



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Transit Administration**

#### **49 CFR Part 611**

**[Docket No. FTA-2015-0007]**

**RIN 2132-ZA03**

### **Notice of Availability of Final Interim Policy Guidance for the Capital Investment Grant Program**

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of availability of final interim policy guidance.

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**SUMMARY:** The Federal Transit Administration (FTA) is announcing the availability of final interim policy guidance on the Capital Investment Grant (“CIG”) program. The final interim guidance has been placed both in the docket and on FTA’s web site. In brief, the policy guidance that FTA periodically issues on the CIG program complements the FTA regulations that govern the program. The regulations set forth the process that grant applicants must follow to be eligible for discretionary funding under the CIG program. The policy guidance provides a greater level of detail about the methods FTA uses to apply the evaluation criteria and the sequential steps a sponsor must follow in developing a project.

**DATES:** This final policy guidance is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Day, FTA Office of Planning and Environment, telephone (202) 366-5159 or Elizabeth.Day@dot.gov.

**SUPPLEMENTARY INFORMATION:**

Pursuant to 49 U.S.C. 5309(g)(5), FTA is required to publish policy guidance on the CIG program each time the agency makes significant changes to the process and/or evaluation criteria, and in any event, at least once every two years. Also, FTA is required to invite public comment on the policy guidance, and to publish its response to comments. In this instance, FTA published proposed interim policy guidance on April 8, 2015, at 80 FR 18796 (<http://www.gpo.gov/fdsys/pkg/FR-2015-04-08/pdf/2015-08063.pdf>). The final interim policy guidance and our response to comments is available on FTA's public Web site at <http://www.fta.dot.gov/newstarts> and in the docket at <http://www.regulations.gov>.

The final interim policy guidance addresses four subjects not addressed in either the regulations or the previous policy guidance document for the CIG program. Specifically these are: (1) the measures and breakpoints for the congestion relief criterion applicable to New Starts and Small Starts projects; (2) the evaluation and rating process for Core Capacity Improvement projects, including the measures and breakpoints for all the project justification and local financial commitment criteria applicable to those projects; (3) the prerequisites for entry into each phase of the CIG process for each type of project in the CIG program, and the requirements for completing each phase of that process; and (4) ways in which certain New Starts, Small Starts, and Core Capacity Improvement projects can qualify for "warrants" entitling them to automatic ratings on some of the evaluation criteria. This final policy guidance is characterized as "interim"

because, in the near future, FTA will initiate a rulemaking to amend the regulations at 49 CFR part 611 to fully carry out the authorizing statute for the CIG program, 49 U.S.C. section 5309, as amended by the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112-141; July 6, 2012) (“MAP-21”). The information gained through the public comment process on the interim policy guidance will inform the future rulemaking.

The final interim policy guidance being published today is approximately 100 typewritten pages in length, arranged in three stand-alone chapters for each of the three types of projects eligible for CIG funds: New Starts, Small Starts, and Core Capacity Improvements. Each chapter provides a short introduction, a discussion of eligibility for that type of project, a summary of the requirements for entry into and getting through each step of the CIG process, information on each of the project evaluation criteria, and an explanation of how FTA will determine the overall rating for a project. Each type of project in the CIG program—a New Start, Small Start, or Core Capacity Improvement—is governed by a unique set of requirements, although there are many similarities amongst the three sets of requirements.

The final interim policy guidance does not address the Program of Interrelated Projects provisions or the pilot program for expedited project delivery included in MAP-21. The Program of Interrelated Projects provisions will be addressed through future rulemaking and policy guidance updates. On July 7, 2015, FTA published in a separate **Federal Register** notice at 80 FR 38801 (<http://www.gpo.gov/fdsys/pkg/FR-2015-07-07/pdf/2015-16515.pdf>), a request for expressions of interest for the pilot program for expedited project delivery.

FTA received 539 separate comments on the proposed interim policy guidance from 41 commenters, including cities, transit operators, state agencies, metropolitan planning organizations, non-profit organizations, and interested citizens. FTA's summary and response to these comments is available both on the agency's public Web site at <http://www.fta.dot.gov/newstarts> and in the docket at <http://www.regulations.gov>. The public comments are available, in their entirety, on the docket at <http://www.regulations.gov>.

This final interim policy guidance is effective immediately. It provides technical details necessary for FTA to apply the project evaluation and rating criteria. Sponsors of New Starts, Small Starts, and Core Capacity projects need this final interim policy guidance to gather and submit the data and information needed by FTA to move their projects into and through the process. In turn, FTA needs this data from project sponsors to prepare the agency's annual report to Congress on capital investment funding recommendations for the forthcoming Federal fiscal year, as required by 49 U.S.C. 5309(o)(1). For these reasons, and in accordance with the Administrative Procedure Act, 5 U.S.C. 553(d), FTA finds good cause for an exception to the requirement for 30-day publication prior to an effective date.

Issued in Washington, DC, under the authority delegated at 49 CFR 1.91.

**Therese W. McMillan**

Acting Administrator

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