

## **Fixed Guideway Capital Investment Grants Section 5309**

### **New and Small Starts Project Evaluation and Rating**

**OMB # 2132-0561**

#### JUSTIFICATION STATEMENT

This justification statement is associated with a request for a revision of a currently approved information collection and is associated with a Final Rulemaking issued on January 9, 2013.

#### **Background/Definitions:**

The Safe, Accountable, Flexible, Efficient Transportation Equity Act - A Legacy for Users (SAFETEA-LU) established a new “Small Starts” program category in addition to outlining the New Starts program. The Moving Ahead for Progress Act in the 21<sup>st</sup> Century (MAP-21) continued the New and Small Starts programs. The Federal Transit Administration (FTA) has issued a final rule describing the manner in which candidate New and Small Starts projects will be evaluated and rated to reflect the changes made by MAP-21.

The final rule was issued to amend the regulation (Part 611 of Title 49 of the Code of Federal Regulations) under which FTA evaluates major transit capital investments seeking funding under the discretionary “New Starts” and “Small Starts” programs authorized by Section 5309 of Title 49, U.S. Code. The New Starts and Small Starts programs are FTA's primary capital funding programs for new or extended fixed guideway and corridor-based bus systems across the country, including rapid rail, light rail, commuter rail, bus rapid transit, and ferries. The final rule was the subject of an Advance Notice of Proposed Rulemaking (ANPRM) issued on June 3, 2010. Following the ANPRM, FTA issued a Notice of Proposed Rulemaking (NPRM) on January 25, 2012. On July 8, 2012, President Obama signed into law MAP-21, which made changes to the New Starts and Small Starts programs under Section 5309 of Title 49, United States Code. However, because significant portions of the project evaluation and rating requirements for major capital investments were not changed by MAP-21, FTA proceeded with the final rule since the NPRM was generally consistent with the new law.

#### *New Starts*

The legislation defines New Starts projects as those 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) justified based on a comprehensive review of the project’s mobility improvements, environmental benefits, congestion relief, economic development effects, land use patterns; and cost effectiveness; 2) supported by policies and land use patterns that promote public transportation, including plans for future land use and rezoning, and economic development around public transportation stations; 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 legislation defines Small Starts projects as those requesting less than \$75,000,000 with a total project cost that is less than \$250,000,000. Small Starts projects are generally smaller and simpler than New Starts projects. While the project justification and local financial criteria spelled out in statute are the same, Small Starts project justification evaluations are to compare benefits of the project to the Federal share of the project rather than the total project cost. Additionally, Small Starts projects are not subjected to an “engineering” phase approval as are New Starts projects.

The final rule covers the New and Small Starts evaluation criteria and rating process defined in MAP-21 and the before and after study requirements for New Starts projects. It does not cover new items included in MAP-21 that have not yet been the subject of a rulemaking process such as the core capacity evaluation and rating process, the program of interrelated projects evaluation and rating process, the pilot program for expedited project delivery, and the process for an expedited technical capacity review for project sponsors that have recently and successfully completed at least one new fixed guideway or core capacity project. The final rule also does not address exactly how the steps in the New and Small Starts process will be implemented by FTA because of changes made in MAP-21 to those steps that were not considered in the NPRM. Specifically, MAP-21 eliminated the requirement that a New Starts or Small Starts project be the result of an alternatives analysis and instead relies on the evaluation of alternatives performed as part of the environmental review process conducted in accordance with the National Environmental Policy Act (NEPA). Additionally, MAP-21 reduced the number of defined steps in the process when FTA must evaluate and rate proposed projects. MAP-21 created a step in the process called “project development” during which a local project sponsor will complete the review required under NEPA, select a locally preferred alternative (LPA), adopt that LPA into the fiscally constrained regional long range transportation plan and develop sufficient information for FTA to evaluate and rate the project. Once “project development” is complete, if the project meets the criteria for advancement, the project will begin the “engineering” phase. Upon completion of “engineering” a project will be eligible for a construction funding commitment. While the final rule includes the names of the steps in the New and Small Starts process as defined in MAP-21, further detail on how those steps will be implemented will be the subject of future interim policy guidance and rulemaking.

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. FTA collects project evaluation information from project sponsors under the Office of Management and Budget (OMB) Control #2132-0561. However, some information required by FTA in the final rule 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 smaller scaled corridor-based transit capital projects known as “Small Starts,” as well as new fixed guideway transit systems and extensions to existing fixed guideway systems known as “New Starts,” under 49 USC Section 5309. The criteria on which FTA is to evaluate and rate these projects are found in 49 U.S.C. Section 5309(d) and (h). FTA must evaluate and rate proposed New and Small Starts projects as “high,” “medium-high,” “medium,” “medium-low,” and “low” and issue regulations on the manner in which proposed projects will be evaluated and rated.

After passage of SAFETEA-LU, FTA issued an Advanced Notice of Proposed Rulemaking (ANPRM) in January 2006 and a Notice of Proposed Rulemaking (NPRM) in August 2007 to implement the changes in that legislation to the Major Capital Investment program. Congress prohibited FTA from continuing work on that 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 ANRPM on the New and Small Starts program, seeking comments on how FTA should measure several of the evaluation criteria. FTA prepared a NPRM, which was published in the Federal Register on January 25, 2012. On January 9, 2013, FTA published the final rule.

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 a discretionary program, the New and Small Starts program requires FTA to identify proposed projects that are worthy of federal investment, and are ready to proceed with project development, engineering, and construction activities. With a 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 Starts program 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).

This information collection also satisfies the environmental goal in the Departmental Strategic Plan.

**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 the various phases of the process; (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 has tried to minimize the burden of the collection of information, and 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, the final rule allows project sponsors to use an FTA-developed simplified national model to estimate project trips based on simple inputs including census data and project characteristics rather than more detailed and complex regional travel forecasting model. However, the reduced burden associated with using the FTA-developed model has not been included in these estimates at this time due to difficulty in assessing the impact until it is put more widely into use.

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 an expedited grant agreement (EGA) for construction. For New Starts, this includes when the project seeks to enter project development, when it seeks to enter engineering, 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 suggest changes to the process FTA uses to evaluate and rate projects seeking New or Small Starts funding.

In its ongoing outreach efforts, FTA generally 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 and Small Starts program. At these roundtables FTA consults with the transit industry on the project evaluation and rating process.

FTA makes presentations on the project development and evaluation and rating processes at transit industry conferences held three to four times each year and solicits the views of others outside the agency at these events. FTA also routinely participates at policy and planning committee meetings of the key transit industry group, where it receives feedback on the process and how it is working.

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 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 when developing supplemental guidance on the New and Small Starts project evaluation process to further lessen the burden of the statutory requirements.

**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.**

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 it reflects the streamlined steps in the process included in MAP-21 and the policies included in the final rule meant to streamline the process and reduce the reporting burden.

<b>Total Project Sponsor Cost and Hours</b>				
<b>Task</b>	<b># Annual Occurrences</b>	<b>Aver Hours per Occurrence</b>	<b>Total Hours</b>	<b>\$ Total</b>
<b>Data Submission, Evaluation, and Ratings</b>				
<u>NEW STARTS</u>				
A) Project Development Request	30	20	600	\$45,000
B) Engineering Request	15	152	2280	\$171,000
C) Annual Report	20	40	800	\$60,000
D) FFGA Approval	5	50	250	\$18,750
<b>Subtotal</b>			<b>3,930</b>	<b>\$294,750</b>
<u>SMALL STARTS</u>				
A) Project Development	15	25	375	\$28,125
B) Annual Report	15	25	375	\$28,125
C) EGA Approval	10	82	820	\$61,500
<b>Subtotal</b>			<b>1,570</b>	<b>\$117,750</b>
<b>Data Sub, Eval, and Ratings Total</b>			<b>5,500</b>	<b>\$ 412,500</b>
<b>Before and After Data Collection</b>				
<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
<b>Before and After Total</b>			<b>25,920</b>	<b>\$ 1,944,000</b>
<b>TOTAL</b>			<b>31,420</b>	<b>\$ 2,356,500</b>

**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 are 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 the final rule. The estimates have not changed from the current collection. FTA is implementing several streamlining measures in the final rule that will reduce the burden to project sponsors and FTA. However, at this time the burden hours for FTA and its contractors have not been changed because developing the new methodologies and procedures and refining the evaluation and rating process for the streamlined measures will take time to implement.

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.

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.



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
<b>Data Submission, Evaluation, and Ratings</b>							
<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
<b>Subtotal</b>						<b>2,112</b>	<b>\$158,400</b>
<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
<b>Subtotal</b>						<b>520</b>	<b>\$39,000</b>
<b>Data Sub, Eval, and Ratings Total</b>						<b>2,632</b>	<b>\$197,400</b>
<b>Before and After Data Collection</b>							
<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
<b>Subtotal</b>						<b>768</b>	<b>\$57,600</b>
<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
<b>Subtotal</b>						<b>260</b>	<b>19,500</b>
<b>Before and After Total</b>						<b>1,028</b>	<b>\$ 77,100</b>
<b>TOTAL</b>						<b>3,660</b>	<b>\$274,500</b>

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 in the final rule.

The average cost for each 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 are based on current experience.

<b>FTA Contractor Cost</b>				
		<b>Data Collection and Analysis</b> (Avg. \$ / Occurrence)		
<b>Task</b>	<b># Annual Occurrences</b>	<b>Land Use</b>	<b>Finance</b>	<b>\$ Total</b>
<b>Data Submission, Evaluation, and Ratings</b>				
<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
<b>Subtotal</b>				<b>\$1,124,000</b>
<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
<b>Subtotal</b>				<b>\$553,000</b>
<b>Data Sub, Eval, and Ratings Total</b>				<b>\$1,677,000</b>
<b>Before and After Data Collection</b>				
<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
<b>Subtotal</b>				<b>\$0</b>
<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
<b>Subtotal</b>				<b>0</b>
<b>Before and After Total</b>				<b>0</b>
<b>TOTAL</b>				<b>\$1,677,000</b>

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
<b>Data Submission, Evaluation, and Ratings</b>			
<b>NEW STARTS</b>			
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
<b>Subtotal</b>	\$158,400	\$1,124,000	\$1,282,400
<b>SMALL STARTS</b>			
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
<b>Subtotal</b>	\$39,000	\$553,000	\$592,000
<b>Data Sub, Eval, and Ratings Total</b>			<b>\$1,874,400</b>
<b>Before and After Data Collection</b>			
<b>NEW STARTS</b>			
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
<b>Subtotal</b>	<b>\$57,600</b>	<b>\$0</b>	<b>\$57,600</b>
<b>SMALL STARTS</b>			
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
<b>Subtotal</b>	<b>\$19,500</b>	<b>\$0</b>	<b>19,500</b>
<b>Before and After Total</b>			<b>\$ 77,100</b>
<b>TOTAL</b>			<b>\$1,951,500</b>

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

The number of burden hours estimated differs from the current approval to reflect the changes made in the final rule and accompanying final policy guidance.

Under the current collection, the estimated New and Small Starts annual burden hours are approximately 275 hours for each of the estimated 135 respondents totaling 37,070 hours and annual costs totaling \$2,780,250. Based on the final rule and accompanying final policy guidance, FTA estimates burden hours would be reduced by 5,650 hours, to approximately 242 hours for each of the estimated 130 respondents totaling 31,420 hours and annual costs totaling \$2,356,500, a reduction of \$423,750 from the current approval.

Additional information will be required of project sponsors due to the addition of several new measures in the final rule, however, FTA has also allowed for simplified methods of data collection and data estimation (e.g., the final rule no longer require sponsors to model a Transportation System Management (TSM) alternative, the final rule allows estimation of project trips using an FTA-developed simplified model rather than local travel forecasting models, the measures in the final rule use standard factoring approaches that reduce the amount of data required of project sponsors). Thus, the final rule and accompanying final guidance is estimated to reduce the net burden hours for project sponsors. These and other information collection requirement trade-offs were an express objective in developing the final rule and accompanying guidance.

The number of burden hours are partially proportionate to the scale of the project and the determination by the project sponsor whether to choose to develop detailed forecasts of project benefits (instead of the simplified default methods FTA allows). Such increased burdens are at the sponsor's discretion, rather than a requirement of the final rule or the accompanying policy guidance. Most of the estimated reduction in burden hours would be realized when project sponsors are preparing the application for the first time.

**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.