



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: Final rule.

SUMMARY: The Federal Transit Administration (FTA) amends its Private Investment Project Procedures regulation to reduce the regulatory burden on recipients subject to FTA's private investment procedures by removing an unnecessary reporting requirement.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Statutory Authority and Executive Summary

Section 20013(b)(1) of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141 (July 6, 2012), requires 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 provides FTA discretion in addressing impediments to public-private partnerships. Since issuing the Private

Investment Project Procedures, 49 CFR part 650, in 2018 (83 FR 24672), FTA determined that the reporting requirement in subpart C, which is not required by MAP-21, has never been used and is inconsistent with FTA's purpose for issuing 49 CFR part 650. Accordingly, FTA issued a notice of proposed rulemaking (NPRM) on July 1, 2025 (90 FR 28693) that proposed removing this requirement from the regulation.

After providing an opportunity for public notice and comment and consideration of comments received, FTA is removing subpart C (Reporting) from 49 CFR part 650. This subpart required recipients with projects for which the Administrator 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 required that the report 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 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 subpart C, an initial report was due one year after completing construction of the project and, for projects that include private entity involvement in operations or maintenance, a second report was due two years after the project begins revenue operations.

Since issuing 49 CFR part 650, FTA has not received any reports under subpart C. FTA determined the requirement was unnecessary and failed to promote public-private partnerships due to the added burden on recipients seeking a modification or waiver.

II. Response to Comments and Final Rule

FTA received only one comment on this NPRM from a public transportation trade association. The commenter expressed general support of FTA removing requirements that impede greater use of public-private partnerships, stating that reducing unnecessary reporting

requirements is an important first step. The commenter requested that FTA engage with stakeholders to discuss and identify additional ways to facilitate greater private sector roles. The commenter recommended to FTA a framework to develop financial and operating partnerships between private sector and public transportation agencies.

Response: FTA appreciates the commenter's support of FTA's proposed change and FTA's rationale behind the proposed change. FTA will take into consideration the commenter's recommendation to engage stakeholders to facilitate greater use of public-private partnerships in the future.

Based on the foregoing and FTA's determination, FTA is adopting the change as proposed and is removing 49 CFR part 650 subpart C.

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.

This final rule eliminates a reporting requirement for recipients receiving a modification or waiver pursuant to 49 CFR 650.11. To date, no recipient has submitted a report. Though recipients would not experience direct cost savings from removing the reporting requirement if they do not need to submit reports, removing the requirement reduces the burden needed for recipients to comply with 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 rule will have total costs less than zero and, therefore, is considered 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 this rule will not have a significant effect on a substantial number of small entities. The rule eliminates 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 will not impose unfunded mandates, as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 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 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

The Department has analyzed the environmental impacts of this notice of proposed rulemaking pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.). FTA has determined that this rule is categorically excluded pursuant to 23 CFR 771.118(c)(4). Categorical exclusions are categories of actions that the agency has determined normally do not significantly affect the quality of the human environment and, therefore, do not require either an environmental assessment (EA) or environmental impact statement (EIS). See DOT Order 5610.1D § 9. In analyzing the applicability of a categorical exclusion, the agency must also consider whether extraordinary circumstances are present that would warrant the preparation of an EA or EIS. Id. § 9(b). This rulemaking, which removes an unnecessary reporting requirement, is categorically excluded pursuant to 23 CFR 771.118(c)(4): “[p]lanning and administrative activities not involving or leading directly to construction, such as: promulgation of rules, regulations, directives, or program guidance.” FTA does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

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 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 amends 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—[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.

Jamie Pfister,

Acting Executive Director.