

operations stage. FRA made several changes to the final guidance to incorporate maintenance. FRA amended the description of the Project Development stage in Section IV(c)(ii)(c) to state that the PMP should include maintenance agreements and made related revisions to the PMP content language at Section V(b)(i). FRA also amended the description of the operations stage to clarify that maintenance of assets is part of operations in Section IV.f.

4. BMWED commented that capital projects that are fully covered by RLA, RRA, and RUIA should be prioritized. FRA finds that no change is necessary because grant programs address statutory labor requirements.

Issued in Washington, DC.

Paul Nissenbaum,

Associate Administrator, Office of Railroad Development.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA-2021-0010]

Notice of Availability of Final Initial Updated Policy Guidance for the Capital Investment Grants Program

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of availability of final initial updated Capital Investment Grants program policy guidance.

SUMMARY: The Federal Transit Administration (FTA) is making available, on its website and in the docket, final initial updates to the Capital Investment Grants (CIG) program policy guidance. These revisions amend FTA's CIG Final Interim Policy Guidance last published in June 2016 to reflect changes made to the program by the Infrastructure Investment and Jobs Act (IIJA), also known as the "Bipartisan Infrastructure Law". In March 2022, FTA published initial guidance proposals for implementing changes made to the CIG program by the IIJA for public comment. FTA appreciates the thoughtful comments received and has incorporated some of the suggestions into the initial updated CIG program policy guidance. FTA is placing formal responses to the comments received in the docket. This policy guidance continues to complement FTA's regulations that govern the CIG program.

DATES: This final initial guidance is effective January 12, 2023.

FOR FURTHER INFORMATION CONTACT: Elizabeth Day, FTA Office of Planning and Environment, telephone (202) 366-5159 or Elizabeth.Day@dot.gov.

SUPPLEMENTARY INFORMATION: This final initial guidance document contains binding obligations, which 49 U.S.C. 5334(k) defines as "a substantive policy statement, rule, or guidance document issued by the Federal Transit Administration that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy." Under 49 U.S.C. 5334(k), FTA may issue binding obligations if it follows notice and comment rulemaking procedures under 5 U.S.C. 553. Prior to making the amendments announced today, FTA followed such procedures. The policy guidance that FTA periodically issues for the CIG program complements the FTA regulations that govern the CIG program, codified at 49 CFR part 611. The regulations set forth the process that grant applicants must follow to be considered for discretionary funding under the CIG program, and the procedures and criteria FTA uses to rate and evaluate projects to determine their eligibility for discretionary CIG program funding. The policy guidance provides a greater level of detail about the methods FTA uses and the sequential steps a sponsor must follow in developing a project.

In March 2022, FTA sought comment on three initial proposed changes to FTA's CIG Final Interim Policy Guidance last issued in June 2016 (87 FR 14612). The three proposals were related to changes made by the IIJA to 49 U.S.C. 5309 and included: eligibility as a Core Capacity project; how FTA will determine that a CIG project sponsor has demonstrated progress on meeting Transit Asset Management and State of Good Repair targets; and how bundles of CIG projects can enter the Project Development phase of the program. The initial updated CIG program policy guidance is being made available today on the agency's public website at <https://www.transit.dot.gov/funding/grant-programs/capital-investments/capital-investment-grants-program-regulations-guidance>, and in the docket at <https://www.regulations.gov/docket/FTA-2021-0010/>. Additionally, FTA's response to the comments received on the initial proposed changes are available in the docket. No other changes are being made to the CIG program policy guidance at this time. FTA intends to propose a more comprehensive update

of the CIG program policy guidance for notice and comment in the future. That proposed update will incorporate feedback FTA received in response to its Request for Information published in the **Federal Register** in July 2021 (86 FR 37402). The three topics covered in the final initial updated CIG program policy guidance are intended to assist FTA in managing the CIG program in the near term while the more comprehensive CIG program policy guidance changes are developed and proposed.

Nuria I. Fernandez,

Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket FTA-2023-0001]

Notice of Establishment of Emergency Relief Docket for Calendar Year 2023

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: By this notice, the Federal Transit Administration (FTA) is establishing an Emergency Relief Docket for calendar year 2023, so grantees and subgrantees affected by a national or regional emergency or disaster may request temporary relief from FTA administrative and statutory requirements.

FOR FURTHER INFORMATION CONTACT: Bonnie L. Graves, Attorney-Advisor, Office of Chief Counsel, Federal Transit Administration, 90 Seventh Street, Ste. 15-300, San Francisco, CA 94103; phone: (202) 366-0944, or email, Bonnie.Graves@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 49 CFR 601.42, FTA is establishing the Emergency Relief Docket for calendar year 2023. In the case of a national or regional emergency or disaster, or in anticipation of such an event, when FTA requirements impede a grantee or subgrantee's ability to respond to the emergency or disaster, a grantee or subgrantee may submit a request for relief from specific FTA requirements.

If FTA determines that a national or regional emergency or disaster has occurred, or in anticipation of such an event, FTA will place a message on its web page (<http://www.transit.dot.gov>) indicating that the Emergency Relief Docket has been opened and including the docket number.

All petitions for relief from FTA administrative or statutory requirements must be posted in the docket in order to receive consideration by FTA. The docket is publicly available and can be accessed 24 hours a day, seven days a week, via the internet at www.regulations.gov. Any grantee or subgrantee submitting petitions for relief or comments to the docket must include the agency name (Federal Transit Administration) and docket number FTA–2023–0001.

Interested parties may consult 49 CFR part 601, subpart D for information on FTA's emergency procedures for public transportation systems. FTA strongly encourages grantees and subgrantees to contact their FTA regional office and notify FTA of the intent to submit a petition to the docket.

A grantee or subgrantee seeking relief has three avenues for submitting a petition. First, a grantee or subgrantee may submit a petition for waiver of FTA requirements to www.regulations.gov, for posting in the docket (FTA–2023–0001). Alternatively, a grantee or subgrantee may submit a petition in duplicate (two copies) to the FTA Administrator, via U.S. mail or hand delivery to Federal Transit Administration, 1200 New Jersey Ave. SE, Washington, DC 20590; via fax to (202) 366–3472; or via email to Bonnie.Graves@dot.gov; or via U.S. mail or hand delivery to the DOT Docket Management Facility, 1200 New Jersey Ave. SE, Room W12–140, Washington, DC 20590. Thirdly, in the event that a grantee or subgrantee needs to request immediate relief and does not have access to electronic means to request that relief, the grantee or subgrantee may contact any FTA regional office or FTA headquarters and request that FTA staff submit the petition on its behalf.

Federal public transportation law at 49 U.S.C. 5324(d) provides that a grant awarded under Section 5324, or under 49 U.S.C. 5307 or 49 U.S.C. 5311, that is made to address an emergency shall be subject to the terms and conditions the Secretary determines are necessary. This language allows FTA to waive certain statutory, as well as administrative, requirements.

An FTA grantee or subgrantee receiving financial assistance under 49 U.S.C. 5324, 5307, or 5311 that is affected by a national or regional emergency or disaster may request a waiver of provisions of Chapter 53 of Title 49 of the United States Code in

connection with such financial assistance, when a grantee or subgrantee demonstrates that the requirement(s) will limit a grantee's or subgrantee's ability to respond to a national or regional emergency or disaster.

Pursuant to 49 CFR 601.42, a grantee or subgrantee must include certain information when requesting a waiver of statutory or administrative requirements. A petition for relief shall:

(a) Include the agency name (Federal Transit Administration) and docket number FTA–2023–0001;

(b) Identify the grantee or subgrantee and its geographic location;

(c) Identify the section of Chapter 53 of Title 49 of the United States Code, or the portion of an FTA policy statement, circular, guidance document or rule, from which the grantee or subgrantee seeks relief;

(d) Specifically address how a requirement in Chapter 53 of Title 49 of the United States Code, or an FTA requirement in a policy statement, circular, agency guidance or rule, will limit a grantee's or subgrantee's ability to respond to a national or regional emergency or disaster; and

(e) Specify if the petition for relief is one-time or ongoing, and if ongoing identify the time period for which the relief is requested. The time period may not exceed three months; however, additional time may be requested through a second petition for relief.

Pursuant to 49 CFR 601.46, a petition for relief from administrative requirements will be conditionally granted for a period of three (3) business days from the date it is submitted to the Emergency Relief Docket. FTA will review the petition after the expiration of the three business days and review any comments submitted regarding the petition. FTA may contact the grantee or subgrantee that submitted the request for relief, or any party that submits comments to the docket, to obtain more information prior to making a decision. FTA shall then post a decision to the Emergency Relief Docket. FTA's decision will be based on whether the petition meets the criteria for use of these emergency procedures, the substance of the request, and any comments submitted regarding the petition. If FTA does not respond to the request for relief to the docket within three business days, the grantee or subgrantee may assume its petition is granted for a period not to exceed three months until and unless FTA states otherwise.

A petition for relief from statutory requirements will not be conditionally granted and requires a written decision from the FTA Administrator. Further, grantees seeking a waiver from Buy America requirements must follow the procedures in 49 CFR 661.7 and 661.9. Buy America waivers will not be granted through the Emergency Relief Docket.

An FTA decision, either granting or denying a petition, shall be posted in the Emergency Relief Docket and shall reference the document number of the petition to which it relates. FTA reserves the right to reconsider any decision made pursuant to these emergency procedures based upon its own initiative, based upon information or comments received subsequent to the three-business day comment period, or at the request of a grantee or subgrantee upon denial of a request for relief. FTA shall notify the grantee or subgrantee if FTA plans to reconsider a decision.

Pursuant to FTA's Charter Rule at 49 CFR 604.2(f), grantees and subgrantees may assist with evacuations or other movement of people that might otherwise be considered charter transportation when that transportation is in response to an emergency declared by the President, governor or mayor, or in an emergency requiring immediate action prior to a formal declaration, even if a formal declaration of an emergency is not eventually made by the President, governor or mayor. Therefore, a request for relief is not necessary in order to provide this service. However, if the emergency lasts more than 45 calendar days and the grantee will continue to provide service that would otherwise be considered charter service, the grantee or subgrantee shall follow the procedures set out in this notice.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. Grantees and subgrantees should refer to FTA's regulations, including 49 CFR part 601, for requirements for submitting a request for emergency relief.

Nuria I. Fernandez,
Administrator.

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