

49 CFR Part 611 Major Capital Investment Projects

New and Small Starts Project Evaluation and Rating

JUSTIFICATION STATEMENT

Background/Definitions:

The Safe, Accountable, Flexible, Efficient Transportation Equity Act - A Legacy for Users (SAFETEA-LU) in addition to outlining the New Starts program, established a new “Small Starts” program category. This Act requires the Federal Transit Administration (FTA) to issue regulations on the manner in which candidate projects will be evaluated and rated.

New Starts

This legislation requires New Starts candidate projects to be over \$250,000,000 in total project cost or requesting more than \$75,000,000 in New Starts funding. In addition, these projects must be: 1) based on the results of an alternatives analysis and preliminary engineering; 2) justified based on a review of mobility improvements, mobility for transit dependents, economic development, environmental benefits, cost effectiveness, and public transportation supportive land use policies and future patterns; and 3) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension.

Small Starts

The Small Starts program is part of the major capital investment program defined in Section 5309 of Title 49, United States Code, and includes projects requesting \$75,000,000 or less with a total project cost that does not exceed \$250,000,000.

FTA published Interim Guidance and Instructions for Small Starts on August 3, 2006, with an updated version published in July 2007. This Interim Guidance outlines the measures used by FTA to evaluate candidate projects for discretionary Small Starts funding until such time as the rulemaking process is completed.

Small Starts projects are generally smaller and simpler than New Starts projects, and every attempt has been made to simplify the project justification criteria and procedures used to request funding through the Small Starts program. Based on SAFETEA-LU, three criteria are the focus of the project justification evaluation: 1) cost effectiveness; 2) public transportation supportive land use; and 3) the project’s effect on local economic development. This reduced set of project justification evaluation measures, coupled with a simplified local financial commitment evaluation based on a shorter term financial plan than is required of New Starts project, helps to expedite Small Starts projects through the evaluation process. These procedures are used to approve candidate projects for entry into project development. Project development for Small Starts is a single project development step rather than the two step process (preliminary engineering and final design) as exists under the New Starts program.

In general, the information used by FTA for New and Small Starts project evaluations and rating purposes is developed as a part of the normal planning process used to select a locally preferred alternative and fulfill the National Environmental Policy Act (NEPA) requirements. For New Starts projects, FTA collected project evaluation information from project sponsors under the Office of Management and Budget (OMB) Control #2132-0561. However, some information required by FTA may be beyond the scope of ordinary planning activities undertaken by project sponsors.

1. Explain the circumstances that make information collection necessary.

FTA administers discretionary grant programs that provide funding for both the new, smaller scaled corridor-based transit capital projects known as "Small Starts," as well as funding for new fixed guideway transit systems and extensions to existing fixed guideway systems, collectively known as "New Starts," under 49 USC Section 5309.

New Starts

In order for proposed New Starts projects to be eligible for funding under Section 5309, the Secretary must make a determination that a project is:

- a) based on the results of an alternatives analysis and preliminary engineering;
- b) justified based on a review of mobility improvements, mobility for transit dependents, environmental benefits, economic development impacts, cost effectiveness, and public transportation supportive land use policies and future patterns;
- c) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable funding sources to construct, maintain, and operate the system or extension.

Small Starts

In order for proposed Small Starts projects to be eligible for funding under 49 U.S.C. Section 5309, the Secretary must make a determination that a project is:

- a) based on the results of an alternatives analysis and project development;
- b) justified, based on a comprehensive review of its expected cost effectiveness, public transportation supportive land use policies, and effect on local economic development
- c) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable funding sources to construct, maintain, and operate the system or extension.

These criteria are found in 49 U.S.C. Section 5309(d) and (e). Further, Section 3011 of SAFETEA-LU added provisions requiring FTA to evaluate and rate proposed New and Small Starts projects as "high," "medium-high," "medium," "medium-low," and "low" and to issue regulations on the manner in which proposed projects will be evaluated and rated. FTA issued an Advanced Notice of Proposed Rulemaking (ANPRM) in January 2006 and a Notice of Proposed Rulemaking (NPRM) for the Major Capital Investment program in August 2007. Congress prohibited FTA from continuing work on the NPRM in several subsequent

appropriations acts. Then, due to the passage of the SAFETEA-LU Technical Corrections Act in June 2008, which included an intervening statutory change to the New and Small Starts evaluation process, FTA withdrew the NPRM in February 2009. In June 2010, FTA issued another Advanced Notice of Proposed Rulemaking (ANRPM) on the New and Small Starts programs, seeking comments on how FTA should measure several of the evaluation criteria. The public comment period on that ANRPM closed August 2, 2010. FTA is reviewing the comments received. A date for issuance of a new NPRM is unknown at this time.

FTA needs to have accurate information on the status and projected benefits of proposed New and Small Starts projects on which to base its decisions regarding funding recommendations in the President's budget. As discretionary programs, both the New and Small Starts programs require FTA to identify proposed projects that are worthy of federal investment, and are ready to proceed with project development and construction activities. With few exceptions, most of the information required by FTA from project sponsors is developed as part of the regular planning process.

The law requires that FTA evaluate the performance of the projects funded through the New and Small Starts programs in meeting ridership and cost estimates two years after they are opened for service, through implementation of a "before-and-after" study requirement. This also helps to evaluate the success of the grant program itself for purposes of the Government Performance and Results Act (GPRA).

2. Indicate how, by whom, and for what purpose the information is to be used.

FTA uses this information to evaluate proposed New and Small Starts projects. FTA evaluates projects in order to: (1) decide whether proposed projects may advance into project development and construction for Small Starts and advance from alternatives analysis into preliminary engineering and then final design and construction for New Starts projects; (2) assign ratings to proposed projects for the *Annual Report on Funding Recommendations*; and (3) develop funding recommendations for the administration's annual budget request.

3. Describe to what extent the collection of information involves the use of automated or other technological data collection techniques, and any consideration of using information technology to reduce burden.

FTA requests that project sponsors submit project evaluation data by electronic means. FTA has developed standard format templates for project sponsors to complete that automatically populate data used in more than one form. FTA then utilizes spreadsheet models to evaluate and rate projects based on the information submitted.

In addition, FTA has developed and made available an innovative software tool for analyzing travel demand model results called Summit. One of the features of this product is to facilitate the diagnosis of problems related to the estimation of ridership and transportation user benefits, which are inputs into the calculation of the project evaluation criteria.

4. Describe efforts to identify duplication. Show specifically why similar information already available cannot be used or modified for use for the purposes described.

Where and when possible, FTA makes use of information already collected by New and Small Starts project sponsors as part of the planning process. However, as each proposed project develops at a different pace, FTA has a duty to base its funding decisions on the most recent information available. Project sponsors often find it necessary to develop updated information specifically for purposes of the New or Small Starts program. This is particularly true for the *Annual Report on Funding Recommendations*, which is a supporting document to the President's annual budget request to Congress. However, in order to reduce the reporting burden on project sponsors, FTA instituted a policy that Annual Report submissions are only required of projects that are seeking a funding recommendation or have changed significantly in cost or scope from the last evaluation.

5. Describe methods used to minimize burden on small businesses or other small entities.

The burden applies only to public entities seeking New or Small Starts discretionary funding under Section 5309, most of which are not small entities. Overall burden is mitigated by rendering the collection and analysis of data required for GPRA purposes as eligible for funding as part of the project.

6. Describe the consequences to Federal program or other policy activities if collection were conducted less frequently.

Data must be submitted for New and Small Starts projects seeking entry into the program and when they seek to move to the next phase. For Small Starts, this includes when the project seeks to enter project development and when it seeks to obtain a project construction grant agreement (PCGA). For New Starts, this includes when the project seeks to enter preliminary engineering, when it seeks to enter final design, and when it seeks a Full Funding Grant Agreement (FFGA) for construction.

Data is also generally collected annually for purposes of preparing the *Annual Report on Funding Recommendations*, a companion document to the President's annual budget request to Congress. However, project sponsors are not required to submit data in a given year for the *Annual Report* if the project has not experienced any significant changes in cost or scope since the last evaluation and the project is not seeking a funding recommendation in that year's budget.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with 5 CFR 1320.6.

The information collected is consistent with 5 CFR 1320.6.

8. Describe efforts to consult with persons outside the agency to obtain their views.

Continuing contact between transit operators, State and local decision makers, and FTA staff provide opportunity for project sponsors to seek changes.

New Starts

In its ongoing outreach efforts, FTA conducts a series of New Starts Roundtables each year around the country to bring together members of the transit industry to discuss issues affecting the New Starts program. At these roundtables FTA consults with the transit industry on the New Starts evaluation and rating process as well as the before-and-after data collection. FTA staff members also regularly make presentations on the New Starts evaluation process at transit industry conferences and solicit the views of others outside the agency at these events.

Small Starts

FTA staff members have made presentations and will continue to present material on the Small Starts evaluation process at transit industry conferences and solicit the views of others outside the agency at these events.

While FTA has taken measures to lessen the burden of the statutory project evaluation and rating process, it is clear that development of some of the data required under this guidance has resulted in additional work on the part of project sponsors as well as FTA. FTA has consulted (and will continue to do so) with the transit industry and other stakeholders in the development of supplemental guidance to both the New and Small Starts project evaluation processes to further lessen the burden of the statutory requirements.

An Advanced Notice of Proposed Rulemaking (ANPRM) was issued on January 30, 2006 (71 FR 22841). A Notice of Proposed Rulemaking was published on August 3, 2007 (72 FR 43328). The NPRM was withdrawn on February 17, 2009 due to an intervening statutory change. Another ANPRM was issued on June 2, 2010 (75 FR 31383). The public comment period on that ANPRM closed on August 2, 2010. FTA is currently reviewing the comments received and working on an NPRM.

A 60-day Federal Register Notice was published on October 13, 2010 (pages 62917 and 62918), soliciting comments prior to submission to the Office of Management and Budget (OMB). No comments were received in response to that notice. A 30-day Federal Register notice was published on December 27, 2010 (pages 81327 and 81328).

9. Explain any decision to provide any payment of craft to respondents.

No payment or gift is made to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in the statute, regulation or agency policy.

On very rare occasions, FTA may be asked to sign confidentiality agreements for certain types of information collected, such as when the proposed project is using a public-private partnership

arrangement and wishes the contract documents to remain confidential until negotiations are complete.

In general, there is no assurance of confidentiality given regarding submission of the information collected. The data is used for determining eligibility for receipt of grant funds and compliance with statutory requirements. All information collected is certified to comply with the Freedom of Information Act, the Privacy Act of 1974, and OMB Circular A-108.

11. Provide any additional information for questions of a sensitive nature.

None of the information required is of a personal or sensitive nature.

12. Provide an estimate of the hour burden of the collection of information and annualized cost to respondents.

The table below indicates the hours and costs estimated to be incurred by sponsors of proposed New and Small Starts projects for each task. The estimates for total number of annual submissions are based on projected annual workload. The estimated average number of hours per task is based on information shared by a sample of project sponsors. Estimated hourly costs are based on information informally shared by local project sponsors and the professional judgment of FTA staff.

The estimated cost to project sponsors assumes that sponsors would not otherwise be undertaking data collection associated with either the project or for the transit system in general. The estimated net cost to project sponsors would be lower if it assumed that the routine data-collection programs at most transit agencies would obtain some of the required data regardless of the effects of this guidance.

The number of annual occurrences differs from previous burden hour estimates because of revised FTA policies and changing demand for the program. Specifically:

- The number of PE submissions and FFGAs has been increased to reflect changing demand for the program and recent experience.
- The number of Annual Report submissions has been decreased. In order to reduce the reporting burden on project sponsors, FTA instituted a policy that Annual Report submissions are only required of projects that are seeking a funding recommendation or have changed significantly in cost or scope from the last evaluation.
- the number of annual Small Starts projects seeking entry into project development, submitting materials for the Annual Report, seeking PCGAs, and conducting before and after studies has been reduced. Experience has shown that fewer projects than originally anticipated are seeking Small Starts funds.

Total Project Sponsor Cost and Hours				
Task	# Annual Occurrences	Aver Hours per Occurrence	Total Hours	\$ Total
Data Submission, Evaluation, and Ratings				
<u>NEW STARTS</u>				
A) PE Request	10	450	4500	\$337,500
B) Annual Report	20	100	2000	\$150,000
C) Final Design Request	6	100	600	\$45,000
D) FFGA Approval	5	50	250	\$18,750
Subtotal			7,350	\$551,250
<u>SMALL STARTS</u>				
A) Project Development	10	80	800	\$60,000
B) Annual Report	10	40	400	\$30,000
C) PCGA Approval	4	100	400	\$30,000
Subtotal			1,600	\$120,000
Data Sub, Eval, and Ratings Total			8,950	671,250
Before and After Data Collection				
<u>NEW STARTS</u>				
A) Data Collection Plan	4	80	320	\$24,000
B) Before Data Collection	4	3000	12000	\$900,000
C) Documentation of Forecasts	4	160	640	\$48,000
D) After Data Collection	4	3000	12000	\$900,000
E) Analysis and Reporting	4	240	960	\$72,000
Subtotal			25,920	\$1,944,000
<u>SMALL STARTS</u>				
A) Data Collection Plan	10	10	100	\$7,500
B) Before Data Collection	10	80	800	\$60,000
C) Documentation of Forecasts	10	10	100	\$7,500
D) After Data Collection	10	80	800	\$60,000
E) Analysis and Reporting	10	40	400	\$30,000
Subtotal			2,200	165,000
Before and After Total			28,120	\$2,109,000
TOTAL			37,070	\$2,780,250

13. Provide estimate of annualized cost to respondents or record keepers resulting from the collection of information (not including the cost of any hour burden shown in Items 12 and 14).

There are no additional costs beyond that shown in Items 12 and 14.

14. Provide estimates of annualized cost to the federal government.

The three tables below indicate the annualized cost to FTA for the data collection and analysis associated with this guidance. As noted in Item 12 above, the estimates for total number of annual submissions are based on current and projected annual workload.

The first table listed below indicates the total FTA staff cost. The average annual FTA staff hours estimated for each assessment used for rating the project justification and financial evaluation criteria are based on professional judgment reflecting past and current experiences.

Average annual FTA staff hours estimated for work related to the *Annual Report on Funding Recommendations* are based on professional judgment reflecting most current experience.

The number of annual occurrences differs from previous burden hour estimates because of revised FTA policies and changing demand for the program. Specifically:

- The number of PE submissions and FFGAs has been increased to reflect changing demand for the program and recent experience.
- The number of Annual Report submissions has been decreased. In order to reduce the reporting burden on project sponsors, FTA instituted a policy that Annual Report submissions are only required of projects that are seeking a funding recommendation or have changed significantly in cost or scope from the last evaluation.
- the number of annual Small Starts projects seeking entry into project development, submitting materials for the Annual Report, seeking PCGAs, and conducting before and after studies has been reduced. Experience has shown that fewer projects than originally anticipated are seeking Small Starts funds.

FTA Staff Cost and Hours							
		Data Collection and Analysis (Average Hours Per Occurrence)					
Task	# Annual Occurrences	Justification	Land Use	Finance	Before and After Study	Total Hours	\$ Total
Data Submission, Evaluation, and Ratings							
<u>NEW STARTS</u>							
A) PE Request	10	24	16	24	0	640	\$48,000
B) Annual Report	20	16	12	24	0	1040	\$78,000
C) Final Design Request	6	16	12	24	0	312	\$23,400
D) FFGA Approval	5	0	0	24	0	120	\$9,000
Subtotal						2,112	\$158,400
<u>SMALL STARTS</u>							
A) Project Development	10	12	12	0	0	240	\$18,000
B) Annual Report	10	8	12	0	0	200	\$15,000
C) PCGA Approval	4	8	12	0	0	80	\$6,000
Subtotal						520	\$39,000
Data Sub, Eval, and Ratings Total						2,632	\$197,400
Before and After Data Collection							
<u>NEW STARTS</u>							
A) Data Collection Plan	4	0	0	0	16	64	\$4,800
B) Before Data Collection	4	0	0	0	40	160	\$12,000
C) Documentation of Forecasts	4	0	0	0	16	64	\$4,800
D) After Data Collection	4	0	0	0	40	160	\$12,000
E) Analysis and Reporting	4	0	0	0	80	320	\$24,000
Subtotal						768	\$57,600
<u>SMALL STARTS</u>							
A) Data Collection Plan	10	0	0	0	4	40	\$3,000
B) Before Data Collection	10	0	0	0	2	20	\$1,500
C) Documentation of Forecasts	10	0	0	0	2	20	\$1,500
D) After Data Collection	10	0	0	0	2	20	\$1,500
E) Analysis and Reporting	10	0	0	0	16	160	\$12,000
Subtotal						260	19,500
Before and After Total						1,028	\$ 77,100
TOTAL						3,660	\$274,500

The second table indicates the total cost to FTA for data collection and analysis performed under contract with financial and land use consultants, in support of the evaluation and rating process for those criteria.

The average cost for finance and land use analysis per occurrence is an estimate of the average cost; the cost per occurrence may be lower or higher depending on the level of analysis needed. Estimated annual costs per financial and land use assessments completed by contractors have been updated to reflect new contracts and current experiences.

The number of annual occurrences differs from previous burden hour estimates because of revised FTA policies and changing demand for the program. Specifically:

- The number of PE submissions and FFGAs has been increased to reflect changing demand for the program and recent experience.
- The number of Annual Report submissions has been decreased. In order to reduce the reporting burden on project sponsors, FTA instituted a policy that Annual Report submissions are only required of projects that are seeking a funding recommendation or have changed significantly in cost or scope from the last evaluation.
- the number of annual Small Starts projects seeking entry into project development, submitting materials for the Annual Report, seeking PCGAs, and conducting before and after studies has been reduced. Experience has shown that fewer projects than originally anticipated are seeking Small Starts funds.

FTA Contractor Cost				
		Data Collection and Analysis (Avg. \$ / Occurrence)		
Task	# Annual Occurrences	Land Use	Finance	\$ Total
Data Submission, Evaluation, and Ratings				
<u>NEW STARTS</u>				
A) PE Request	10	\$14,500	\$17,000	\$315,000
B) Annual Report	20	\$4,500	\$17,000	\$430,000
C) Final Design Request	6	\$4,500	\$17,000	\$129,000
D) FFGA Approval	5	\$0	\$50,000	\$250,000
Subtotal				\$1,124,000
<u>SMALL STARTS</u>				
A) Project Development	10	\$14,500	\$17,000	\$315,000
B) Annual Report	10	\$0	\$17,000	\$170,000
C) PCGA Approval	4	\$0	\$17,000	\$68,000
Subtotal				\$553,000
Data Sub, Eval, and Ratings Total				\$1,677,000
Before and After Data Collection				
<u>NEW STARTS</u>				
A) Data Collection Plan	4	0	0	\$0
B) Before Data Collection	4	0	0	\$0
C) Documentation of Forecasts	4	0	0	\$0
D) After Data Collection	4	0	0	\$0
E) Analysis and Reporting	4	0	0	\$0
Subtotal				\$0
<u>SMALL STARTS</u>				
A) Data Collection Plan	10	0	0	\$0
B) Before Data Collection	10	0	0	\$0
C) Documentation of Forecasts	10	0	0	\$0
D) After Data Collection	10	0	0	\$0
E) Analysis and Reporting	10	0	0	\$0
Subtotal				0
Before and After Total				0
TOTAL				\$1,677,000

The fourth table listed below sums the staff and contractor costs incurred by FTA, as shown above, resulting in total costs to FTA.

FTA Cost			
Task	FTA Staff Cost	FTA Contractor Cost	Total FTA Cost
Data Submission, Evaluation, and Ratings			
<u>NEW STARTS</u>			
A) PE Request	\$48,000	\$315,000	\$363,000
B) Annual New Starts Report	\$78,000	\$430,000	\$508,000
C) Final Design Request	\$23,400	\$129,000	\$152,400
D) FFGA Approval	\$9,000	\$250,000	\$259,000
Subtotal	\$158,400	\$1,124,000	\$1,282,400
<u>SMALL STARTS</u>			
A) Project Development	\$18,000	\$315,000	\$333,000
B) Annual New Starts Report	\$15,000	\$170,000	\$185,000
C) PCGA Approval	\$6,000	\$68,000	\$74,000
Subtotal	\$39,000	\$553,000	\$592,000
Data Sub, Eval, and Ratings Total			\$1,874,400
Before and After Data Collection			
<u>NEW STARTS</u>			
A) Data Collection Plan	\$4,800	\$0	\$4,800
B) Before Data Collection	\$12,000	\$0	\$12,000
C) Documentation of Forecasts	\$4,800	\$0	\$4,800
D) After Data Collection	\$12,000	\$0	\$12,000
E) Analysis and Reporting	\$24,000	\$0	\$24,000
Subtotal	\$57,600	\$0	\$57,600
<u>SMALL STARTS</u>			
A) Data Collection Plan	\$3,000	\$0	\$3,000
B) Before Data Collection	\$1,500	\$0	\$1,500
C) Documentation of Forecasts	\$1,500	\$0	\$1,500
D) After Data Collection	\$1,500	\$0	\$1,500
E) Analysis and Reporting	\$12,000	\$0	\$12,000
Subtotal	\$19,500	\$0	19,500
Before and After Total			\$ 77,100
TOTAL			\$1,951,500

15. **Explain the reasons for any program changes or adjustments reported on the OMB Form 83-I.**

The number of annual occurrences differs from previous burden hour estimates because of revised FTA policies and changing demand for the program. Specifically:

- The number of PE submissions and FFGAs has been increased to reflect changing demand for the program and recent experience.
- The number of Annual Report submissions has been decreased. In order to reduce the reporting burden on project sponsors, FTA instituted a policy that Annual Report submissions are only required of projects that are seeking a funding recommendation or have changed significantly in cost or scope from the last evaluation.
- the number of annual Small Starts projects seeking entry into project development, submitting materials for the Annual Report, seeking PCGAs, and conducting before and after studies has been reduced. Experience has shown that fewer projects than originally anticipated are seeking Small Starts funds.

The burden requested for this information collection is 37,070 hours, a reduction of 1,690 hours from the previous request of 38,760 hours.

Finally hourly rates for project sponsors and FTA staff that were used to estimate costs were increased to reflect inflation. Similarly, the estimated costs for contractor assistance were increased to reflect more recent FTA pricing experience based on new contracts.

16. Outline plans for tabulations and publication and address any complex analytical techniques that will be used.

The project evaluation data will continue to be published as part of the *Annual Report on Funding Recommendations* (49 USC Section 5309(o) (1)). Data collected for GPRA purposes will be used for GPRA reporting. Data from both activities may also be used for a variety of purposes that support the agency's mission.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

Not applicable.

18. Explain each exception to the certification for Paperwork Reduction Act submissions of Form 83-I.

Not applicable.