



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 611

[Docket No. FTA-2025-0006]

RIN 2132-AB55

Major Capital Investment Projects

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rulemaking revises FTA's major capital investment projects regulation to remove Appendix A, which provided outdated descriptions of the measures used for the evaluation of Capital Investment Grant (CIG) projects. This rulemaking also adopts minor conforming changes to reflect the removal of the Appendix.

DATES: This final rule is effective on [INSERT DATE OF PUBLICATION IN THE
FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Heather Ueyama, Office of Chief Counsel,
(202) 366-7374 or heather.ueyama@dot.gov. Office hours are from 8:30 a.m. to 5 p.m., Monday
through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

I. Background and Discussion of the Changes

Section 5309 of title 49, United States Code, outlines a multi-year, multi-step process for projects to be eligible for and receive discretionary CIG funding. FTA implements the CIG project evaluation and rating process through both 49 CFR part 611 (pursuant to 49 U.S.C. 5309(g)(6)) and the CIG Policy Guidance (pursuant to 49 U.S.C. 5309(g)(5)). Notably, Appendix A to 49 CFR part 611 and the CIG Policy Guidance both include detailed descriptions

of the project justification and local financial commitment measures FTA uses for the evaluation and rating of CIG projects.

In accordance with 49 U.S.C. 5309(g)(5), FTA must update the CIG Policy Guidance each time it makes significant changes to the CIG process and criteria, but not less frequently than once every two years. FTA follows notice and comment rulemaking procedures pursuant to 49 U.S.C. 5334(k) when an update to the CIG Policy Guidance imposes a “binding obligation,” as defined by 49 U.S.C. 5334(k)(2). Interested parties therefore have an opportunity to comment when FTA makes such changes to CIG Policy Guidance.

As a result, FTA updates the CIG Policy Guidance much more frequently than it updates 49 CFR part 611. Most recently, FTA updated part 611 in January 2013 (78 FR 2031) and the CIG Policy Guidance in December 2024 (89 FR 102248). This quickly renders the descriptions of the evaluation measures in Appendix A out of date.

Accordingly, FTA has determined it is appropriate to remove Appendix A from the regulation. The regulation contemplates the CIG Policy Guidance, not the Appendix, will serve as the most up-to-date source of information about the evaluation measures by noting that FTA may update the measures in the future through the CIG Policy Guidance (*See, e.g.*, 49 CFR §§ 601.203(a)(2) and 601.205(g)). FTA and project sponsors therefore rely on the CIG Policy Guidance for the definitive description of CIG project evaluation measures. The Appendix is superfluous and contains obsolete information, which risks causing confusion for project sponsors and the public. Removing it will conform the regulation to FTA’s current practice and will have no substantive effect on FTA’s evaluation and rating of CIG projects.

This rulemaking also adopts minor conforming changes to the regulation to reflect the removal of Appendix A. The Definitions section has been revised at 49 CFR § 611.105 to remove the following terms that are no longer used in the regulation: “Current year,” “Horizon year,” “Locally preferred alternative,” “Major capital transit investment,” “Secretary,” and

“Small Starts project development.” In addition, FTA has removed references to Appendix A from 49 CFR §§ 611.203(a)(2) and 611.303(a)(2). These changes are non-substantive.

FTA has also removed outdated cross references from 49 CFR §§ 611.201(a)(2) and 611.301(a)(2). FTA notes there have been multiple reauthorizations that amended 49 U.S.C. 5309 since FTA last updated 49 CFR part 611 in 2013. FTA intends to update part 611 in the future to incorporate these statutory changes.

II. Good Cause for Dispensing with Notice and Comment and Delayed Effective Date

Under the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(B)), an agency may dispense with notice and comment if it finds, for good cause, that they are impracticable, unnecessary, or contrary to the public interest. Additionally, 5 U.S.C. 553(d) provides that an agency may waive the 30-day delayed effective date upon finding of good cause. As noted above, removal of Appendix A will have no substantive effect on FTA’s evaluation and rating of CIG projects. The CIG Policy Guidance is the definitive document FTA and regulated entities consult for a detailed description of the CIG evaluation measures. Removal of the Appendix therefore will have no impact on FTA’s current practice or on CIG projects. Moreover, removal of the references to Appendix A and related definitions in 49 CFR part 611 are non-substantive conforming changes.

Accordingly, FTA finds good cause that notice and comment for this rule is unnecessary due to the nature of the revisions (*i.e.*, the rule will have no substantive impact on FTA’s evaluation and rating of CIG projects). For the same reasons, FTA finds that the delayed effective date is unnecessary. Accordingly, FTA finds good cause under 5 U.S.C. 553(b)(B) and (d)(3) to waive notice and opportunity for comment and the delayed effective date.

III. Regulatory Analyses and Notices

A. Executive Order 12866 and 13563 (Regulatory Review)

E.O. 12866 (“Regulatory Planning and Review”), as supplemented by E.O. 13563 (“Improving Regulation and Regulatory Review”), directs Federal agencies to assess the benefits

and costs of regulations and to select regulatory approaches that maximize net benefits when possible. It also directs the Office of Management and Budget (OMB) to review significant regulatory actions, including regulations with annual economic effects of \$100 million or more. OMB has determined the rule is not significant within the meaning of Executive Order 12866 and has not reviewed the rule under that order.

The rule removes an appendix from the Major Capital Investment Projects regulation that has outdated information. Although the change does not affect requirements for regulated entities, improving the clarity and accuracy of the regulation could reduce the time needed for regulated entities to understand the requirements of the regulation. Accordingly, this rule will have cost savings that are small and not quantifiable or de minimis.

B. Executive Order 14192 (Deregulatory Action)

E.O. 14192 (“Unleashing Prosperity Through Deregulation”) requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.”

Implementation guidance for E.O. 14192, issued by the Office of Management and Budget (OMB) (Memorandum M-25-20, March 26, 2025), defines an E.O. 14192 deregulatory action as “an action that has been finalized and has total costs less than zero.” This final rule will have total costs less than zero, and therefore is an E.O. 14192 deregulatory action..

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601 et seq.) requires Federal agencies to assess the impact of a regulation on small entities unless the agency determines that the regulation is not expected to have a significant economic impact on a substantial number of small entities.

FTA has determined the rule will not have a significant effect on a substantial number of small entities. The rule removes an outdated appendix from the Major Capital Investment Projects regulation but does not change requirements for regulated entities. The rule may result

in minor and unquantified time and cost savings for small entities by improving the accuracy of the information provided and reducing the time needed to understand the regulation.

D. Unfunded Mandates Reform Act of 1995

FTA has determined this rule would not impose unfunded mandates, as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule does not include a Federal mandate that may result in expenditures of \$100 million or more in any one year, adjusted for inflation, by State, local, and tribal governments in the aggregate or by the private sector. Furthermore, the definition of “Federal mandate” in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal government. The Federal Transit Act permits this type of flexibility.

E. Executive Order 13132 (Federalism Assessment)

E.O. 13132 (“Federalism”) requires agencies to assure meaningful and timely input by State and local officials in the development of regulatory policies that may have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. This action has been analyzed in accordance with the principles and criteria contained in E.O. 13132 dated August 4, 1999, and FTA determined this action will not have a substantial direct effect or sufficient federalism implications on the States. FTA also determined this action will not preempt any State law or regulation or affect the States' ability to discharge traditional State governmental functions.

F. Executive Order 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 (“Intergovernmental Review of Federal Programs”) regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

G. Paperwork Reduction Act

Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. FTA has analyzed this rule under the Paperwork Reduction Act and believes it does not impose additional information collection requirements for the purposes of the Act above and beyond existing information collection clearances from OMB.

H. National Environmental Policy Act

FTA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1C, FTA has determined that this rule is categorically excluded pursuant to 23 CFR 771.118(c)(4), “[p]lanning and administrative activities that do not involve or lead directly to construction, such as: [p]romulgation of rules, regulations, and directives.” This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

I. Executive Order 13175 (Tribal Consultation)

FTA has analyzed this rule under E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”), and believes that it will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal laws. Therefore, a tribal summary impact statement is not required.

J. Executive Order 13211 (Energy Effects)

FTA has analyzed this action under E.O. 13211 (“Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use”). FTA has determined this action is not a significant energy action under that order and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required.

K. Regulation Identifier Number (RIN)

A Regulation Identifier Number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross-reference this rule with the Unified Agenda.

List of Subjects in 49 CFR Part 611

Government contracts, Grant programs-transportation, Mass transportation.

In consideration of the foregoing, and under the authority of 49 U.S.C. 5309(g)(6) and 5334(a)(11), and the delegations of authority at 49 CFR 1.91, the Federal Transit Administration revises and republishes part 611 to read as follows:

PART 611—MAJOR CAPITAL INVESTMENT PROJECTS

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611.309 [Reserved]

Authority: 49 U.S.C. 5309(g)(6) and 5334(a)(11); 49 CFR 1.91.

Subpart A—General Provisions

§ 611.101 Purpose and contents.

(a) This part prescribes the process that applicants must follow to be considered eligible for fixed guideway capital investment grants for a new fixed guideway, an extension to a fixed

guideway, or a corridor-based bus rapid transit system (known as New Starts and Small Starts). Also, this part prescribes the procedures used by FTA to evaluate and rate proposed New Starts projects as required by 49 U.S.C. 5309(d) and Small Starts projects as required by 49 U.S.C. 5309(h).

(b) This part defines how the results of the evaluation described in paragraph (a) of this section will be used to:

(1) Rate projects as “high,” “medium-high,” “medium,” “medium-low” or “low” as required by 49 U.S.C. 5309(g)(2)(A) and 49 U.S.C. 5309(h)(6);

(2) Assign individual ratings for each of the project justification criteria specified in 49 U.S.C. 5309(d)(2)(B) and 49 U.S.C. 5309(h)(6);

(3) Determine project eligibility for Federal funding commitments, in the form of full funding grant agreements (FFGA) for New Starts projects and expedited grant agreements (EGA) for Small Starts projects; and

(4) Support funding recommendations for the New Starts and Small Starts programs for the President's annual budget request.

(c) The information collected and ratings developed under this part will form the basis for the *Annual Report on Funding Recommendations*, required by 49 U.S.C. 5309(o)(1).

§ 611.103 Applicability.

(a) This part applies to all proposals for Federal major capital investment funds under 49 U.S.C. 5309 for new fixed guideways, extensions to fixed guideways, and corridor-based bus rapid transit systems.

(b) This part does not apply to projects for which an FFGA or PCGA has already been executed, or to projects that have been approved into final design or project development unless the project sponsor requests to be covered by this part. The regulations in existence prior to the effective date of this rule will continue to apply to projects for which an FFGA or PCGA has already been executed and to projects approved into final design or project development unless a

project sponsor requests to be covered by this part. New Starts projects approved for entry into final design shall be considered to be in the engineering phase of the New Starts process.

(c) A New Starts project which has been approved for entry into preliminary engineering under the regulations in existence prior to the effective date of this rule shall be considered to be in the engineering phase of the New Starts process. For the purpose of completing engineering, the regulations in existence prior to the effective date of this rule will continue to apply to a New Starts project approved into preliminary engineering until such time as the sponsor requests an FFGA unless the project sponsor requests to be covered by this part prior to an FFGA.

§ 611.105 Definitions.

The definitions established by titles 12 and 49 of the United States Code, the Council on Environmental Quality's regulation at 40 CFR parts 1500 through 1508, and FHWA-FTA regulations at 23 CFR parts 450 and 771 are applicable. In addition, the following definitions apply:

Corridor-based bus rapid transit project means a bus capital project where the project represents a substantial investment in a defined corridor as demonstrated by features such as park-and-ride lots, transit stations, bus arrival and departure signage, intelligent transportation systems technology, traffic signal priority, off-board fare collection, advanced bus technology, and other features that support the long-term corridor investment.

Early system work agreement means a contract, pursuant to the requirements in 49 U.S.C. 5309(k)(3), that allows some construction work and other clearly defined elements of a project to proceed prior to execution of a full funding grant agreement (FFGA). It typically includes a limited scope of work that is less than the full project scope of work and specifies the amount of New Starts funds that will be provided for the defined scope of work included in the agreement.

EGA means an expedited grant agreement.

Engineering is a phase of development for New Starts projects during which the scope of the proposed project is finalized; estimates of project cost, benefits, and impacts are refined;

project management plans and fleet management plans are developed; and final construction plans (including final construction management plans), detailed specifications, final construction cost estimates, and bid documents are prepared. During engineering, project sponsors must obtain commitments of all non-New Starts funding.

ESWA means early system work agreement.

Extension to fixed guideway means a project to extend an existing fixed guideway or planned fixed guideway.

FFGA means a full funding grant agreement.

Fixed guideway means a public transportation facility that uses and occupies a separate right-of-way or rail line for the exclusive use of public transportation and other high occupancy vehicles, or uses a fixed catenary system and a right of way usable by other forms of transportation. This includes, but is not limited to, rapid rail, light rail, commuter rail, automated guideway transit, people movers, ferry boat service, and fixed-guideway facilities for buses (such as bus rapid transit) and other high occupancy vehicles. A new fixed guideway means a newly-constructed fixed guideway in a corridor or alignment where no such guideway exists.

FTA means the Federal Transit Administration.

Full funding grant agreement means a contract that defines the scope of a New Starts project, the amount of New Starts funds that will be contributed, and other terms and conditions.

Long-range transportation plan means a financially constrained long-range plan, developed pursuant to 23 CFR part 450, that includes sufficient financial information for demonstrating that projects can be implemented using committed, available, or reasonably available revenue sources, with reasonable assurance that the Federally supported transportation system is being adequately operated and maintained. For metropolitan planning areas, this would be the metropolitan transportation plan and for other areas, this would be the long-range statewide transportation plan. In areas classified by the Environmental Protection Agency as “nonattainment” or “maintenance” of air quality standards, the long-range transportation plan

must have been found by DOT to be in conformity with the applicable State Implementation Plan.

NEPA process means those procedures necessary to meet the requirements of the National Environmental Policy Act of 1969 (NEPA), as amended, at 23 CFR part 771; the NEPA process is completed when the project receives a categorical exclusion, a Finding of No Significant Impact (FONSI) or a Record of Decision (ROD).

New Starts means a new fixed guideway project, or a project that is an extension to an existing fixed guideway, that has a total capital cost of \$250,000,000 or more or for which the project sponsor is requesting \$75,000,000 or more in New Starts funding.

New Starts funds mean funds granted by FTA for a New Starts project pursuant to 49 U.S.C. 5309(d).

No-build alternative means an alternative that includes only the current transportation system as well as the transportation investments committed in the Transportation Improvement Plan (TIP) (when the horizon year is 10 years in the future) or the fiscally constrained long-range transportation plan (when the horizon year is 20 years in the future) required by 23 CFR part 450.

Small Starts means a new fixed guideway project, a project that is an extension to an existing fixed guideway, or a corridor-based bus rapid transit system project, with a total capital cost of less than \$250,000,000 and for which the project sponsor is requesting less than \$75,000,000 in Small Starts funding.

Small Starts funds mean funds granted by FTA for a Small Starts project pursuant to 49 U.S.C. 5309(h).

§ 611.107 Relation to the planning processes.

All New Starts and Small Starts projects proposed for funding assistance under this part must emerge from the metropolitan and Statewide planning process, consistent with 23 CFR part

450, and be included in the fiscally constrained long-range transportation plan required under 23 CFR part 450.

Subpart B—New Starts

§ 611.201 New Starts eligibility.

(a) To be eligible for an engineering grant under this part for a new fixed guideway or an extension to a fixed guideway, a project must:

- (1) Be a New Starts project as defined in § 611.105; and
- (2) Be approved into engineering by FTA.

(b) To be eligible for a construction grant under 49 U.S.C. 5309 for a new fixed guideway or extension to a fixed guideway, a project must:

- (1) Be a New Starts project as defined in § 611.105;
- (2) Have completed engineering;
- (3) Receive a “medium” or better rating on project justification pursuant to § 611.203;
- (4) Receive a “medium” or better rating on local financial commitment pursuant to § 611.205; and
- (5) Meet the other requirements of 49 U.S.C. 5309.

§ 611.203 New Starts project justification criteria.

(a) To perform the statutorily required evaluations and assign ratings for project justification, FTA will evaluate information developed locally through the planning and NEPA processes.

(1) The method used by FTA to evaluate and rate projects will be a multiple measure approach by which the merits of candidate projects will be evaluated in terms of each of the criteria specified by this section.

(2) The measures for these criteria are specified in policy guidance. This policy guidance, which is subject to a public comment period, is issued periodically by FTA whenever significant

changes to the process are proposed, but not less frequently than every two years, as required by 49 U.S.C. 5309(g)(5).

(3) The measures will be applied to projects defined by project sponsors that are proposed to FTA for New Starts funding.

(4) The ratings for each of the criteria in § 611.203(b)(1) through (6) will be expressed in terms of descriptive indicators, as follows: “high,” “medium-high,” “medium,” “medium-low,” or “low.”

(b) The project justification criteria are as follows:

(1) Mobility improvements.

(2) Environmental benefits.

(3) Congestion relief.

(4) Economic development effects.

(5) Cost-effectiveness, as measured by cost per rider.

(6) Existing land use.

(c) In evaluating proposed New Starts projects under these project justification criteria:

(1) As a candidate project proceeds through engineering, a greater level of commitment will be expected with respect to transit supportive plans and policies evaluated under the economic development criterion and the project sponsor's technical capacity to implement the project.

(2) For any criteria under paragraph (b) of this section that use incremental measures, the point for comparison will be the no-build alternative.

(d) FTA may amend the measures for these project justification criteria. Any such amendment will be included in policy guidance and subject to a public comment process.

(e) From time to time FTA may publish through policy guidance standards based on characteristics of projects and/or corridors to be served. If a proposed project can meet the

established standards, FTA may assign an automatic rating on one or more of the project justification criteria outlined in this section.

(f) The individual ratings for each of the criteria described in this section will be combined into a summary project justification rating of “high,” “medium-high,” “medium,” “medium-low,” or “low,” through a process that gives comparable, but not necessarily equal, weight to each criterion. The process by which the project justification rating will be developed, including the assigned weights, will be described in policy guidance.

§ 611.205 New Starts local financial commitment criteria.

In order to approve a grant under 49 U.S.C. 5309 for a New Starts project, FTA must find that the proposed project is supported by an acceptable degree of local financial commitment, as required by 49 U.S.C. 5309(d)(4)(iv). The local financial commitment to a proposed project will be evaluated according to the following measures:

(a) The proposed share of the project's capital costs to be funded from sources other than New Starts funds, including both the non-New Starts match required by Federal law and any additional state, local or other Federal capital funding (also known as “overmatch”);

(b) The current capital and operating financial condition of the project sponsor;

(c) The commitment of capital and operating funds for the project and the entire transit system including consideration of private contributions; and

(d) The accuracy and reliability of the capital and operating costs and revenue estimates and the financial capacity of the project sponsor.

(e) From time to time FTA may publish through policy guidance standards based on characteristics of projects and/or corridors to be served. If a proposed project can meet the established standards, FTA may assign an automatic rating on one or more of the local financial commitment criteria outlined in this section.

(f) As a candidate project proceeds through engineering, a greater level of local financial commitment will be expected.

(g) FTA may amend the measures for these local financial commitment criteria. Any such amendment will be included in policy guidance and subject to a public comment process.

(h) For each proposed project, ratings for paragraphs (a) through (d) of this section will be reported in terms of descriptive indicators, as follows: “high,” “medium-high,” “medium,” “medium-low,” or “low.” For paragraph (a) of this section, the percentage of New Starts funding sought from 49 U.S.C. 5309 will be rated and used to develop the summary local financial commitment rating, but only if it improves the rating and not if it worsens the rating.

(i) The ratings for each measure described in this section will be combined into a summary local financial commitment rating of “high,” “medium-high,” “medium,” “medium-low,” or “low.” The process by which the summary local financial commitment rating will be developed, including the assigned weights to each of the measures, will be described in policy guidance.

§ 611.207 Overall New Starts project ratings.

(a) [Reserved]

(b) FTA will assign overall project ratings to each proposed project of “high,” “medium-high,” “medium,” “medium-low,” or “low” as required by 49 U.S.C. 5309(g)(2)(A).

(1) These ratings will indicate the overall merit of a proposed New Starts project at the time of evaluation.

(2) Ratings for individual projects will be developed upon entry into engineering and prior to an FFGA. Additionally, ratings may be updated while a project is in engineering if the project scope and cost have changed materially since the most recent rating was assigned.

(c) These ratings will be used to:

(1) Approve or deny advancement of a proposed project into engineering ;

(2) Approve or deny projects for ESWAs and FFGAs; and

(3) Support annual funding recommendations to Congress in the *Annual Report on Funding Recommendations* required by 49 U.S.C. 5309(o)(1).

(d) [Reserved]

§ 611.209 [Reserved]

§ 611.211 New Starts Before and After study.

(a) During engineering, project sponsors shall submit to FTA a plan for collection and analysis of information to identify the characteristics, costs, and impacts of the New Starts project and the accuracy of the forecasts prepared during development of the project.

(1) The Before and After study plan shall consider:

(i) Characteristics including the physical scope of the project, the service provided by the project, any other changes in service provided by the transit system, and the schedule of transit fares;

(ii) Costs including the capital costs of the project and the operating and maintenance costs of the transit system in appropriate detail; and

(iii) Impacts including changes in transit service quality, ridership, and fare levels.

(2) The plan shall provide for:

(i) Documentation and preservation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

(ii) Collection of “before” data on the transit service levels and ridership patterns of the current transit system including origins and destinations, access modes, trip purposes, and rider characteristics;

(iii) Documentation of the actual capital costs of the as-built project;

(iv) Collection of “after” data two years after opening of the project, including the analogous information on transit service levels and ridership patterns, plus information on operating costs of the transit system in appropriate detail;

(v) Analysis of the costs and impacts of the project; and

(vi) Analysis of the consistency of the predicted and actual characteristics, costs, and impacts of the project and identification of the sources of any differences.

(vii) Preparation of a final report within three years of project opening to present the actual characteristics, costs, and impacts of the project and an assessment of the accuracy of the predictions of these outcomes.

(3) For funding purposes, preparation of the plan for collection and analysis of data is an eligible part of the proposed project.

(b) The FFGA will require implementation of the plan prepared in accordance with paragraph (a) of this section.

(1) Satisfactory progress on implementation of the plan required under paragraph (a) of this section shall be a prerequisite to approval of an FFGA.

(2) For funding purposes, collection of the “before” data, collection of the “after” data, and the development and reporting of findings are eligible parts of the proposed project.

(3) FTA may condition receipt of funding provided for the project in the FFGA upon satisfactory submission of the report required under this section.

Subpart C—Small Starts

§ 611.301 Small Starts eligibility.

(a) To be eligible for a project development grant under this part for a new fixed guideway, an extension to a fixed guideway, or a corridor-based bus rapid transit system, a project must:

(1) Be a Small Starts project as defined in § 611.105; and

(2) Be approved into project development by FTA.

(b) To be eligible for a construction grant under this part for a new fixed guideway, an extension to a fixed guideway, or a corridor-based bus rapid system, a project must:

(1) Be a Small Starts project as defined in § 611.105;

(2) Receive a “medium” or better rating on project justification pursuant to § 611.303;

(3) Receive a “medium” or better rating on local financial commitment pursuant to Sec. 611.305; and

(4) Meet the other requirements of 49 U.S.C. 5309.

§ 611.303 Small Starts project justification criteria.

(a) To perform the statutorily required evaluations and assign ratings for project justification, FTA will evaluate information developed locally through the planning, NEPA and project development processes.

(1) The method used by FTA to evaluate and rate projects will be a multiple measure approach by which the merits of candidate projects will be evaluated in terms of each of the criteria specified by this section.

(2) The measures for these criteria are specified in policy guidance. This policy guidance, which is subject to a public comment period, is issued periodically by FTA whenever significant changes are proposed, but not less frequently than every two years, as required by 49 U.S.C. 5309(g)(5).

(3) The measures will be applied to projects defined by project sponsors that are proposed to FTA for Small Starts funding.

(4) The ratings for each of the criteria in § 611.303(b)(1) through (6) will be expressed in terms of descriptive indicators, as follows: “high,” “medium-high,” “medium,” “medium-low,” or “low.”

(b) The project justification criteria are as follows:

(1) Cost-effectiveness, as measured by cost per rider.

(2) Economic development effects.

(3) Existing land use.

(4) Mobility improvements.

(5) Environmental benefits.

(6) Congestion relief.

(c) In evaluating proposed Small Starts projects under these criteria:

(1) As a candidate project proceeds through project development, a greater level of commitment will be expected with respect to transit supportive land use plans and policies and the project sponsor's technical capacity to implement the project.

(2) For any criteria under paragraph (b) of this section that use incremental measures, the point for comparison will be the no-build alternative.

(d) FTA may amend the measures for these project justification criteria. Any such amendment will be included in policy guidance and subject to a public comment process.

(e) From time to time FTA may publish through policy guidance standards based on characteristics of projects and/or corridors to be served. If a proposed project can meet the established standards, FTA may assign an automatic rating on one or more of the project justification criteria outlined in this section.

(f) The individual ratings for each of the criteria described in this section will be combined into a summary project justification rating of “high,” “medium-high,” “medium,” “medium-low,” or “low” through a process that gives comparable, but not necessarily equal, weight to each criterion. The process by which the project justification rating will be developed, including the assigned weights, will be described in policy guidance.

§ 611.305 Small Starts local financial commitment criteria.

In order to approve a grant under 49 U.S.C. 5309 for a Small Starts project, FTA must find that the proposed project is supported by an acceptable degree of local financial commitment, as required by 49 U.S.C. 5309(h)(3)(c). The local financial commitment to a proposed project will be evaluated according to the following measures:

(a) The proposed share of the project's capital costs to be funded from sources other than Small Starts funds, including both the non-Small Starts match required by Federal law and any additional state, local, or other Federal capital funding (known as “overmatch”);

(b) The current capital and operating financial condition of the project sponsor;

(c) The commitment of capital and operating funds for the project and the entire transit system including consideration of private contributions; and

(d) The accuracy and reliability of the capital and operating costs and revenue estimates and the financial capacity of the project sponsor.

(e) From time to time FTA may publish through policy guidance standards based on characteristics of projects and/or the corridors to be served. If a proposed project can meet the established standards, FTA may assign an automatic rating on one or more of the local financial commitment criteria outlined in this section.

(f) FTA may amend the measures for these local financial commitment criteria. Any such amendment will be included in policy guidance and subject to a public comment process.

(g) As a candidate project proceeds through project development, a greater level of local financial commitment will be expected.

(h) For each proposed project, ratings for paragraphs (a) through (d) of this section will be reported in terms of descriptive indicators, as follows: “high,” “medium-high,” “medium,” “medium-low,” or “low.” For paragraph (a) of this section, the percentage of Small Starts funding sought from 49 U.S.C. 5309 will be rated and used to develop the summary local financial commitment rating, but only if it improves the rating and not if it worsens the rating.

(i) The ratings for each measure described in this section will be combined into a summary local financial commitment rating of “high,” “medium-high,” “medium,” “medium-low,” or “low.” The process by which the summary local financial commitment rating will be developed, including the assigned weights to each of the measures, will be described in policy guidance.

§ 611.307 Overall Small Starts project ratings.

(a) The summary ratings developed for project justification and local financial commitment (§§ 611.303(f) and 611.305(i)) will form the basis for the overall rating for each project.

(b) FTA will assign overall project ratings to each proposed project of “high,” “medium-high,” “medium,” “medium-low,” or “low,” as required by 49 U.S.C. 5309(e)(8).

(1) These ratings will indicate the overall merit of a proposed Small Starts project at the time of evaluation.

(2) Ratings for individual projects will be developed prior to an EGA.

(c) These ratings will be used to:

(1) Approve or deny projects for EGAs; and

(2) Support annual funding recommendations to Congress in the *Annual Report on Funding Recommendations* required by 49 U.S.C. 5309(k)(1).

(d) FTA will assign overall ratings for proposed Small Starts projects by averaging the summary ratings for project justification and local financial commitment. When the average of these ratings is unclear (e.g., summary project justification rating of “medium-high” and summary local financial commitment rating of “medium”), FTA will round up the overall rating to the higher rating except in the following circumstances:

(1) A “medium” overall rating requires a rating of at least “medium” on both project justification and local financial commitment.

(2) If a project receives a “low” rating on either project justification or local financial commitment, the overall rating will be “low.”

§ 611.309 [Reserved]

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Tariq Bokhari,

Acting Administrator.

