



## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### 49 CFR Part 650

[Docket No. FTA-2025-0011]

RIN 2132-AB60

#### Private Investment Project Procedures

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** In this action, the Federal Transit Administration (FTA) seeks to reduce the regulatory burden on recipients subject to FTA's private investment procedures by removing an unnecessary reporting requirement.

**DATES:** Comments should be filed by [INSERT DATE 30 DAYS AFTER THE 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-2025-0011 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 SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery/Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC, 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, 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:** Please contact Mark Montgomery, Office of Chief Counsel, FTA, telephone at 202-684-5301 or [mark.montgomery@dot.gov](mailto:mark.montgomery@dot.gov). Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

Section 20013(b)(1) of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law 112-141 (July 6, 2012), required FTA to identify any provisions of 49 U.S.C. chapter 53, and any regulations or practices thereunder, that impede greater use of public-private partnerships and private investment and to develop and implement, on a project basis, procedures and approaches that address such impediments. Section 20013(b)(1) of MAP-21 provided FTA discretion in addressing impediments to public-private partnerships.

On May 30, 2018, FTA published the final rule promulgating the Private Investment Project Procedures at 49 CFR part 650 with the primary goal of promoting the use of public-private partnerships and private investment in public transportation capital projects (83 FR 24672). Since issuing the final rule, FTA has determined that a reporting requirement, not required by MAP-21, has never been used and is inconsistent with FTA's purpose for issuing the rule.

## **II. Discussion of Major Changes**

To reduce the burden for recipients, FTA proposes to remove subpart C (Reporting) from 49 CFR part 650. This subpart requires recipients with projects for which the Administrator has modified or waived any FTA requirement pursuant to 49 CFR § 650.11, to submit to FTA a report evaluating the effects of the modification or waiver on the delivery of the project. This subpart requires the report to describe the modification or waiver applied to the project; evaluate the success or failure of the modification or waiver; evaluate the extent to which the modification or waiver addressed impediments to greater use of public-private partnerships and private investment in public transportation capital projects; and may include recommended changes with an explanation of how the changes would encourage greater use of public-private partnerships and private investment in public transportation capital projects. Under the current regulation, an initial report is due one year after completing construction of the project and, for projects that include private entity involvement in operations or maintenance, a second report is due two years after the project begins revenue operations.

Since issuing this rule, FTA has not received any reports pursuant to this section and thus determined this requirement is unnecessary and fails to promote public-private partnerships because it adds an additional burden to recipients that seek modification or waiver. Therefore, FTA proposes to promote public-private partnerships and reduce unnecessary regulatory burdens on FTA recipients by removing this subpart and reporting requirement.

To ensure consistency with the objectives of part 650, as well as Administration priorities, including Executive Order (E.O.) 14192 (“Unleashing Prosperity Through Deregulation”), FTA proposes this deregulatory action.

## **III. Regulatory Analyses and Notices**

### **A. Executive Orders 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. This action does not meet the criteria of a “significant regulatory action.” Therefore, the Office of Management and Budget (OMB) has not reviewed this action.

The proposed rule would eliminate a reporting requirement for recipients receiving a modification or waiver pursuant to 49 CFR § 650.11. To date, no recipient has submitted a report. Although recipients would not experience direct cost savings from removing the reporting requirement if they do not need to submit reports, removing the requirement could reduce the time needed for recipients to understand federal requirements.

### **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 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.

### **C. Regulatory Flexibility Act**

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

FTA has determined that the proposed rule would not have a significant effect on a substantial number of small entities. The proposed rule would eliminate a reporting requirement for recipients receiving a modification or waiver pursuant to 49 CFR 650.11. To date, no recipient has submitted a report.

### **D. Unfunded Mandates Reform Act of 1995**

FTA has determined that 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.

#### **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 does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. 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. 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 determined it does not impose additional information collection requirements for the purposes of the Act above and beyond existing information collection clearances from OMB.

#### **G. National Environmental Policy Act**

Federal agencies are required to adopt implementing procedures for the National Environmental Policy Act (NEPA) that establish specific criteria for, and identification of, three classes of actions: (1) Those that normally require preparation of an Environmental Impact Statement, (2) those that normally require preparation of an Environmental Assessment, and (3) those that are categorically excluded from further NEPA review. This rule qualifies for categorical exclusions under 23 CFR 771.118(c)(4) (planning and administrative activities that

do not involve or lead directly to construction). FTA has evaluated whether the rule will involve unusual or extraordinary circumstances and has determined that it will not.

#### **H. Executive Order 13175 (Tribal Consultation)**

FTA has analyzed this rule under E.O. 13175 (“Consultation and Coordination with Indian Tribal Governments”) 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.

#### **I. 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.

#### **J. 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 U.S. DOT’s complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).

#### **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 650**

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

For the reasons stated in the preamble, FTA proposes to amend title 49, Code of Federal Regulations, part 650, as set forth below:

**PART 650—PRIVATE INVESTMENT PROJECT PROCEDURES**

1. The authority citation for part 650 continues to read as follows:

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

**Subpart C—Reporting [Removed and Reserved]**

2. Remove and reserve subpart C, consisting of § 650.21.

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

**Tariq Bokhari,**

*Acting Administrator.*

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