

(b) *Special circumstances.* A recipient may request FTA to determine the eligibility of a certain financial arrangement if the recipient believes it might not meet the requirements of this part.

(c) *Lump sum lease.* A recipient that wishes to enter into a lease which requires the draw down of a single lump sum payment at the inception of the lease (or payments in advance of the incurrence of costs) rather than periodic payments during the life of the lease must notify FTA prior to execution of the lease concerning how it will ensure satisfactory continuing control of the asset for the duration of the lease. FTA has the right to disapprove any arrangements where it has not been demonstrated that the recipient will have control over the asset. FTA may require the recipient to submit its cost-effectiveness comparison for review.

(d) *Pre-existing lease.* A lease entered into before grant approval, or before November 14, 1991 may be eligible for capital assistance for costs incurred after approval of such a lease by FTA under this part, if

(1) The lease is otherwise eligible under this part;

(2) The recipient can demonstrate that the lease, when entered into, was more cost effective than purchase or construction; and

(3) The procurement of the asset by lease was in accordance with Federal requirements that applied at the time the procurement took place.

[56 FR 51794, Oct. 15, 1991, as amended at 63 FR 68367, Dec. 10, 1998]

#### § 639.15 Eligible forms of grant.

A recipient may choose to receive capital assistance for a capital lease approved under this part—

(a) In a single grant under which lease payments may be drawn down periodically for the life of the lease; or

(b) In increments that are obligated by FTA periodically (usually in annual section 9 grants). In this case, a recipient—

(1) Must certify to FTA that it has the financial capacity to meet its future obligations under the lease in the event Federal funds are not available for capital assistance in subsequent years; and

(2) May incur costs under its lease before FTA's obligation of future increments of funding for such a lease. These costs are reimbursable in future grants, so long as the terms of the lease do not substantially change.

#### § 639.17 Eligible lease costs.

(a) All costs directly attributable to making a capital asset available to the lessee are eligible for capital assistance, including, but not limited to—

(1) Finance charges, including interest;

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

(3) Maintenance costs.

(b) Any asset leased under this part must be eligible for capital assistance under a traditional purchase or construction grant.

[61 FR 25090, May 17, 1996]

#### § 639.19 Other Federal requirements.

(a) A recipient of capital assistance for a capital lease is subject to the same statutory and administrative requirements as a recipient who purchases or constructs a capital asset.

(b) A lessor of a capital lease is subject to the same statutory and administrative requirements as a direct seller of the same capital asset would be when the lessor—

(1) Purchases or constructs a capital asset in contemplation of leasing it to a recipient; or

(2) Modifies an existing capital asset in contemplation of leasing it to a recipient.

### Subpart C—Cost-Effectiveness

#### § 639.21 Determination of cost-effectiveness.

(a) To qualify a lease for capital assistance, a recipient must—

(1) Make a written comparison of the cost of leasing the asset with the cost of purchasing or constructing it; and

(2) Certify to FTA before entering into the lease or before receiving a capital grant for the asset, whichever is later, that obtaining the asset by lease is more cost-effective than purchase or construction of such asset.