



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA-2021-0010]

Notice of Availability of Proposed Policy Guidance for the Capital Investment

Grants Program

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

ACTION: Notice of availability of proposed policy guidance for the Capital Investment Grants program.

SUMMARY: The Federal Transit Administration (FTA) invites public comment on revisions to the agency's policy guidance for the Capital Investment Grants (CIG) program. These revisions are intended to amend FTA's CIG Policy Guidance last published in January 2023 and are a comprehensive update of the CIG Policy Guidance for notice and comment, incorporating feedback FTA received in response to its Request for Information published in the Federal Register in July 2021. The proposed guidance has been placed in the docket and posted on the FTA Web site. This policy guidance continues to complement FTA's regulations that govern the CIG program. FTA is also posing questions concerning the CIG New Starts and Small Starts Land Use and Economic Development Project Justification Criteria.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments to DOT docket number FTA-2021-0010 by any of the following methods:

Federal eRulemaking Portal: Go to <https://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-2021-0010) 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 charge and including any personal information provided, to <https://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 and to read background documents and comments received, go to <https://www.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: Elizabeth Day, FTA Office of Planning and Environment, telephone (202) 366-5159 or Elizabeth.Day@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 49 U.S.C. 5309(g)(5), FTA is required to publish policy guidance on the CIG program each time the agency makes

significant changes. Also, FTA is required to invite public comment on the guidance, and to publish its response to comments. In brief, the policy guidance that FTA periodically issues for the discretionary Capital Investment Grants (“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 the projects to determine their eligibility for that discretionary 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.

FTA is seeking comment on proposed changes to FTA’s CIG Policy Guidance last issued in January 2023. (<https://www.transit.dot.gov/funding/grant-programs/capital-investments/final-capital-investment-grant-program-interim-policy>). The proposals cover multiple topics. The proposals being made today are available on the agency’s public Web site at <https://www.transit.dot.gov/CIG>, and in the docket at <https://www.regulations.gov>.

FTA is also posing questions concerning the CIG New Starts and Small Starts Land Use and Economic Development Project Justification Criteria:

1. FTA currently evaluates Land Use for New Starts and Small Starts projects based primarily on station area population densities, total employment served by the project, and the percentage of “legally binding affordability restricted” housing within a ½ mile of station areas as compared to the counties in which the corridor is located. FTA is proposing to evaluate Land Use for New Starts and Small Starts projects based on station area population densities, total employment served by the project, the percentage of “legally binding affordability restricted” housing within a ½ mile of station areas, and two new quantitative measures -- community risk and access to essential services. Should FTA also add a measure of walkability to the New Starts and Small Starts Land Use Criteria?

If so, please identify measures/data sources that would be readily available nationwide without requiring an undue burden on project sponsors to gather and FTA to verify the information. For example, should FTA add a measure using EPA's National Walkability Index (<https://www.epa.gov/smartgrowth/national-walkability-index-user-guide-and-methodology>)?

2. For New Starts and Small Starts projects, should FTA use the US DOT Equitable Transportation Community (ETC) Explorer (<https://www.transportation.gov/priorities/equity/justice40/etc-explorer>), an interactive web application that uses census tracts and data to explore the cumulative burden communities experience as a result of underinvestment in transportation, as a measure for Land Use? If so, should this be in addition to the five measures FTA is proposing in the Policy Guidance, or as a substitute for the proposed community risk measure?

3. For New Starts and Small Starts projects, FTA currently evaluates the following under Economic Development: 1) transit-supportive plans and policies, which includes supportive zoning in station areas; 2) the performance and impacts of transit-supportive plans and policies; and 3) the tools to maintain or increase the share of affordable housing in station areas. FTA is proposing to make supportive zoning in station areas a standalone subfactor. FTA is proposing to move the other current measures of transit-supportive plans and policies (growth management (for New Starts only), transit supportive corridor policies, and tools to implement land use policies) to the subfactor performance and impacts of transit-supportive plans and policies. FTA is proposing that equal weight be given to three subfactors: supportive zoning in station areas, performance and impacts of transit-supportive plans and policies, and tools to maintain or increase the share of affordable housing in station areas, when developing the overall Economic Development rating. Should FTA do more to increase the relative weight of zoning as part of the Economic Development rating? For example, should FTA:

- a. Maintain its proposal to include three subfactors within Economic Development (supportive zoning in station areas, performance and impacts of transit-supportive plans and policies, and tools to maintain or increase the share of affordable housing in station areas) but assign the zoning subfactor more weight than the other two?
- b. Eliminate some of the non-zoning Economic Development subfactors or measures and if so, which ones?
- c. Make any other changes to the Economic Development subfactors or measures, and if so, which ones and how?

After review and consideration of the comments provided on the proposals in this document and the answers to the questions, FTA will issue a final notice and incorporate these changes into the existing CIG Policy Guidance.

Issued under the authority delegated in 49 CFR 1.91.

Veronica Vanterpool,

Acting Administrator.

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