

(c) The information collected and ratings developed under this part will form the basis for the annual reports to Congress, required by 49 U.S.C. 5309(o)(1) and (2).

### §611.3 Applicability.

(a) This part applies to all proposals for Federal capital investment funds under 49 U.S.C. 5309 for new transit fixed guideway systems and extensions to existing systems.

(b) Projects described in paragraph (a) of this section are not subject to evaluation under this part if the total amount of funding from 49 U.S.C. 5309 will be less than \$25 million, or if such projects are otherwise exempt from evaluation by statute.

(1) Exempt projects must still be rated by FTA for purposes of entering into a Federal funding commitment as required by 49 U.S.C. 5309(e)(7). Sponsors who believe their projects to be exempt are nonetheless strongly encouraged to submit data for project evaluation as described in this part.

(2) Such projects are still subject to the requirements of 23 CFR part 450 and 23 CFR part 771.

(3) This part does not apply to projects for which a Full Funding Grant Agreement (FFGA) has already been executed.

(c) Consistent with 49 U.S.C. 5309(e)(8)(B), FTA will make project approval decisions on proposed projects using expedited procedures as appropriate, for proposed projects that are:

- (1) Located in a nonattainment area;
- (2) Transportation control measures as defined by the Clean Air Act (42 U.S.C. 7401 *et seq.*); and
- (3) Required to carry out a State Implementation Plan.

### §611.5 Definitions.

The definitions established by Titles 12 and 49 of the United States Code, the Council on Environmental Quality's regulation at 40 CFR parts 1500-1508, and FHWA-FTA regulations at 23 CFR parts 450 and 771 are applicable. In addition, the following definitions apply:

*Alternatives analysis* is a corridor level analysis which evaluates all reasonable mode and alignment alternatives for addressing a transportation problem, and results in the adoption of

a locally preferred alternative by the appropriate State and local agencies and official boards through a public process.

*Baseline alternative* is the alternative against which the proposed new starts project is compared to develop project justification measures. Relative to the no build alternative, it should include transit improvements lower in cost than the new start which result in a better ratio of measures of transit mobility compared to cost than the no build alternative.

*BRT* means bus rapid transit.

*Bus Rapid Transit* refers to coordinated improvements in a transit system's infrastructure, equipment, operations, and technology that give preferential treatment to buses on fixed guideways and urban roadways. The intention of Bus Rapid Transit is to reduce bus travel time, improve service reliability, increase the convenience of users, and ultimately, increase bus ridership.

*Extension to existing fixed-guideway system* means a project to extend an existing fixed guideway system.

*FFGA* means a Full Funding Grant Agreement.

*Final Design* is the final phase of project development, and includes (but is not limited to) the preparation of final construction plans (including construction management plans), detailed specifications, construction cost estimates, and bid documents.

*Fixed guideway system* means a mass transportation facility which utilizes and occupies a separate right-of-way, or rail line, for the exclusive use of mass transportation and other high occupancy vehicles, or uses a fixed catenary system and a right of way usable by other forms of transportation. This includes, but is not limited to, rapid rail, light rail, commuter rail, automated guideway transit, people movers, ferry boat service, and fixed-guideway facilities for buses (such as bus rapid transit) and other high occupancy vehicles. A *new fixed guideway system* means a newly-constructed fixed guideway system in a corridor or alignment where no such system exists.

*FTA* means the Federal Transit Administration.

## §611.7

## 49 CFR Ch. VI (10–1–03 Edition)

*Full Funding Grant Agreement* means an instrument that defines the scope of a project, the Federal financial contribution, and other terms and conditions.

*Major transit investment* means any project that involves the construction of a new fixed guideway system or extension of an existing fixed guideway system for use by mass transit vehicles.

*NEPA process* means those procedures necessary to meet the requirements of the National Environmental Policy Act of 1969, as amended (NEPA), at 23 CFR part 771; the NEPA process is completed when a Record of Decision (ROD) or Finding of No Significant Impact (FONSI) is issued.

*New start* means a new fixed guideway system, or an extension to an existing fixed guideway system.

*Preliminary Engineering* is the process by which the scope of the proposed project is finalized, estimates of project costs, benefits and impacts are refined, NEPA requirements are completed, project management plans and fleet management plans are further developed, and local funding commitments are put in place.

*Secretary* means the Secretary of Transportation.

*TEA-21* means the Transportation Equity Act for the 21st Century.

### **§611.7 Relation to planning and project development processes.**

All new start projects proposed for funding assistance under 49 USC 5309 must emerge from the metropolitan and Statewide planning process, consistent with 23 CFR part 450. To be eligible for FTA capital investment funding, a proposed project must be based on the results of alternatives analysis and preliminary engineering.

(a) *Alternatives Analysis.* (1) To be eligible for FTA capital investment funding for a major fixed guideway transit project, local project sponsors must perform an alternatives analysis.

(2) The alternatives analysis develops information on the benefits, costs, and impacts of alternative strategies to address a transportation problem in a given corridor, leading to the adoption of a locally preferred alternative.

(3) The alternative strategies evaluated in an alternatives analysis must include a no-build alternative, a baseline alternative, and an appropriate number of build alternatives. Where project sponsors believe the no-build alternative fulfills the requirements for a baseline alternative, FTA will determine whether to require a separate baseline alternative on a case-by-case basis.

(4) The locally preferred alternative must be selected from among the evaluated alternative strategies and formally adopted and included in the metropolitan planning organization's financially-constrained long-range regional transportation plan.

(b) *Preliminary Engineering.* Consistent with 49 USC 5309(e)(6) and 5328(a)(2), FTA will approve/disapprove entry of a proposed project into preliminary engineering within 30 days of receipt of a formal request from the project sponsor(s).

(1) A proposed project can be considered for advancement into preliminary engineering only if:

(i) Alternatives analysis has been completed

(ii) The proposed project is adopted as the locally preferred alternative by the Metropolitan Planning Organization into its financially constrained metropolitan transportation plan;

(iii) Project sponsors have demonstrated adequate technical capability to carry out preliminary engineering for the proposed project; and

(iv) All other applicable Federal and FTA program requirements have been met.

(2) FTA's approval will be based on the results of its evaluation as described in §§611.9–611.13.

(3) At a minimum, a proposed project must receive an overall rating of "recommended" to be approved for entry into preliminary engineering.

(4) This part does not in any way revoke prior FTA approvals to enter preliminary engineering made prior to February 5, 2001.

(5) Projects approved to advance into preliminary engineering receive blanket pre-award authority to incur project costs for preliminary engineering activities prior to grant approval.