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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

#### 49 CFR Part 611

[Docket No. FTA-2010-0009]

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

**AGENCY:** Federal Transit Administration (FTA), DOT.

**ACTION:** Notice of availability of policy guidance.

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**SUMMARY:** The Federal Transit Administration (FTA) is issuing final policy guidance to sponsors of New Starts and Small Starts projects. This guidance is available both on the docket and the agency's public web site. This final guidance includes changes made in response to comments received on the guidance proposed in January 2013, and accompanies the final rule for Major Capital Investment Projects promulgated in January 2013. The rule sets the framework for the New Starts and Small Starts evaluation and rating process; the policy guidance complements the rule by providing technical details about the methods for calculating the project justification and local financial commitment criteria used to evaluate and rate New Starts and Small Starts projects.

**DATES:** This final policy guidance is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** For program matters, Elizabeth Day, FTA Office of Planning and Environment, telephone (202) 366-5159 or [Elizabeth.Day@dot.gov](mailto:Elizabeth.Day@dot.gov). For legal matters, Scott Biehl, FTA of Chief Counsel, telephone (202) 366-0826 or [Scott.Biehl@dot.gov](mailto: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 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 publishing final policy guidance after having reviewed the comments received on the proposed policy guidance published on January 9, 2013, at 78 FR 2038. The final policy guidance is available in its entirety on FTA's public web site at <http://www.fta.dot.gov> and in the docket at <http://www.regulations.gov>. It is approximately 40 typewritten pages in length. The final policy guidance addresses, in detail, measures and methods for calculating the project justification and local financial commitment criteria for New Starts and Small Starts projects. The final policy guidance sets forth breakpoints for determining whether a project rates "high," "medium-high," "medium," "low-medium," or "low" on each of the various criteria. Additionally, the final policy guidance addresses the weighting of the criteria and measures to arrive at an overall project rating. The final policy guidance accompanies the final rule for Major Capital Investment projects issued on January 9, 2013, at 78 FR 1992-2037, and codified at 49 CFR Part 611.

FTA received 392 separate comments on the proposed policy guidance from 50 commenters, including cities, transit operators, state agencies, metropolitan planning

organizations, non-profit organizations, a private business, and an interested citizen. Again, FTA's summary and response to these comments is available both on the agency's public web site at <http://www.fta.dot.gov> and in the docket at <http://www.regulations.gov>. The public comments are available, in their entirety, on the docket at <http://www.regulations.gov>.

This final policy guidance is effective immediately. This policy guidance provides technical details necessary for FTA to apply the evaluation and rating criteria codified in the final rule at 49 CFR Part 611, which took effect on April 9, 2013. Sponsors of New Starts and Small Starts projects need this final guidance to gather and submit the data and information on which their projects will be evaluated and rated, so that their projects can move forward. In turn, FTA needs these data and information from the project sponsors to prepare the agency's annual report to Congress on capital investment funding recommendations for the forthcoming Federal fiscal year, as required by 49 U.S.C. 5309(o)(1). For these reasons, and in accordance with the Administrative Procedure Act, 5 U.S.C. 553(d), FTA finds good cause for an exception to the requirement for 30-day publication prior to an effective date.

Please note, however, that both the rule for major capital investment projects at 49 CFR Part 611 and the final policy guidance pertain only to the evaluation and rating of New Starts and Small Starts projects. Neither the rule nor the policy guidance address the Core Capacity Improvement program created by the Moving Ahead for Progress in the 21<sup>st</sup> Century Act ("MAP-21"), effective October 1, 2012, 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, all of which were created by MAP-21. Nor does the rule or the policy guidance address the procedural changes made to the steps in the New Starts process, such as the elimination of 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.

Peter Rogoff

Administrator, Federal Transit Administration

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