

party seeking the waiver cannot furnish the required data without unreasonable expense and inconvenience. Each waiver will be for a specified period of time.

#### § 630.11 Data adjustments.

Errors in the data used in making the Section 5307 apportionment may be discovered after any particular year's apportionment is completed. If so, FTA shall make adjustments to correct these errors in a subsequent year's apportionment to the extent feasible.

## PART 633—PROJECT MANAGEMENT OVERSIGHT

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### Subpart A—General Provisions

#### § 633.1 Purpose.

This part implements section 324 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Pub. L. 100-17), which added section 23 to the FT Act. The part provides for a two-part program for major capital projects receiving assistance from the agency. First, subpart B discusses project management oversight, designed primarily to aid FTA in its role of ensuring successful implementation

of federally-funded projects. Second, subpart C discusses the project management plan (PMP) required of all major capital projects. The PMP is designed to enhance the recipient's planning and implementation efforts and to assist FTA's grant application analysis efforts.

#### § 633.3 Scope.

This rule applies to a recipient of Federal financial assistance undertaking a major capital project using funds made available under:

(a) Sections 3, 9, or 18 of the Federal Mass Transit Act of 1964, as amended;

(b) 23 U.S.C. 103(e)(4); or

(c) Section 14(b) of the National Capital Transportation Amendments of 1979 (93 Stat. 1320, Pub. L. 96-184).

#### § 633.5 Definitions.

As used in this part:

*Administrator* means the Administrator of the Federal Transit Administration or the Administrator's designee.

*Days* means calendar days.

*Fixed guideway* means any public transportation facility which utilizes and occupies a separate right-of-way or rails. This includes, but is not limited to, rapid rail, light rail, commuter rail, automated guideway transit, people movers, and exclusive facilities for buses and other high occupancy vehicles.

*Full funding agreement* means a written agreement between FTA and a recipient that establishes a financial ceiling with respect to the Government's participation in a project; sets forth the scope of a project; and sets forth the mutual understanding, terms, and conditions relating to the construction and management of a project.

*Major capital project* means a project that:

(1) Involves the construction of a new fixed guideway or extension of an existing fixed guideway;

(2) Involves the rehabilitation or modernization of an existing fixed guideway with a total project cost in excess of \$100 million; or

(3) The Administrator determines is a major capital project because the

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project management oversight program will benefit specifically the agency or the recipient. Typically, this means a project that:

- (i) Generally is expected to have a total project cost in excess of \$100 million or more to construct;
- (ii) Is not exclusively for the routine acquisition, maintenance, or rehabilitation of vehicles or other rolling stock;
- (iii) Involves new technology;
- (iv) Is of a unique nature for the recipient; or
- (v) Involves a recipient whose past experience indicates to the agency the appropriateness of the extension of this program.

*Project management oversight* means the monitoring of a major capital project's progress to determine whether a project is on time, within budget, in conformance with design criteria, constructed to approved plans and specifications and is efficiently and effectively implemented.

*Project management plan* means a written document prepared by a recipient that explicitly defines all tasks necessary to implement a major capital project.

*Recipient* means a direct recipient of Federal financial assistance from FTA.

*FT Act* means the Federal Mass Transit Act of 1964, as amended.

*FTA* means the Federal Transit Administration.

### Subpart B—Project Management Oversight Services

#### § 633.11 Covered projects.

The Administrator may contract for project management oversight services when the following two conditions apply:

- (a) The recipient is using funds made available under section 3, 9, or 18 of the Federal Mass Transit Act of 1964, as amended; 23 U.S.C. 103(e)(4); or section 14(b) of the National Capital Transportation Amendments of 1979; and
- (b) The project is a "major capital project".

#### § 633.13 Initiation of PMO services.

PMO services will be initiated as soon as it is practicable, once the agency determines this part applies. In

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most cases, this means that PMO will begin during the preliminary engineering phase of the project. However, consistent with other provisions in this part, the Administrator may determine that a project is a "major capital project" at any point during its implementation. Should this occur, PMO will begin as soon as practicable after this agency determination.

#### § 633.15 Access to information.

A recipient of FTA funds for a major capital project shall provide the Administrator and the PMO contractor chosen under this part access to its records and construction sites, as reasonably may be required.

#### § 633.17 PMO contractor eligibility.

(a) Any person or entity may provide project management oversight services in connection with a major capital project, with the following exceptions:

(1) An entity may not provide PMO services for its own project; and

(2) An entity may not provide PMO services for a project if there exists a conflict of interest.

(b) In choosing private sector persons or entities to provide project management oversight services, FTA uses the procurement requirements in the government-wide procurement regulations, found at 48 CFR CH I.

#### § 633.19 Financing the PMO program.

(a) FTA is authorized to expend up to ½ of 1 percent of the funds made available each fiscal year under sections 3, 9, or 18 of the FT Act, 23 U.S.C. 103(e)(4), or section 14(b) of the National Capital Transportation Amendments of 1979 (93 Stat. 1320) to contract with any person or entity to provide a project management oversight service in connection with a major capital project as defined in this part.

(b) A contract entered into between FTA and a person or entity for project management oversight services under this part will provide for the payment by FTA of 100 percent of the cost of carrying out the contract.