

(2) Ancillary costs such as delivery and installation; plus

(3) The net present value of the estimated future cost to provide any other service or benefit requested by the applicant in its proposal to obtain the capital asset.

(b) The estimated cost to purchase or construct must be—

(1) Reasonable;

(2) Based on realistic current market conditions; and

(3) Based on the expected useful life of the asset in mass transportation service, as indicated in paragraph (c) of this section.

(c) For purposes of this part, the expected useful life of a revenue vehicle is the useful life which is established by FTA for recipients of Federal assistance under FTA's Circulars for section 9 recipients. For assets other than revenue vehicles, the applicant is responsible for establishing a reasonable expected useful life. If the recipient does not intend to use the capital asset it is proposing to obtain by lease in mass transportation service for its entire expected useful life, when calculating the purchase cost, the recipient must calculate the fair market value of the asset as of the date the lease will terminate pursuant to Guidelines found in section 108(b) of part II Standard Terms and Conditions for valuation of property withdrawn from transit use before the end of its useful life and subtract that amount from the purchase price. The resulting amount is the purchase price for purposes of this rule.

#### § 639.25 Calculation of lease cost.

(a) For purposes of this part, the lease cost of a capital asset is—

(1) The cost to lease the asset for the same use and same time period specified in the recipient's proposal to obtain the asset by purchase or construction; plus

(2) Ancillary costs such as delivery and installation; plus

(3) The net present value of the estimated future cost to provide any other service or benefit requested by the applicant in its proposal to obtain the capital asset.

(b) The estimated lease costs must be reasonable, based on realistic market conditions applicable to the recipient

and must be expressed in present value terms.

#### § 639.27 Minimum criteria.

In making the comparison between leasing and purchasing or constructing an asset, recipients should ascribe a realistic dollar value to any non-financial factors that are considered by using performance-based specifications in the comparison. In addition to factors unique to each recipient, the following factors are to be used where possible and appropriate:

(a) Operation costs;

(b) Reliability of service;

(c) Maintenance costs;

(d) Difference in warranties;

(e) Passenger comfort;

(f) Insurance costs;

(g) Costs/savings related to timing of acquisition of asset.

(h) Value of asset at expiration of the lease.

### Subpart D—Lease Management

#### § 639.31 Early lease termination or modification.

(a) Except as provided in paragraph (c) of this section, if a capital lease under this part is terminated or its terms substantially modified before the end of the period used in the cost-effectiveness evaluation, or if the recipient by an affirmative act or omission vitiates the cost-effectiveness determination of the lease, future lease costs will no longer qualify as eligible capital expenses. In addition, the recipient must reimburse the project—

(1) Any Federal funds paid for the portion of the lease term eliminated by early termination; and

(2) The Federal share of the excess, if any, of the present value of lease costs, which exceeds the purchase costs as calculated under subpart C of this part for the period of the lease up to the point of termination.

(b) Penalties resulting from early termination of a capital lease under this part are not eligible for Federal financial assistance.

(c) Paragraph (a) of this section does not apply if a lessor defaults on or otherwise does not meet its obligations under the capital lease and the recipient takes appropriate action to ensure

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that the procurement continues to be cost-effective. FTA shall be notified of any such event.

### § 639.33 Management of leased assets.

Each recipient must maintain an inventory of capital assets acquired by standard FTA project management guidelines.

## PART 640—CREDIT ASSISTANCE FOR SURFACE TRANSPORTATION PROJECTS

AUTHORITY: Secs. 1501 *et seq.*, Pub. L. 105-178, 112 Stat. 107, 241, as amended; 23 U.S.C. 181-189 and 315; 49 CFR 1.51.

### § 640.1 Cross-reference to credit assistance.

The regulations in 49 CFR part 80 shall be followed in complying with the requirements of this part. Title 49, CFR, part 80 implements the Transportation Infrastructure Finance and Innovation Act of 1998, secs. 1501 *et seq.*, Pub. L. 105-178, 112 Stat. 107, 241.

[64 FR 29753, June 2, 1999]

## PART 655—PREVENTION OF ALCOHOL MISUSE AND PROHIBITED DRUG USE IN TRANSIT OPERATIONS

### Subpart A—General

- Sec.
- 655.1 Purpose.
- 655.2 Overview.
- 655.3 Applicability.
- 655.4 Definitions.
- 655.5 Stand-down waivers for drug testing.
- 655.6 Preemption of state and local laws.
- 655.7 Starting date for testing programs.

### Subpart B—Program Requirements

- 655.11 Requirement to establish an anti-drug use and alcohol misuse program.
- 655.12 Required elements of an anti-drug use and alcohol misuse program.
- 655.13 [Reserved]
- 655.14 Education and training programs.
- 655.15 Policy statement contents.
- 655.16 Requirement to disseminate policy.
- 655.17 Notice requirement.
- 655.18-655.20 [Reserved]

### Subpart C—Prohibited Drug Use

- 655.21 Drug testing.

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655.22-655.30 [Reserved]

### Subpart D—Prohibited Alcohol Use

- 655.31 Alcohol testing.
- 655.32 On duty use.
- 655.33 Pre-duty use.
- 655.34 Use following an accident.
- 655.35 Other alcohol-related conduct.
- 655.36-655.40 [Reserved]

### Subpart E—Types of Testing

- 655.41 Pre-employment drug testing.
- 655.42 Pre-employment alcohol testing.
- 655.43 Reasonable suspicion testing.
- 655.44 Post-accident testing.
- 655.45 Random testing.
- 655.46 Return to duty following refusal to submit to a test, verified positive drug test result and/or breath alcohol test result of 0.04 or greater.
- 655.47 Follow-up testing after returning to duty.
- 655.48 Retesting of covered employees with an alcohol concentration of 0.02 or greater but less than 0.04.
- 655.49 Refusal to submit to a drug or alcohol test.
- 655.50 [Reserved]

### Subpart F—Drug and Alcohol Testing Procedures

- 655.51 Compliance with testing procedures requirements.
- 655.52 Substance abuse professional (SAP).
- 655.53 Supervisor acting as collection site personnel.
- 655.54-655.60 [Reserved]

### Subpart G—Consequences

- 655.61 Action when an employee has a verified positive drug test result or has a confirmed alcohol test result of 0.04 or greater, or refuses to submit to a test.
- 655.62 Referral, evaluation, and treatment.
- 655.63-655.70 [Reserved]

### Subpart H—Administrative Requirements

- 655.71 Retention of records.
- 655.72 Reporting of results in a management information system.
- 655.73 Access to facilities and records.
- 655.74-655.80 [Reserved]

### Subpart I—Certifying Compliance

- 655.81 Grantee oversight responsibility.
- 655.82 Compliance as a condition of financial assistance.
- 655.83 Requirement to certify compliance.

AUTHORITY: 49 U.S.C. 5331; 49 CFR 1.51.

SOURCE: 66 FR 42002, Aug. 9, 2001, unless otherwise noted.