

§ 630.5 Failure to report data.

Failure to report data in accordance with this part may result in the non-compliant reporting entity being ineligible to receive any funding under 49 U.S.C. chapter 53, directly or indirectly, until such time as a report is filed in accordance with this part.

[81 FR 48970, July 26, 2016]

§ 630.6 Late and incomplete reports.

(a) *Late reports.* Each reporting entity shall ensure that FTA receives its report by the due dates prescribed in the reference documents. A reporting entity may request a 30 day extension to submit its report. FTA will treat a failure to submit the required report by the due date or the extension date as failure to report data under § 630.5.

(b) *Incomplete reports.* FTA will treat an NTD submission that does not contain all of the required data; or does not contain the required certifications, where applicable; or that is not in substantial conformance with the definitions, procedures, and format requirements set out in the reference documents as a failure to report data under § 630.5, unless the reporting entity has exhausted all possibilities for obtaining this information.

§ 630.7 Failure to respond to questions.

FTA will review each NTD submission to verify the reasonableness of the data submitted. If any of the data do not appear reasonable, FTA will notify the reporting entity of this fact in writing, and request written justification from the reporting entity to either document the accuracy of the questioned data, or to revise the questioned data with a more accurate submission. Failure of a reporting entity to make a good-faith written response to this request will be treated as a failure to report data under § 630.5.

§ 630.8 Questionable data items.

FTA may enter a zero, or adjust any questionable data item(s), in any reporting entity's NTD submission that is used in computing the Section 5307 apportionment. These adjustments may be made if any data appears to be inaccurate, have not been collected and reported in accordance with FTA ref-

erence documents, or if there is not adequate documentation and a reliable recordkeeping system.

§ 630.9 Notice of FTA action.

Before taking final action under §§ 630.5 or 630.8, FTA will transmit a written request to the reporting entity to provide the necessary information within a specified reasonable period of time. FTA will advise the reporting entity of its final decision.

§ 630.10 Waiver of reporting requirements.

Waivers of one or more sections of the reporting requirements may be granted at the discretion of the Administrator on a written showing that the party seeking the waiver cannot furnish the required data without unreasonable expense and inconvenience. Each waiver will be for a specified period of time.

§ 630.11 Data adjustments.

Errors in the data used in making the Section 5307 apportionment may be discovered after any particular year's apportionment is completed. If so, FTA shall make adjustments to correct these errors in a subsequent year's apportionment to the extent feasible.

PART 633—PROJECT MANAGEMENT OVERSIGHT

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AUTHORITY: 49 U.S.C. 5327; 49 U.S.C. 5334; 49 CFR 1.90.

SOURCE: 85 FR 59679, Sept. 23, 2020, unless otherwise noted.

Subpart A—General Provisions

§ 633.1 Purpose.

This part implements 49 U.S.C. 5327 regarding oversight of major capital projects. The part provides for a two-part program for major capital projects receiving Federal financial assistance. First, subpart B discusses project management oversight, designed primarily to aid FTA in its role of ensuring successful implementation of Federally-funded projects. Second, subpart C discusses the requirement that, to receive Federal financial assistance for a major capital project for public transportation under Chapter 53 of Title 49, United States Code, or any other provision of Federal law, a recipient must prepare a project management plan approved by the Administrator and carry out the project in accordance with the project management plan.

§ 633.3 Scope.

This rule applies to a recipient of Federal financial assistance undertaking a major capital project for public transportation under Chapter 53 of Title 49, United States Code, or any other provision of Federal Law.

§ 633.5 Definitions.

As used in this part:

Administrator means the Administrator of the Federal Transit Administration or the Administrator's designee.

Days means calendar days.

Fixed guideway means any public transportation facility: Using and occupying a separate right-of-way for the exclusive use of public transportation; using rail; using a fixed catenary system; for a passenger ferry system; or for a bus rapid transit system.

FTA means the Federal Transit Administration.

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Except as provided in § 633.19, *Major capital project* means a project that:

(1) Involves the construction, expansion, rehabilitation, or modernization of a fixed guideway that:

(i) Has a total project cost of \$300 million or more and receives Federal funds of \$100 million or more; and

(ii) Is not exclusively for the acquisition, maintenance, or rehabilitation of vehicles or other rolling stock; or

(2) The Administrator determines to be a major capital project because project management oversight under this part will benefit the Federal government or the recipient, and the project is not exclusively for the acquisition, maintenance, or rehabilitation of rolling stock or other vehicles. Typically, this means a project that:

(i) Involves new technology;

(ii) Is of a unique nature for the recipient; or

(iii) Involves a recipient whose past record indicates the appropriateness of extending project management oversight under this part.

Project development means the phase in which planning, design and engineering work is undertaken to advance the project from concept to a sufficiently mature scope to allow for the development of a reasonably reliable project cost, schedule, and project management plan.

Project management oversight means the risk-informed monitoring of the recipient's management of a major capital project's progress to determine whether the project is on time, within budget, in conformance with design and quality criteria, in compliance with all applicable Federal requirements, constructed to approved plans and specifications, delivering the identified benefits, and safely, efficiently, and effectively implemented.

Project management plan means a written document prepared by a recipient that explicitly defines all tasks necessary to implement a major capital project. A project management plan may be a single document or a series of documents or sub plans integrated with one another into the project management plan either directly or by reference for the purpose

of defining how the recipient will effectively manage, monitor, and control all phases of the project.

Recipient means a direct recipient of Federal financial assistance or the sponsor of a major capital project.

Sponsor means the entity designated to deliver the project per the terms set forth in the grant agreement.

Subpart B—Project Management Oversight Services

§ 633.11 Covered projects.

(a) The recipient is using funds made available under Chapter 53 of Title 49, United States Code, or any other provision of Federal law; and

(b) The project is a major capital project.

§ 633.13 Initiation of project management oversight services.

Project management oversight services will be initiated as soon as practicable, once the Administrator determines that this part applies. In most cases, this means that project management oversight will begin during the project development phase of the project, generally after the locally preferred alternative has been chosen (if applicable), unless the Administrator determines it more appropriate to begin oversight during another phase of the project, to maximize the transportation benefits and cost savings associated with project management oversight.

§ 633.15 Access to information.

A recipient for a major capital project shall provide the Administrator and the project management oversight contractor chosen under this part access to its records and construction sites, as reasonably may be required.

§ 633.17 Project management oversight contractor eligibility.

(a) Any person or entity may provide project management oversight services in connection with a major capital project, with the following exceptions:

(1) An entity may not provide project management oversight services for its own project; and

(2) An entity may not provide project management oversight services for a

project if there exists a conflict of interest.

(b) In choosing private sector persons or entities to provide project management oversight services, the Administrator uses the procurement requirements in the government-wide procurement regulations, found at Chapter 1 of title 48, Code of Federal Regulations.

§ 633.19 Exclusion from the project management oversight program.

The Administrator may, in compelling circumstances, determine that a project meeting the criteria of § 633.5(e)(1) is not a major capital project because project management oversight under this part will not benefit the Federal government or the recipient. Typically, this means a project that:

(a) Involves a recipient whose past record indicates the appropriateness of excluding the project from project management oversight under this part; and

(b) Involves such a greater level of financial risk to the recipient than to the Federal government that project management oversight under this part is made less necessary to secure the recipient's diligence.

Subpart C—Project Management Plans

§ 633.21 Basic requirement.

(a) If a project meets the definition of major capital project, the recipient shall submit a project management plan prepared in accordance with § 633.25, as a condition of Federal financial assistance.

(b)(1) The Administrator will notify the recipient when the recipient must submit the project management plan. Normally, the Administrator will notify the recipient sometime during the project development phase. If the Administrator determines the project is a major capital project after the project development phase, the Administrator will inform the recipient of the determination as soon as possible.

(2) Once the Administrator has notified the recipient that it must submit a project management plan, the recipient will have a minimum of 90 days to submit the plan.

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§ 633.23 FTA review of a project management plan.

Within 60 days of receipt of a project management plan, the Administrator will notify the recipient that:

- (a) The plan is approved;
- (b) The plan is disapproved, including the reasons for the disapproval;
- (c) The plan will require modification, as specified, before approval; or
- (d) The Administrator has not yet completed review of the plan, and state when it will be reviewed.

§ 633.25 Contents of a project management plan.

A project management plan must be tailored to the type, costs, complexity, and phase of the major capital project, and to the recipient's management capacity and capability. A project management plan must be written to a level of detail sufficient to enable the recipient to determine whether the necessary staff and processes are in place to control the scope, budget, schedule, and quality of the project, while managing the safety and security of all persons. A project management plan must be developed with a sufficient level of detail to enable the Administrator to assess the adequacy of the recipient's plan. At a minimum, a recipient's project management plan must include:

- (a) Adequate recipient staff organization with well-defined reporting relationships, statements of functional responsibilities, job descriptions, and job qualifications;
- (b) A budget covering the project management organization, appropriate contractors and consultants, property acquisition, utility relocation, systems demonstration staff, audits, contingencies, and miscellaneous payments as the recipient may be prepared to justify;
- (c) A construction schedule for the project;
- (d) A document control procedure and recordkeeping system;
- (e) A change order procedure that includes a documented, systematic approach to the handling of construction change orders;
- (f) A description of organizational structures, management skills, and

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staffing levels required throughout the construction phase;

- (g) Quality control and quality assurance functions, procedures, and responsibilities for project design, procurement, construction, system installation, and integration of system components;
- (h) Material testing policies and procedures;
- (i) Internal plan implementation and reporting requirements including cost and schedule control procedures;
- (j) Criteria and procedures to be used for testing the operational system or its major components;
- (k) Periodic updates of the project management plan, especially related to project budget and schedule, financing, ridership estimates, and the status of local efforts to enhance ridership where ridership estimates partly depend on the success of those efforts;
- (l) The recipient's commitment to submit a project budget and project schedule to the Administrator quarterly;
- (m) Safety and security management; and
- (n) Management of risks, contingencies, and insurance.

§ 633.27 Implementation of a project management plan.

(a) Upon approval of a project management plan by the Administrator the recipient shall begin implementing the plan.

(b) Generally, a project management plan must be modified if the project is at a new phase or if there have been significant changes identified. If a recipient must modify an approved project management plan, the recipient shall submit the proposed changes to the Administrator along with an explanation of the need for the changes.

(c) A recipient shall submit periodic updates of the project management plan to the Administrator. Such updates shall include, but not be limited to:

- (1) Project budget;
- (2) Project schedule;
- (3) Financing, both capital and operating;
- (4) Ridership estimates, including operating plan; and

(5) Where applicable, the status of local efforts to enhance ridership when estimates are contingent, in part, upon the success of such efforts.

(d) A recipient shall submit current data on a major capital project's budget and schedule to the Administrator on a quarterly basis for the purpose of reviewing compliance with the project management plan, except that the Administrator may require submission more frequently than on a quarterly basis if the recipient fails to meet the requirements of the project management plan and the project is at risk of materially exceeding its budget or falling behind schedule. Budget and schedule changes will be analyzed on a case-by-case basis, but FTA generally will consider any cost increase or schedule delay exceeding five percent as a material change. Oversight of projects monitored more frequently than quarterly will revert to quarterly oversight once the recipient has demonstrated compliance with the project management plan and the project is no longer at risk of materially exceeding its budget or falling behind schedule.

§ 633.29 [Reserved]

PART 639 [RESERVED]

PART 640—CREDIT ASSISTANCE FOR SURFACE TRANSPORTATION PROJECTS

AUTHORITY: Secs. 1501 *et seq.*, Pub. L. 105-178, 112 Stat. 107, 241, as amended; 23 U.S.C. 181-189 and 315; 49 CFR 1.51.

§ 640.1 Cross-reference to credit assistance.

The regulations in 49 CFR part 80 shall be followed in complying with the requirements of this part. Title 49, CFR, part 80 implements the Transportation Infrastructure Finance and Innovation Act of 1998, secs. 1501 *et seq.*, Pub. L. 105-178, 112 Stat. 107, 241.

[64 FR 29753, June 2, 1999]

PART 650—PRIVATE INVESTMENT PROJECT PROCEDURES

Subpart A—General Provisions

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650.5 Definitions.

Subpart B—Private Investment Project Procedures

- 650.11 Private investment project procedures.
650.13 Limitation.

Subpart C—Reporting

- 650.21 Lessons learned report.

Subpart D—Applications

- 650.31 Application process.

AUTHORITY: Sec. 20013(b)(5), Pub. L. 112-141, 126 Stat 405; 49 CFR 1.91.

SOURCE: 83 FR 24677, May 30, 2018, unless otherwise noted.

Subpart A—General Provisions

§ 650.1 Purpose.

This part establishes private investment project procedures that seek to identify and address Federal Transit Administration requirements that are impediments to the greater use of public-private partnerships and private investment in public transportation capital projects, while protecting the public interest and any public investment in such projects.

§ 650.3 Applicability.

This part applies to any recipient subject to 49 U.S.C. chapter 53 that funds a public transportation capital project with Federal financial assistance under 49 U.S.C. chapter 53, the Transportation Infrastructure Finance and Innovation Act (TIFIA) (23 U.S.C. 181-189, 601-609), the Railroad Rehabilitation and Improvement Financing (RRIF) program (45 U.S.C. 821-823), or with any other Federal financial assistance.