waiting, as of June 21, 2021, the CERTS application portal is officially open and accepting applications.²⁸ The portal will be open for a total of four weeks, closing on July 19, 2021 at 11:59 p.m. Eastern Time.²⁹ To apply, interested companies should register to obtain an [ID.me](#) username and password.³⁰ Companies can also register for updates from the U.S. Department of Treasury.³¹

Interested companies should gather copies of tax returns, income statements, and payroll information for the years 2019 and 2020.³² Companies should also determine the total of any prior COVID-19 federal aid received including EIDL, PPP, Main Street Lending Program loans, and any other COVID-19 related grant or loan. Given the more flexible allowed use of the grants, the time and effort to prepare a CERTS Act grant applications is likely worthwhile.

For assistance in completing the CERTS applications beginning to end, for review of your draft application before submitting, or just to ask any questions whatsoever, contact me at mkaus@windelsmarx.com or at 212-237-1106.

²⁴ <https://www.buses.org/news/article/insider-exclusive-grants-loans-and-programs-to-help-bus-companies-to-survive>

²⁵ <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-american-industry/coronavirus-economic-relief-for-transportation-services>

²⁶ <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-american-industry/coronavirus-economic-relief-for-transportation-services>

²⁷ <https://www.busandmotorcoachnews.com/progress-on-certs-grant-program-what-you-need-to-know/>

²⁸ <https://about.bgov.com/news/bus-pandemic-relief-fund-access-to-open-after-monthslong-delay/>

²⁹ <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-american-industry/coronavirus-economic-relief-for-transportation-services>

³⁰ To register go to <https://portal.treasury.gov/cares> and click on the option "Create an [ID.me](#) account."

³¹ <https://forms.treasury.gov/treasuryforms/certsoutreach>

³² <https://about.bgov.com/news/bus-pandemic-relief-fund-access-to-open-after-monthslong-delay/>