



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

49 CFR Part 633

[Docket No. FTA-2025-0010]

RIN 2132-AB59

Project Management Oversight

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FTA is proposing to modify the applicability of project management oversight by raising the total cost and Federal investment thresholds to align with the statutory thresholds for Small Starts projects under FTA's Capital Investment Grant program.

DATES: Comments should be filed by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. FTA will consider comments received after that date to the extent practicable.

ADDRESSES: You may send comments, identified by docket number FTA-2025-0010, by any of the following methods:

- *Federal Rulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for sending comments.
- *Fax:* (202) 493-2251
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, Washington, D.C., 20590-0001.

- *Hand Delivery/Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue S.E., Washington, D.C., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Instructions: All submissions received must include the agency name and docket number or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov>. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Ave. SE, Docket Operations, M-30, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001, between 9 a.m. and 5 p.m. EST, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For program matters, contact Corey Walker, Office of Program Management (TPM), (202) 366-0826 or corey.walker@dot.gov. For legal matters, contact Mark Montgomery, Office of Chief Counsel, (202) 366-1017 or mark.montgomery@dot.gov. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

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I. Executive Summary

This NPRM proposes to amend the PMO regulation at 49 CFR part 633. The proposed rule would modify the applicability of project management oversight by raising the total cost threshold from \$300 million to \$400 million and the Federal investment threshold from \$100 to \$150 million, to align with the statutory thresholds for Small Starts projects under FTA's Capital Investment Grant (CIG) program. This amendment would reduce the number of projects subject to project management oversight requirements and therefore reduce regulatory burden.

A. Statutory Authority

This rulemaking is issued under the authority of 49 U.S.C. 5327, which requires the Secretary to conduct oversight of major capital projects and to promulgate a rule for that purpose that includes a definition of major capital project to delineate the types of projects governed by the rule.

B. Background

Recognizing a compelling need to strengthen the management and oversight of major capital projects, in the Surface Transportation and Uniform Relocation Assistance Act of 1987 (STURAA) (Pub. L. 100–17) (April 2, 1987), Congress authorized FTA's predecessor agency, the Urban Mass Transportation Administration (UMTA), to conduct oversight of major capital projects and to promulgate a rule for that purpose. The statute, now codified at 49 U.S.C. 5327, authorizes FTA to obtain the services of project management oversight contractors (PMOCs) to assist FTA in overseeing the expenditure of Federal financial assistance for major capital projects. Further, the statute requires FTA to promulgate a regulation that includes a definition of "major capital project" to identify the types of projects governed by the rule.

Accordingly, UMTA promulgated a rule for oversight of major capital projects on September 1, 1989, at 49 CFR part 633 (54 FR 36708). At that time, the average total

cost of CIG projects was \$266 million (not adjusted for inflation). The UMTA regulation defined “major capital project” as any project for the construction of a new fixed guideway or extension of an existing fixed guideway or a project involving the rehabilitation or modernization of an existing fixed guideway with a total project cost of \$100 million or more. The rule limited covered projects to those receiving funds made available under sections 3, 9, or 18 of the Urban Mass Transportation Act of 1964, as amended; 23 U.S.C. 103(e)(4); or section 14(b) of the National Capital Transportation Amendments of 1979.

By 2011, the annual dollar value of the Federal transit capital programs was nearly five times the level authorized under STURAA in 1987, and the number of active PMOC task orders was more than double the number in 1987. Furthermore, FTA funded a larger number of projects with a total cost of more than one billion dollars that presented significant oversight challenges. On September 13, 2011, FTA published a Notice of Proposed Rulemaking (NPRM) (76 FR 56378) that proposed to: (1) enable FTA to identify the necessary management capacity and capability of a sponsor of a major capital project more clearly; (2) spell out the many facets of project management that must be addressed in a project management plan; (3) tailor the level of FTA oversight to the costs, complexities, and risks of a major capital project; (4) set forth the means and objectives of risk assessments for major capital projects and; (5) articulate the roles and responsibilities of FTA’s PMOCs.

After the NPRM was published, however, the Moving Ahead for Progress in the 21st Century Act (MAP-21) (Pub. Law 112-141) (July 6, 2012) expanded the scope of the project management oversight requirements to cover major capital projects for public transportation under any provision of Federal law. Moreover, MAP-21 shifted the initiation of project management oversight to the project development phase and removed the statutory requirement that recipients of financial assistance for projects with a total

cost of \$1 billion submit an annual financial plan. Given the fundamental changes to the project management oversight requirements and scope, FTA withdrew the NPRM (78 FR 16460) to reexamine its proposed definition of major capital project and its policy and procedures for risk assessment. Subsequently, the Fixing America's Surface Transportation (FAST) Act (Pub. L. 114-94) (December 4, 2015) further amended 49 U.S.C. 5327 to limit project management oversight to quarterly reviews, absent a finding that more frequent oversight was necessary, and mandated that the Secretary prescribe regulations outlining a process for at-risk recipients to return to quarterly reviews.

FTA has become much more knowledgeable about the risks common to major capital projects, having conducted its own risk assessments since 2005, witnessed some project sponsors' lack of management capacity and capability and appropriate project controls for some projects, and studied the reasons for cost and schedule changes on many major capital projects. Consequently, on September 23, 2020, following a notice of proposed rulemaking (84 FR 44590) and an opportunity for comment, FTA published a final rule (85 FR 59672) that changed the applicability of the regulation by shifting the definition of a "major capital project" from one based on the type of project or total project cost to one based on both the amount of Federal financial assistance and the total project cost, which FTA views as a more appropriate benchmark than the type of project or total capital cost of a project alone.

The rule applied a project cost threshold to all fixed guideway capital projects. As a default, the rule raised the total project cost threshold to \$300 million or more and required that the project receive \$100 million or more in Federal investment to be subject to project management oversight. A key consideration for selecting these thresholds was that they reflect the thresholds Congress chose to distinguish Small Starts projects from New Starts projects in the CIG program. New Starts projects have more steps to complete in the CIG process and tend to be more complex, potentially requiring more oversight. Reducing the number of lower-risk Small Starts projects undergoing project management oversight will allow FTA to focus on higher-risk New Starts projects while yielding annual cost savings to FTA and its recipients.

Subsequently, the Infrastructure Investment and Jobs Act (Pub. L. 117–58; November 15, 2021) amended 49 U.S.C. 5309 to raise the thresholds for Small Starts projects in the CIG program to \$400 million or more in total costs and \$150 million or more in Federal investment. Accordingly, FTA proposes to amend the definition of “major capital project” under 49 CFR 633.5 to align with these statutory thresholds, consistent with the rationale in its 2020 final rule.

C. Summary of Provisions

FTA proposes to amend the definition of “major capital project” in 49 CFR 633.5 by raising the total cost and Federal investment thresholds to match those established for Small Starts projects under 49 U.S.C. 5309. The current regulation defines the term as a project to construct, expand, rehabilitate, or modernize a fixed guideway of \$300 million or more that receives \$100 million or more in Federal financial assistance. This NPRM proposes to raise the thresholds to \$400 million and \$150 million, respectively.

II. Regulatory Analyses and Notices

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. OMB has determined the proposed rule is not significant within the meaning of E.O. 12866 and has not reviewed the rule under that order.

Project management oversight requirements apply to all major capital projects. The current definition of a “major capital project” includes all projects involving the construction, expansion, rehabilitation, or modernization of a fixed guideway with a total project cost of \$300 million or more and \$100 million or more in Federal investment. The proposed rule would increase the total project cost threshold to \$400 million and the Federal investment threshold to \$150 million.

Removing project management oversight from projects with total costs between \$300 and \$400 million and Federal investment between \$100 million and \$150 may increase the risk of materially exceeding budget or falling behind schedule for some projects; however, the potential negative impacts are not quantifiable. First, it is not the case that project management oversight eliminates the risk of cost or schedule overruns, nor that the lack of project management oversight necessarily implicates a high risk of such overruns.

Second, falling under the total cost and Federal investment thresholds does not preclude a project from receiving project management oversight. Section 633.5(e)(2) allows the Administrator to determine on a case-by-case basis that certain projects should be subject to project management oversight based on an assessment of risk, which would include an analysis of the likelihood of budget and schedule overruns. Of the 33 CIG projects currently in construction, FTA utilized this provision to designate six as major capital projects based on this risk assessment to receive additional oversight.

The proposed rule would result in cost savings for recipients and for FTA by reducing the number of capital projects subject to project management oversight.

Removing the oversight requirements would reduce labor hours for oversight procedures, which include attending meetings, preparing quarterly reports and other requested documents, and accompanying contractors at project construction sites.

Currently, there are 59 CIG and formula-funded major capital projects for public transportation subject to project management oversight. Seventeen of those projects have total costs between \$300 million and \$400 million or Federal investments between \$100 million and \$150 million. Eight of the projects between the existing and proposed thresholds have received grant agreements and are in construction. Those projects would not be impacted by the new thresholds under this proposed rule if it becomes a final rule. However, the remaining nine projects still in project development would no longer meet the definition of major capital project and not be subject to project management oversight requirements if the new thresholds become final before the project receives a grant agreement.

In 2020, FTA estimated that the oversight required approximately 1 FTE (full-time equivalent) of recipient time (2,080 hours) and 0.5 FTE of FTA staff time (1,040 hours) per project per year. Removing oversight requirements for nine projects annually would result in annual savings of 18,720 hours for recipients and 9,360 hours for FTA staff.

To estimate cost savings for project sponsors, FTA used May 2024 occupational wage data from the Bureau of Labor Statistics, the latest available as of May 2025, in the “Transit and Ground Passenger Transportation” industry (North American Industry Classification System code 485000).¹ To estimate the wages of agency staff completing

¹ Bureau of Labor Statistics. 2025. “May 2024 National Occupational Employment and Wage Estimates: United States: NAICS 485000—Transit and Ground Passenger Transportation.”

the auditing requirements, FTA used the “General and Operations Managers” job category (code 11-1021). FTA used median hourly wages (\$42.45) as a basis for the estimates, multiplying the wages by 1.62 ($\$42.45 \times 1.62 = \68.69) to account for employer benefits.²

To estimate cost savings for FTA, FTA estimated an hourly wage of \$64.06 for oversight staff, based on the hourly wage rate for federal GS (General Schedule) employees at step 5 of the GS-13 grade level in the Washington, DC locality pay area.³ The hourly rate was then multiplied by 1.62 to account for employer benefits ($\$64.06 \times 1.62 = \103.65).

The proposed rule would result in annual cost savings of \$2.3 million (18,720 recipient hours \times \$68.69 + 9,360 FTA hours \times \$103.65) in undiscounted 2024 dollars, \$1.9 million at a 3 percent discount rate (discounted to 2024), and \$1.5 million at a 7 percent discount rate over the ten year period from 2025 to 2035. Additionally, there would be cost savings for future FTA projects between \$300 million and \$400 million in total cost or \$100 million and \$150 million in Federal investment, that would have otherwise been subject to project management oversight under the current thresholds. However, because projects under the CIG and formula programs comprise a broad range of complexity, total costs, and amounts of Federal investment and vary from year to year, these cost savings are unquantifiable.

Executive Order 14192 (Deregulatory Action)

² Multiplier derived using Bureau of Labor Statistics data on employer costs for employee compensation in December 2024 (<https://www.bls.gov/news.release/ecec.htm>). Employer costs for state and local government workers averaged \$63.46 an hour, with \$39.22 for wages and \$24.23 for benefit costs. To estimate full costs from wages, one would use a multiplier of $\$63.46/\39.22 , or 1.62.

³ Office of Personnel Management. 2023. “Salary Table 2024-DCB.” https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2024/DCB_h.pdf

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 OMB (Memorandum M-25-20, March 25, 2025) defines an E.O. 14192 deregulatory action as “an action that has been finalized and has total costs less than zero.” This proposed rule, if finalized, is expected to have total costs less than zero, and therefore is expected to be an E.O. 14192 deregulatory action.

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.

This proposed rule would not change any requirements for public transportation projects with a total cost of \$400 million or more and Federal investment of \$150 million or more, nor for projects with a total cost of less than \$300 million and Federal investment of less than \$100 million. The NPRM would narrow the applicability of project management oversight requirements, thereby reducing burden on capital projects with total costs between \$300 million and \$400 million and Federal investments between \$100 million and \$150 million. The only small entities impacted by the proposed rule would be project sponsors of projects with total costs and amounts of Federal investment between the existing and proposed thresholds, and that impact would be a burden reduction. FTA therefore certifies that the proposed rule would not have a significant effect on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

FTA has determined that this proposed rule does not impose unfunded mandates, as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, March 22,

1995). 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.

Executive Order 13132 (Federalism Assessment)

E.O. 13132 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.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this rulemaking.

Paperwork Reduction Act

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), and OMB implementing regulation at 5 CFR 1320.8(d), 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. The costs and burdens associated with the information collection requirements under 49 CFR part 633 are included in the individual information collections of FTA's major capital programs. FTA has analyzed this proposed rule under the Paperwork Reduction Act and determined that it does not impose additional information collection requirements for the purposes of the Act above and beyond the existing information collection clearances from OMB. If

the final rule results in a measurable reduction in burden hours or costs associated with existing information collections, FTA will revise the relevant information collection requests accordingly in compliance with the Paperwork Reduction Act.

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.

Executive Order 13175 (Tribal Consultation)

FTA has analyzed this proposed rule under E.O. 13175, dated November 6, 2000, and 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.

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.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review

DOT's complete Privacy Act Statement in the Federal Register at 65 FR 19477 (April 11, 2000).

Regulation Identifier Number

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 contained in the heading of this document can be used to cross-reference this proposed rule with the Unified Agenda.

List of Subjects in 49 CFR Part 633

Government contracts, Grant programs-transportation, Mass transportation, Reporting and recordkeeping requirements.

In consideration of the foregoing, and under the authority of 49 U.S.C. 5327 and 5334, and the delegation of authority at 49 CFR 1.91, the Federal Transit Administration proposes to amend title 49, Code of Federal Regulations, part 633, as set forth below:

PART 633—PROJECT MANAGEMENT OVERSIGHT

1. The authority citation for part 633 is revised to read as follows:

Authority: 49 U.S.C. 5327; 49 U.S.C. 5334; 49 CFR 1.91.

2. Revise § 633.5 to read as follows:

§ 633.5 Definitions.

* * * * *

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

(1) * * *

(i) Has a total project cost of \$400 million or more and receives Federal funds of \$150 million or more; and

* * * * *

Tariq Bokhari,

Acting Administrator.

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