



June 21, 2013

U.S. Department of Transportation
1200 New Jersey Avenue, SE
Docket Operations, M-30
West Building Ground Floor
Room W12-140
Washington, DC 20590-0001

RE: Docket No. FTA-2013-0010

Dear Docket Clerk:

On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to provide comments on the Federal Transit Administration's (FTA) request for comments concerning its draft circular 9030.1E, published on April 22, 2013, at 78 FR 23818.

About APTA

APTA is a non-profit international trade association of more than 1,500 public and private member organizations, including public transit systems; high-speed intercity passenger rail agencies; planning, design, construction and finance firms; product and service providers; academic institutions; and state associations and departments of transportation. More than ninety percent of Americans who use public transportation are served by APTA member transit systems.

APTA speaks for its members. Its Board of Directors reiterated that fact on March 9, 2013, when it adopted the following statement: "While APTA encourages its members to provide specific examples or impacts in support of the association's positions, APTA crafts its comments to represent those of all APTA members. The association goes to great lengths to ensure its regulatory comments represent the consensus views of our members. Every APTA member has the opportunity to review drafts, participate in discussions, and assist in crafting those consensus comments. In short, we speak with a single voice and, when the rare instance occurs that we cannot reach consensus, we do not speak at all. APTA's comments are those of our more than 1,500 members. This consensus-based method of crafting regulatory comments is a factor underlying APTA's selection of one of Washington's most trusted brands in a broad survey conducted by the National Journal and we encourage all federal agencies to recognize the representative nature of the association's regulatory comments."

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GENERAL COMMENTS

We appreciate FTA's commitment and efforts to update this and its other circulars to incorporate MAP-21, particularly in light of the short period covered by the Act. We have generally found the draft circular consistent with 49 USC 5307 and have offered the limited comments below to assist in finalizing the circular.

SPECIFIC COMMENTS

Chapter 1

"Fixed Guideway" – The proposed definition should note that MAP-21 has updated 49 USC 5309 to include definitions of corridor based and fixed guideway rapid transit systems. We recommend cross referencing upcoming regulatory or guidance actions to ensure the circular's definition of fixed guideway remains current and complete.

"Force Account" – The draft does not differentiate between in-house assets used to routinely supervise third party contractors on agency property and in-house assets used instead of a third party contractor to accomplish a discrete task. While the latter may require a force account plan, it would be impractical to require such a plan for the former.

"Mobility Management" – While we recognize this definition is drawn from 49 USC 5302(3), that definition is confusing in this context. While that section excludes operating costs (within the sub-definition of mobility management) from the list of capital projects, operating costs remain allowable pursuant to 49 USC 5307(a)(2). We recommend FTA add a brief explanation or cross-reference to this definition to clarify.

Chapter 2

The roles and structure of Metropolitan Planning Organizations (MPO) in the various urbanized areas differ greatly. We believe FTA should provide more flexibility in this chapter to account for those differing relationships. As an example, an MPO may take responsibility for communicating regional sub-allocations rather than a designated recipient.

Additionally, this portion of the draft includes cross references to current versions of various circulars likely to be updated in the near or mid-term. We recommend those references note as much (e.g., 9300.1B is likely to be superseded by a "C" version).

Finally, we urge FTA to adopt a policy that accounts for the myriad reviews conducted of individual grantees. As an example, if a procurement systems review is conducted in April, it is redundant to review procurement practices in the context of a triennial review in August, except as may be necessary to ensure noted deficiencies have been corrected. This relaxed review should apply for 12 months following any specific review.

Chapter 3

Paragraphs 8 and 10 of this chapter should cross-reference FTA's joint development circular.

Chapter 4

In delineating eligible projects, we recommend FTA expand paragraph 1.b(4) to include fixed guideways other than track, consistent with the definition of fixed guideway in 49 USC 5302.

The reference in paragraph 2.k should note that the 2007 guidance on joint development is likely to be updated.

Paragraph 5.e should specifically note that the list of eligible projects is not exhaustive and that other innovative projects consistent with the local operating environment are eligible as well.

Chapter 5

Some of the details noted in the draft for inclusion in a proposed program of projects may not be available to a designated recipient. The program of projects should only include information relating to the designated recipient that is making its proposed program available for public comment.

The draft would require regional sub-allocations to cite specific associated transit improvements. Specific projects may not yet be known in sufficient detail at the time of sub-allocation. Instead, the requirement should be to simply identify the designated recipient that will include the associated transit improvements in its grant application.

The draft should specifically note that in the case of loss through a natural disaster, early disposition reimbursement may be waived.

The draft should account not only for fleet expansion to cover new markets, but fleet expansion to cover rising demands in existing markets as well.

Paragraph 15.a should refer to the recent policy guidance issued by FTA in conjunction with FHWA on Categorical Exclusions.

Chapter 6

While we understand many of the reporting requirements related to the *Federal Funding Accountability and Transparency Act* (including the extremely low reporting threshold of \$25,000) are dictated by guidance promulgated by the Office of Management and Budget, we recommend FTA work within the OMB guidance to make these reporting requirements minimally onerous. Specifically, we recommend FTA allow additional time for sub-award reporting and provide additional guidance on when executive compensation is or is not required.

For reporting sub-awards, we recommend a requirement to report sub-awards in the quarter following completion of the sub-award. This would facilitate less frequent, consolidated reporting and ease the burden on grantees.

The reporting of executive compensation is a confusing topic for many grantees. While there is already a note in the draft that reporting is not typically required, we recommend adding an explanatory sub-paragraph to explain the threshold requirements for grantees not intimately familiar with the OMB guidance.

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As noted above, details of associated transit improvements may not be available at the time of sub-allocation. Reports to FTA should not be required to include project details, only the grantee who will undertake the project.

We appreciate FTA's efforts to provide comprehensive guidance for its section 5307 grantees. For additional information, please contact James LaRusch, APTA's chief counsel and vice president-corporate affairs, at (202) 496-4808 or jlarsch@apta.com.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michael P. Melaniphy". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael P. Melaniphy
President & CEO

MPM/jpl