

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 New Starts program defined in Section 5309 of Title 49, United States Code, and includes those projects requesting \$75,000,000 or less with a total project cost not to exceed \$250,000,000.

Interim Guidance and Instructions for Small Starts was issued on August 3, 2006. This Interim Guidance outlines the proposed measures used by FTA to evaluate candidate projects for discretionary Small Starts funding.

Small Starts projects are generally smaller and simpler than traditional 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 project evaluation: 1) cost effectiveness, 2) public transportation supportive land use and 3) the project's effect on local economic development. This reduced set of evaluation measures, coupled with a simplified set of proposed criteria that involves a shorter term financial plan to evaluate local financial commitment, will help to expedite projects through the evaluation process. These procedures will be used to approve candidate projects for entry into project development. Project development for Small Starts is a single project development step rather than a two step process as under the New Starts program.

In general, the information used by FTA for New and Small Starts project evaluations and rating purposes should be 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, as the project evaluation criteria have been reduced for Small Starts under SAFETEA-LU, as well as additional considerations for the New Starts program are outlined, it has become apparent that some information required for New Starts projects may be beyond the scope of ordinary planning activities for Small Starts projects. Therefore, FTA is submitting a revised request to encompass both the New and Small Starts programs for purposes of the Notice of Proposed Rulemaking, published on or before August 3, 2007.

This Rule describes the project evaluation and rating process; it does not define the process by which FTA determines annual project funding recommendations, nor does it define the process by which FTA enters into funding commitments.

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 the 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(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. The rulemaking for this program is ongoing, but is expected to be completed too late to provide a framework for administering the Small Starts program in this fiscal year. Therefore, FTA has issued guidance to implement the Small Starts provisions of SAFETEA-LU prior to the completion of the Final Rule for Transit Capital Investment Projects.

There is also the need to have accurate information on the status and projected benefits of proposed New and Small Starts projects on which to base federal funding recommendations. As discretionary programs, both the New and Small Starts programs require an ability by FTA to identify proposed projects that are worthy of federal investment, and are ready to proceed with project development and construction activities. The information collected under this guidance provides the basis for establishing worthiness. With few exceptions, most of the information required by FTA is developed as part of the regular planning process, assuming good planning methods are used by project sponsors.

In response to the need to evaluate the performance of the projects funded through the Small Starts program, as well as the program itself, for purposes of the Government Performances and Results Act (GPRA), the published guidance also establishes a "before-and-after" data collection and reporting requirement that will very likely be in the Final Rule, similar to the before and after study requirement for the New Starts program.

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: decide whether proposed projects may advance into project development and construction for Small Starts and advance through alternatives analysis into preliminary engineering and then final design for New Starts projects; assign ratings to proposed projects for the *Annual Report on New Starts*; develop funding recommendations for the administration's annual budget request; and determine the findings used to decide which projects are eligible for funding commitments.

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 encourages project sponsors to submit project evaluation data by electronic means whenever possible. As Small Starts projects advance, FTA will develop a database to evaluate and rate these projects. Like the database for New Starts projects, the database

will contain the ability to track project milestones, history and rating information. Implementation of this database will help FTA staff to more efficiently manage the information used to evaluate and rate Small Starts projects and to perform quality control and reasonability checks. FTA will continue to work to enable project sponsors to submit Small Starts information electronically.

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 inputs into the calculation of the Small Starts criteria. While we do anticipate use of Summit for some Small Starts project evaluations, it will likely be on a limited basis due to the simplified nature of the Small Starts evaluation process. However, FTA will continue to utilize Summit to evaluate larger and more complex New Starts projects. This, in turn, will contribute to improved accuracy in the reporting and evaluation of the project justification criteria, which may contribute to a reduced burden of having to re-prepare a deficient submission.

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 New Starts*, which is a supporting document to the President's annual budget request to Congress and represents the only collective update of the status of all proposed New and Small Starts projects.

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

The New and Small Starts project evaluation processes do not have a significant impact on small entities because these programs concern only mass transportation major capital investments, which are not typically undertaken by small entities. Further, this proposed rule only applies to entities seeking New or Small Starts discretionary funding under Section 5309. Overall burden is also mitigated by rendering the collection and analysis of data required for GPRA purposes 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 is collected annually for purposes of the *Annual Report on New Starts*, a supplemental document to the President's annual budget request to Congress that provides additional information on proposed New and Small Starts funding and updated

project evaluation information and ratings for each proposed project. In addition, proposed Small Starts projects must be rated for purposes of approving entry into project development and construction, or for issuing a project construction grant agreement. Similarly, proposed New Starts projects must be rated for purposes of approving entry into preliminary engineering or final design, or for issuing a Full Funding Grant Agreement (FFGA). These submissions are dependent upon the individual development cycle of each proposed project.

Less frequent data collection is not possible, since it would not allow sufficiently current and accurate ratings and funding estimates.

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's field staff provide opportunity for project sponsors to seek changes. Both the New and Small Starts programs will build on past practice.

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 has consulted 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 every measure to lessen the burden of the statutory project evaluation and rating process on transit operators, State and local decision makers, and other stakeholders, 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). A 60-day Federal Register Notice was published on October 1, 2007. No comments were received. A 30-day Federal Register Notice was published on December 17, 2007.

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.

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 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 informally shared by a sample of Small Starts 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.

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	6	450	2700	\$160,380
B) Annual New Starts Report	35	100	3500	\$207,900
C) Supplemental Report	0	0	0	\$0
D) Final Design Request	6	100	600	\$35,640
E) FFGA Approval	4	50	200	\$11,880
Subtotal			7,000	\$415,800
<u>SMALL STARTS</u>				
A) Project Development	15	80	1,200	\$60,000
B) Annual New Starts Report	20	40	800	\$40,000
C) PCGA Approval	12	100	1,200	\$60,000
Subtotal			3,200	\$160,000
Data Sub, Eval, and Ratings Total			10,200	575,800
Before and After Data Collection				
<u>NEW STARTS</u>				
A) Data Collection Plan	4	80	320	\$19,008
B) Before Data Collection	4	3000	12000	\$712,800
C) Documentation of Forecasts	4	160	640	\$38,016
D) After Data Collection	4	3000	12000	\$712,800
E) Analysis and Reporting	4	240	960	\$57,024
Subtotal			25,920	\$1,539,648
<u>SMALL STARTS</u>				
A) Data Collection Plan	12	10	120	\$6,000
B) Before Data Collection	12	80	960	\$48,000
C) Documentation of Forecasts	12	10	120	\$6,000
D) After Data Collection	12	80	960	\$48,000
E) Analysis and Reporting	12	40	480	\$24,000
Subtotal			2,640	132,000
Before and After Total			28,560	1,671,648
TOTAL			38,760	2,247,448

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

Not applicable.

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 per assessment and rating for the project justification, land use and financial evaluation criteria are based on professional judgment reflecting past and current experiences. Estimated FTA staff hours include Office of Planning and Environment (TPE) and Regional Office staff time.

Average annual FTA staff hours estimated for work related to the *Annual Report on New Starts* is based on professional judgment reflecting most current experience. Estimated FTA staff hours include TPE staff time.

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	6	24	16	24	0	384	\$25,091
B) Annual New Starts Report	35	16	12	24	0	1820	\$118,919
C) Supplemental Report	0	0	0	0	0	0	\$0
D) Final Design Request	6	16	12	24	0	312	\$20,386
E) FFGA Approval	4	0	0	24	0	96	\$6,273
Subtotal						2,612	\$170,668
<u>SMALL STARTS</u>							
A) Project Development	15	12	12	0	0	360	\$19,800
B) Annual New Starts Report	20	8	12	0	0	400	\$22,000
C) PCGA Approval	12	8	12	0	0	240	\$13,200
Subtotal						1,000	\$55,000
Data Sub, Eval, and Ratings Total						3,612	225,668
Before and After Data Collection							
<u>NEW STARTS</u>							
A) Data Collection Plan	4	0	0	0	16	64	\$3,802
B) Before Data Collection	4	0	0	0	40	160	\$9,504
C) Documentation of Forecasts	4	0	0	0	16	64	\$3,802
D) After Data Collection	4	0	0	0	40	160	\$9,504
E) Analysis and Reporting	4	0	0	0	80	320	\$19,008
Subtotal						768	\$45,619
<u>SMALL STARTS</u>							
A) Data Collection Plan	12	0	0	0	4	48	\$2,400
B) Before Data Collection	12	0	0	0	2	24	\$1,200
C) Documentation of Forecasts	12	0	0	0	2	24	\$1,200
D) After Data Collection	12	0	0	0	2	24	\$1,200
E) Analysis and Reporting	12	0	0	0	16	192	\$9,600
Subtotal						312	15,600
Before and After Total						1,080	61,219
TOTAL						4,692	286,887

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 for the project development phase, as well as the *Annual Report on New Starts* are based on professional judgment reflecting past and current experiences. In many cases, there will be no cost for a project because of the simplicity of the project.

FTA Contractor Cost				
		Data Collection and Analysis (Avg. \$ / Occurrence)		
Task	# Annual Occurrences	Land Use	Finance	\$ Total
Data Submission, Evaluation, and Ratings				
NEW STARTS				
A) PE Request	6	\$11,880	\$14,256	\$156,816
B) Annual New Starts Report	25	\$9,504	\$10,692	\$504,900
C) Supplemental Report	0	\$0	\$0	\$0
D) Final Design Request	6	\$4,752	\$10,692	\$92,664
E) FFGA Approval	5	\$0	\$0	\$0
Subtotal				\$754,380
SMALL STARTS				
A) Project Development	15	\$800	\$1,000	\$27,000
B) Annual New Starts Report	20	\$600	\$800	\$28,000
C) PCGA Approval	12	\$0	\$0	\$0
Subtotal				\$55,000
Data Sub, Eval, and Ratings Total				809,380
Before and After Data Collection				
NEW STARTS				
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
SMALL STARTS				
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				809,380

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

FTA Contractor Cost			
Task	FTA Staff Cost	FTA Contractor Cost	Total FTA Cost
Data Submission, Evaluation, and Ratings			
<u>NEW STARTS</u>			
A) PE Request	\$25,091	\$156,816	\$181,907
B) Annual New Starts Report	\$118,919	\$504,900	\$623,819
C) Supplemental Report	\$0	\$0	\$0
D) Final Design Request	\$20,386	\$92,664	\$113,050
E) FFGA Approval	\$6,273	\$0	\$6,273
Subtotal	\$170,668	\$754,380	\$925,048
<u>SMALL STARTS</u>			
A) Project Development	\$19,800	\$27,000	\$46,800
B) Annual New Starts Report	\$22,000	\$28,000	\$50,000
C) PCGA Approval	\$13,200	\$0	\$13,200
Subtotal	\$55,000	\$55,000	\$110,000
Data Sub, Eval, and Ratings Total			1,035,048
Before and After Data Collection			
<u>NEW STARTS</u>			
A) Data Collection Plan	\$3,802	\$0	\$3,802
B) Before Data Collection	\$9,504	\$0	\$9,504
C) Documentation of Forecasts	\$3,802	\$0	\$3,802
D) After Data Collection	\$9,504	\$0	\$9,504
E) Analysis and Reporting	\$19,008	\$0	\$19,008
Subtotal	\$45,619	\$0	\$45,619
<u>SMALL STARTS</u>			
A) Data Collection Plan	\$2,400	\$0	\$2,400
B) Before Data Collection	\$1,200	\$0	\$1,200
C) Documentation of Forecasts	\$1,200	\$0	\$1,200
D) After Data Collection	\$1,200	\$0	\$1,200
E) Analysis and Reporting	\$9,600	\$0	\$9,600
Subtotal	\$15,600	\$0	15,600
Before and After Total			61,219
TOTAL			1,096,267

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

While FTA has collected data for the purpose of evaluating candidate New Starts projects for many years, SAFETEA-LU has created a streamlined evaluation and project development process for Small Starts. Since there has been no prior regulatory requirement to collect this data, the entire burden estimate is therefore attributable to these new requirements. The burden increased by 5,840 hours as a result of this new requirement by the SAFETEA-LU regulation.

FTA has continued to improve its guidance documents, such as the Interim Guidance for Small Starts, by streamlining procedures and issuing clearer instructions. Guidance on the New and Small Starts evaluation process and land use and financial assessments is now available on the Internet. Thus, FTA's expectations for the information necessary to support its evaluation are clear. Project sponsors are becoming more experienced in preparing information needed for New and Small Starts evaluation, and the number of hours needed to prepare submissions, assuming requisite attention to best practices and good-quality planning work, should be dropping.

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 New Starts (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.