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DEPARTMENT OF TRANSPORTATION

[4910-57-P]

Federal Transit Administration

49 CFR Part 611

[Docket No. FTA-2010-0009]

Notice of Availability of Proposed New Starts and Small Starts Policy Guidance

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of proposed policy guidance; request for comments.

SUMMARY: The Federal Transit Administration (FTA) is announcing the availability of proposed policy guidance to sponsors of New Starts and Small Starts projects, and inviting comment on this proposed guidance, which has been placed both in the docket and on the agency's web site. This proposed policy guidance will accompany the final rule for Major Capital Investment Projects published elsewhere in this issue of the Federal Register. Specifically, this proposed policy guidance describes the particular measures FTA intends to apply in evaluating projects seeking New Starts and Small Starts funding and the way these measures would be used in project ratings, if adopted. The final rule establishes the framework for the New Starts and Small Starts evaluation and rating process; this proposed policy guidance complements the final rule by providing a deeper level of detail about the methods for calculating the project justification and local financial commitment criteria required for New Starts and Small Starts projects.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS FROM PUBLICATION OF THIS NOTICE]. Any comments received beyond this deadline will be considered to the extent practicable.

ADDRESSES: You may submit comments to DOT docket number FTA-2010-0009 by any of the following methods:

Federal eRulemaking Portal: Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.

U.S. Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, West Building, Room W12-140, Washington, DC 20590-0001.

Hand Delivery or Courier: U.S. Department of Transportation, 1200 New Jersey Avenue, SE, West Building Ground Floor, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Fax: 202-493-2251.

Instructions: You must include the agency name (Federal Transit Administration) and docket number (FTA-2010-0009) for this notice at the beginning of your comments. You must submit two copies of your comments if you submit them by mail. If you wish to receive confirmation FTA received your comments, you must include a self-addressed, stamped postcard. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties submitting comments

may wish to consider using an express mail firm to ensure prompt filing of any submissions not filed electronically or by hand.

All comments received will be posted, without change and including any personal information provided, to <http://www.regulations.gov>, where they will be available to internet users. You may review DOT's complete Privacy Act Statement published in the Federal Register on April 11, 2000, at 65 FR 19477. For access to the docket to read background documents and comments received, go to <http://regulations.gov> at any time or to the U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Docket Management Facility, West Building Ground Floor, Room W12-140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For program matters, Elizabeth Day, FTA Office of Planning and Environment, telephone (202) 366-5159 or Elizabeth.Day@dot.gov. For legal matters, Scott Biehl, FTA Office of Chief Counsel, telephone (202) 366-0826 or Scott.Biehl@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 49 U.S.C. 5309(g)(5), FTA is obliged to publish policy guidance on the review and evaluation process and criteria for major capital investment projects each time the agency makes significant changes to the process and criteria, and in any event, at least once every two years. Also, FTA is obliged to invite public comment on the guidance, and to publish its response to comments. In this instance, FTA is proposing policy guidance for the New Starts and Small Starts process and criteria consistent with the regulation at 49 CFR Part 611 published elsewhere in this issue of the Federal Register, which will take effect on

[INSERT DATE 90 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FTA asks that comments on the proposed policy guidance be submitted within 60 days of today's notice, so that FTA may respond to comments and make any revisions to the guidance to coincide with the effective date of the regulation.

The proposed policy guidance is available in its entirety on FTA's public website at <http://www.fta.dot.gov>, and in the docket at <http://www.regulations.gov>. It is approximately 30 typewritten pages in length. The proposed policy guidance addresses, in detail, measures and methods for calculating both the local financial commitment criteria for a New Starts or Small Starts project, and the project justification criteria. The proposed policy guidance sets forth breakpoints for determining whether a project rates "high," "medium-high," "medium," "medium-low," or "low" against the various criteria for both project justification and local financial commitment. Also, the proposed policy guidance addresses the use of time horizons for calculating various measures and the weighting of the criteria and measures to arrive at an overall project rating.

The rulemaking that led to the issuance of the new regulation at 49 CFR Part 611 began in June 2009, well before the enactment of the Moving Ahead for Progress in the 21st Century Act ("MAP-21") in July 2012, which has reauthorized the Federal transit programs at 49 U.S.C. Chapter 53 and made a number of significant changes, in particular, to the discretionary capital investment program authorized at 49 U.S.C. Section 5309. Both the new regulation and the proposed policy guidance pertain only to the evaluation and rating of New Starts and Small Starts projects under Section 5309; they do not pertain to the new Core Capacity Improvement program established by MAP-21, nor the evaluation of Programs of Interrelated Projects, the pilot program for

expedited project delivery, or the process for expedited review of project sponsors' technical capacity. Nor does the new regulation or the proposed policy guidance address the procedural changes made to the steps in the process, such as the elimination of the requirement for Alternatives Analysis, the newly defined project development phase, and the newly defined engineering phase, which were enacted by MAP-21. Those subjects will be addressed through future rulemakings and policy guidance.

List of Subjects in 49 CFR Part 611 □ □

Government contracts, Grant programs-transportation, Mass transportation □ □

Issued on: December 27, 2012

Peter Rogoff
Administrator
Federal Transit Administration

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