



APTA Universal Transit Farecard Standards (UTFS) Intellectual Property (IP) Policy and Procedures

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1. Authority and Precedence

The terms of this IP Policy are subject to the Universal Transit Farecard Standards Task Force Bylaws and in accordance with APTA Scope document, "APTA Universal Transit Farecard Standard Work Scope Specification, ATPA UTFS-D-TC-01A-05. All other documents, besides the Bylaws, concerning UTFS IP policies and procedures are controlled by this IP Policy, and other documents shall have no effect on the interpretation of the IP Policy.

The IP Policy includes the following form attachments: (1) Assignment of Copyright Interests in Standards Documents; (2) Sample Copyright Clearance Letters; (3) Letter of Assurance for Essential Patents; and (4) Letter of Acknowledgement about the UTFS IP Policy.

2. Letter of Acknowledgement by Participants

All participants in the APTA UTFS program including but not limited to transit agencies, fare collection system suppliers, financial institutions, consultants and other third party application providers shall submit a Letter of Acknowledgement, which states that, on behalf of the Organization with which they are affiliated and/or themselves, they have received and reviewed the IP Policy, and acknowledge that their participation in the UTFS standards development process, and the standard(s) adopted in the course of this process, will be subject to the IP Policy. They agree to sign the Letter of Assurance form accompanying the IP Policy, agreeing to option D1 which grants the license of essential patents on a reasonable and non-discriminatory basis for public transit procurement purposes, and makes such licenses available royalty-free to public transit agencies and any sublicensees. In order to promote sharing of the best technical solutions, the participants further agree that with respect to information that is obtained from others solely as a consequence of our participation in the UTFS standards development process ("UTFS Information"), no patents will be obtained directly by our use of such UTFS Information. In the event that any patents are obtained directly by participant's use of such UTFS Information that are also essential to compliance with the adopted standard(s), licenses for such patents shall be negotiated in good faith and on a reasonable and non-discriminatory basis for public transit procurement purposes, and made available royalty-free to public transit agencies and any sublicensees. They also shall state that they understand other participants will be relying on this acknowledgement regardless of whether or not they remain a participant in the standards development process or sign a Letter of Assurance at the conclusion of the standards development process.

The person signing shall certify that they are duly authorized to execute this acknowledgement on behalf of the Organization and/or themselves.

3. Trade Secret or Confidential Information

Material submitted for possible use in APTA standards shall be free of trade secrets or confidentiality obligations and will be made generally available to all participants. Material submitted shall not be encumbered by blanket proprietary or confidentiality notices. Where material is submitted with a proprietary legend, a letter signed by an authorized individual disavowing any such proprietary notices shall accompany the submittal.

NOTE – Such disavowal is not intended to apply to trademarks, copyrights or patents, but rather to claims of trade secret or other obligations of confidentiality. This requirement is in addition to the general requirement of the contribution legend set forth in section 3.2.6 below.

4. Patents

4.1 General Policy

APTA UTFS may include the known use of patent(s), including patent applications, provided APTA receives assurance from the patent holder or applicant with respect to patents essential for compliance with the standard. This assurance shall be provided in the form of the "Letter of Assurance" specified above prior to approval of the standard (or reaffirmation when a patent becomes known after initial approval of the standard). This assurance shall be a letter that is in the form of a statement that to the extent the Organization owns or controls granted patent(s)and/or pending applications, now or during the time the specifically-identified APTA Standard is in force, that are or that it believes may be infringed by compliance with the APTA Standard, the Organization states that its position with respect to licensing such patent(s) is that the Organization is prepared to negotiate in good faith and grant a license to an unrestricted number of applicants on a non-discriminatory basis and on reasonable terms and conditions for use in public transit applications to comply with the APTA Standard. Public transit agencies shall receive such licenses on a royalty-free basis with a right to sublicense any supplier(s) at any tier on the same terms for the sole purpose of a specific procurement including maintenance thereof.

This assurance shall apply, at a minimum, from the date of the standard's approval to the date of the standard's withdrawal and is irrevocable during that period.

NOTE - The principle addressed in this and related sections is that if a license of a patent is required to implement an APTA standard in conjunction with a procurement by a public transit agency, that license shall be royalty free. This will be achieved by having the procuring agency obtain the license, with terms and conditions that allow the agency to sublicense to its suppliers at any tier for the sole purpose of a specified procurement including maintenance thereof. Alternatively, suppliers to a public transit agency could obtain the same type of royalty-free license directly from the patent holder, but under terms and conditions that limited its applicability to specific public transit agency procurement(s) including maintenance thereof. Vendors using IP on behalf of a transit agency would be under no risk so long as one of them has obtained any licenses needed. Further, nothing in the IP Policy prevents any vendor from negotiating a license directly with the patent holder for general use of the IP. However,

the patent holder, while required to license specific procurements royalty-free under reasonable terms and conditions for transit related procurements, is allowed, under these circumstances of general use, to request a royalty.

4.2 Procedures for Patents in Standards

The patent policy is set forth in clause 3.1 of this *APTA UTFS IP Policy*.

All participants shall submit Letters of Assurance agreeing to Option D1 (agreeing to license) to the applicable APTA UTFS Standards-writing committee or working group (to the attention of the Chair) as soon as possible, but in no event later than a vote to adopt the standard or the time of APTA review for approval of the standard, whichever is earlier.

NOTE: Submittal of the Letter of Assurance should not be construed as a blanket promise to license any and all patents. Submittal of a Letter of Assurance is a promise only to license those patents later determined to be essential to the utilization of a standard. (Reference the first paragraph of Section D of the Letter of Assurance.) Non-Participants will have the option to submit a Letter of Assurance or not, or to select Option D1 or D2 when submitting such a Letter of Assurance, in recognition that they cannot influence the standards setting process as can the participants.

In the event that a patent or application may apply to a standard and a Letter of Assurance cannot be obtained, or in the event that a Letter of Assurance is obtained stating that Option D2 applies, the committee or working group shall consider all options to avoid passing a standard that requires transit agencies or their supplier(s) to utilize such patent(s) as a result of using an adopted UTFS standard. Before voting at each level of the UTFS standards process, voters will be fully informed if any UTFS documents or concepts, whether submitted by a participant or a non-participant, have incorporated intellectual property for which Letters of Assurance have not been received or the license noted therein is not granted under Option D1.

Unless the Letter of Assurance is received from an individual within the issuing organization who has clear authority for intellectual property and/or legal matters, the APTA Committee or Working Group (Chair) shall send a certified letter, return receipt requested, to the General Counsel of the issuing organization to confirm receipt of the Letter of Assurance and to ensure that the Letter of Assurance is factually correct and was submitted by an appropriate individual within the issuing organization. No response to this letter, other than the return receipt, is required.

APTA will provide contact information about the patent holder upon request.

4.2.1 Public notice

The following notice shall be used when APTA has received Letters of Assurance from all participants and anyone else claiming to hold an essential patent, providing assurance according to the terms of this IP Policy:

Licensing of Essential Patents

Attention is called to the possibility that implementation of this standard may require use of subject matter covered by patent rights. By publication of this standard, no position is taken with respect to the existence or validity of any patent rights in connection therewith. APTA shall not be responsible for identifying patents for which a license may be required by an APTA standard or for conducting inquiries into the legal validity or scope of those patents that are brought to its attention. A patent holder has filed a statement of assurance that it will negotiate in good faith to grant licenses on a reasonable and non-discriminatory basis for public transit purposes. The patent holder has further stated that such licenses will be granted royalty-free to public transit agencies. APTA makes no representation as to the reasonableness of terms and conditions of the license agreements offered by patent holders. Further information may be obtained from APTA.

If APTA has not received Letters of Assurance, prior to the time of publication, from all participants and anyone else claiming to hold an essential patent, the following notice shall be used:

Attention is called to the possibility that implementation of this standard may require use of subject matter covered by patent rights. By publication of this standard, no position is taken with respect to the existence or validity of any patent rights in connection therewith. APTA shall not be responsible for identifying patents for which a license may be required by an APTA standard or for conducting inquiries into the legal validity or scope of those patents that are brought to its attention.

4.2.2 Submittal

Through the committee or working group, the Task Force Chair shall request that known patent or patent application holders submit a statement either that the patent or application does not apply to the standard or that licenses will be made available under reasonable terms and conditions. This statement/Letter of Assurance shall be obtained without coercion and submitted to APTA at the earliest practical time prior to the approval of an APTA UTFS standard. APTA requires early disclosure to the working group of patent information that might be relevant to the standard.

4.2.3 Withdrawn standards

All APTA UTFS standards are subject to periodic review for reaffirmation, revision, or withdrawal every five years. Thus, any standard that incorporates patented technology may at some point in time be withdrawn. Section 4.1 of this *APTA UTFS IP Policy* contains policies concerning the period of validity for any assurance received from a party claiming a patent, issued or under application.

4.2.4 Disclaimer

APTA is not responsible for identifying patents for which a license may be required to implement an APTA UTFS standard or for conducting inquiries into the legal validity or scope of those patents that are brought to its attention.

4.2.5 Early Disclosure

Early disclosure to the Working Group participants about patents that might be relevant to the standard is essential to reduce the possibility for delays in the development process and to increase the likelihood that the draft publication will be approved for publication. APTA committees and working groups strive to make such information available as soon as possible for consideration by individual members in their voting decisions. However, in their meetings and electronic forums, APTA committees and working groups do not permit discussions concerning subjects such as the pricing for use of a patent, how a patent should be licensed, validity or interpretation of a patent claim, or any terms or conditions of use.

If any individual, whether participating in a committee or working group or not, believes that patented technology (or technology under patent application), not yet subject to an assurance of licensing, might be incorporated into a draft standard being developed within an APTA committee or working group, that individual should notify the respective committee or working group Chair. Such notification should be in written or electronic form (email is preferred) and need not make any statement concerning enforcement or licensing. Only information intended for public release should be provided, and the Chair will, as soon as practical, post appropriate information to the web along with other patent notices on file with APTA. The Chair and the committee or working group will take no position regarding the validity or applicability of any patents.

The Chair, once formally notified and once a potentially relevant draft standard exists, shall write to the identified party and request that a Letter of Assurance be filed with APTA, in accordance with APTA procedures. The blank Letter of Assurance form is available. When received, the letter will be posted and indexed on the committee or working group web site. When APTA has accepted the letter as a Letter of Assurance, information regarding the letter will be indexed in the APTA Letter of Assurance Database.

4.2.6 Contribution Legend

Written contributions to APTA UTFS standards development will not be accepted without a Letter of Acknowledgement. This acknowledgement will be part of the mandatory contribution cover sheet and will read:

NOTICE REGARDING INTELLECTUAL PROPERTY RIGHTS: The contributor, both individually and on behalf of its company or organization, acknowledges that (a) it is familiar with the APTA UTFS IP Policy and Procedures, and (b) in the case of a participant, it will, when a draft standard is ready for adoption, provide the Letter of Assurance according to the terms of the IP Policy and Procedures. All participants are

required to make early disclosure to the committee or working group Chair of patents or copyrights, not yet subject to a similar assurance that might be relevant to the standard under discussion, since this is essential to reducing the possibility for delays and increasing the likelihood that a draft standard will be approved for publication. The Chair will provide appropriate notices via the APTA web site.

5. Copyrights and Trademarks

5.1 Copyrights

5.1.1 General

All APTA standards are copyrighted by APTA under the provisions of, among other things, the U.S. Copyright Laws.

As part of the initial committee or working group procedure, the committee or working group shall appoint a chair (or official reporter) who shall sign a Copyright Agreement acknowledging that the proposed standard constitutes a "work made for hire" on behalf of APTA as defined by the Copyright Act, and that as to any work not so defined, any rights or interest in the copyright to the standards publication is transferred to APTA. APTA is the sole copyright owner of all material included in the standard, except as noted below.

At the time of standards completion, any previously copyrighted material intended for inclusion shall be identified. The working group is responsible for receiving written permission to use all copyrighted material prior to standards submittal. Sample form letters are available from APTA.

5.1.2 Drafts of proposed APTA standards

All APTA drafts are obligated to carry statements of copyright.

As per legal counsel, the following information shall appear on the title page of every APTA Standards draft (please note that *current year* shall be replaced with the current year of distribution):

Copyright © <*current year*> by the American Public Transportation Association, Inc.
1666 K Street, N.W., Washington, D.C. 20006 USA. All rights reserved.

This document is an unapproved draft of a proposed APTA Standard. As such, this document is subject to change. **USE AT YOUR OWN RISK!** Because this is an unapproved draft, this document must not be utilized for any conformance/compliance purposes. Permission is hereby granted for APTA participants to reproduce this document for purposes of APTA standardization activities only. Prior to submitting this document to another standards development organization

for standardization activities, permission must first be obtained from the Chief Counsel, APTA. Other entities seeking permission to reproduce this document, in whole or in part, must obtain permission from APTA.

American Public Transportation Association
Director, Technical Services
1666 K Street, N.W.
Washington, D.C. 20006 USA

The following information shall appear on every page of the draft, preferably at the bottom of the page:

Copyright © <current year> APTA. All rights reserved.
This is an unapproved APTA Standards Draft, subject to change.

5.1.3 Copyrighted material from other organizations

When standards developers choose to use copyrighted text, tables, or figures and possibly modify or adapt the material to suit their needs, permission to do so shall be requested from the copyright owner. It is preferred, however, that copyrighted material be referenced rather than reprinted. Standards developers shall request permission from copyright owners as soon as the decision is made to include copyrighted material in a draft. As draft documents are made available to the public, it is important to acknowledge the ownership of any material that is not original. The following credit line shall be used in the event that specific language from the copyright holder is not available:

<Indicate material> reprinted from <copyright owner, title of publication>, year of publication.

Standards developers incorporating any previously copyrighted material into an APTA standard shall obtain written permission from the copyright owner, which in most cases is the publisher, *prior* to submittal to APTA. Copies of the letters requesting and granting permission should be forwarded directly to APTA and shall be included in the submittal to the APTA Task Force. Obtaining this permission is the responsibility of the sponsor; any delay in obtaining this will also delay publication of the standard. Sample letters of request and permission appear in Annex A. Please contact APTA with any questions about copyright and permission.

5.2 Trademarks

References to commercial equipment in a standard shall be generic and shall not include trademarks or other proprietary designations. Where a sole source exists for essential equipment or materials, it is permissible to supply the name of the trademark owner in a footnote. The trademarked name shall be identified in the standard and marked as such (with either ® or TM), as appropriate, upon first reference.

The proper use guidelines for trademarks shall be determined by the trademark owner. Trademark owners must grant written permission before their trademarks may be referenced in a standard.

All trademarks shall be credited to the trademark owner in the front matter of the standard. The following text shall introduce any mention of specific trademark information:

The following information is given for the convenience of users of this standard and does not constitute an endorsement by APTA of these products.

6. Submission of independently developed documents

The submission of independently developed documents for consideration as potential APTA UTFS standards or to serve as base documents for standards development is also encouraged. In order to ensure unencumbered development, from working group decisions through the consensus balloting process, a written permission release of unrestricted world rights to use a document as the basis for development of an APTA standard and for all future revisions and editions of that standard is required. The process of standards development may result in changes to the base document; APTA must maintain the right to amend the document as it sees fit to meet the needs of this process. Independently developed documents undergoing review shall have affixed to them the following disclaimer:

Warning

This document is not an APTA standard. It is distributed for review and comment. It is subject to change without notice and may not be referred to as an APTA Standard. Recipients of this document are invited to submit, with their comments, notification of any relevant patent rights of which they are aware and to provide supporting documentation.

In some cases, use of an independently developed document as a potential APTA UTFS standard may require that APTA obtain a license agreement from the copyright owners allowing development and distribution of the standard. The copyright owner may also require that APTA pay royalties or other valuable considerations on the use and distribution of the independently developed document. Therefore, it is recommended that APTA staff be notified as early in the process as possible so that the staff will have sufficient time to make necessary arrangements.

If the independently developed document is subject to patent royalties, such as a pre-existing standard allowing for reasonable royalties on essential patents, the Chair shall first attempt to obtain a Letter of Assurance from all entities claiming to have essential patents permitting royalty-free use by public transit agencies for the proposed APTA standard. If a patent holder refuses, then the Chair shall attempt to obtain assurance that a license will be made available under reasonable rates, with reasonable terms and conditions that are demonstrably free of any unfair discrimination. The Chair shall timely notify the Working Group participants of the outcome.

It is also recognized that, in giving permission to use the document as the basis for an APTA standard, the copyright owner(s) do not forfeit the copyright to their original text and its future development outside of APTA; however, the copyright owner(s) must agree not to refer to their document as an APTA standard. The copyright owner(s) will be credited for their initial development of the base document in the front matter of the approved APTA standard. Contact APTA to obtain a copy of the approved letter to certify the copyright release, or, if necessary, a license agreement.

This policy is based on the [IEEE-SA Standards Board Bylaws](#), clause 6 (Patents), [IEEE-SA Standards Board Operations Manual](#) section 6.3, the [IEEE Standards Style Manual](#), sections 5-7, as modified by the [IEEE 803.16 Patent Policy and Procedures](#). *Used with permission*, Copyright © 2000-2003 IEEE

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