

incremental, data-driven approach might well be preferred over a regional model-based approach under these types of circumstances. Several Small Starts projects have already used simplified, data-driven analytical techniques to estimate ridership and user benefits. FTA welcomes New Starts project sponsors to use similar techniques as appropriate.

#### Changes to Internal FTA Practices

FTA invites comment on certain changes the agency is considering to its own internal practices, described below. Any adoption of these changes would not require public notice-and-comment per 5 U.S.C. Section 553(b)(A), but FTA welcomes any opinions or suggestions whether these proposed changes would help improve FTA's management of the New Starts program.

##### *1. Expanded Pre-Award Authority and/or Expanded Use of Letters of No Prejudice*

FTA is considering expanding the activities covered by "automatic" pre-award authority upon completion of the requirements under the National Environmental Policy Act (NEPA) and/or expanding the circumstances under which FTA will issue Letters of No Prejudice (LONPs). Both approaches strive to expedite project delivery by allowing project sponsors to undertake activities covered by the pre-award authority or LONP with non-Federal sources while maintaining eligibility for future Federal reimbursement should an award be forthcoming. Neither pre-award authority nor an LONP is a guarantee of future Federal funding. Thus, project sponsors should understand they undertake the activities at their own risk.

Current FTA practice limits automatic pre-award authority for New and Small Starts projects to the following:

- Upon FTA approval to enter preliminary engineering (PE), FTA extends pre-award authority to incur costs for PE activities;
- Upon FTA approval to enter final design, FTA extends pre-award authority to incur costs for final design activities; and
- Upon completion of the NEPA process, FTA extends pre-award authority to incur costs for the acquisition of real property and real property rights.

FTA is considering expanding the activities covered by automatic pre-award authority at the completion of NEPA to include procurement of items such as vehicles, rails and ties, etc., that are long-lead time items or items for

which market conditions play a significant role in the acquisition price.

FTA reminds the public that local funds expended by the project sponsor pursuant to and after the date of the pre-award authority are eligible for credit toward local match or reimbursement only if FTA later makes a grant or grant amendment for the project. Local funds expended by the project sponsor prior to the date of the pre-award authority are not eligible for credit toward local match or reimbursement. Furthermore, the expenditure of local funds on activities such as land acquisition, demolition, or construction prior to the completion of the NEPA process would compromise FTA's ability to comply with Federal environmental laws and may render the entire project ineligible for FTA funding.

Letters of No Prejudice (LONP) also allow a project sponsor to incur costs using non-Federal resources, with the understanding that the costs incurred subsequent to the issuance of the LONP may be reimbursable as eligible expenses or eligible for credit toward the local match should FTA approve the project for funding at a later date.

Currently, before considering an LONP, FTA determines whether a project seeking an LONP is a promising candidate for a Full Funding Grant Agreement (New Starts) or a Project Construction Grant Agreement (Small Starts). Typically, New Starts projects need to be approved into final design to be considered "promising candidates." However, LONP requests have occasionally been approved by FTA for projects prior to entry into final design when the LONP is sufficiently justified based on the cost or schedule impacts of not undertaking the work prior to final design. Currently, approval of LONPs is determined by FTA on a case-by-case basis. FTA is considering expanding the use of LONPs prior to project entry into final design but after completion of NEPA. Decisions on LONPs would still be determined case-by-case based on the justification provided by the project sponsor.

Note that LONPs neither provide Federal funds nor constitute a commitment that Federal funds will be provided in the future. Nonetheless, LONPs are often viewed by project sponsors and/or other stakeholders as a signal of a future Federal commitment because FTA does not generally award them unless it believes the project to be a promising candidate for an FFGA or PCGA. Thus, should FTA move to a practice of awarding LONPs earlier in project development before it has sufficient information to know whether a project is a promising candidate for an

FFGA or PCGA, the public should be aware that LONPs may no longer serve as a signal of a future Federal commitment.

Issued on: July 24, 2009.

**Peter M. Rogoff,**

*Administrator, Federal Transit Administration.*

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**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **Advisory Circular 33.87-2, Comparative Endurance Test Method To Show Durability for Parts Manufacturer Approval of Turbine Engine and Auxiliary Power Unit Parts**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of issuance of advisory circular.

**SUMMARY:** This notice announces the issuance of Advisory Circular (AC) 33.87-2, Comparative Endurance Test Method to Show Durability for Parts Manufacturer Approval of Turbine Engine and Auxiliary Power Unit Parts. This AC describes a comparative endurance test method to be used for certain turbine engine or auxiliary power unit parts when manufactured under Parts Manufacturer Approval (PMA). This method may be used when PMA applicants introduce changes that could affect the durability of their proposed designs. It may also be used when an applicant has insufficient comparative data to show that the durability of their proposed PMA part is at least equal to the type design. The applicant can use this method when requesting PMA under test and computation, per part 21 of Title 14 of the Code of Federal Regulations, and using the comparative test and analysis approach detailed in Federal Aviation Administration Order 8110.42, Part Manufacturer Approval Procedures.

**DATES:** The Engine and Propeller Directorate issued AC 33.87-2 on June 25, 2009.

**FOR FURTHER INFORMATION CONTACT:** The Federal Aviation Administration, Attn: Karen M. Grant, Engine and Propeller Standards Staff, ANE-111, 12 New England Executive Park, Burlington, MA 01803-5299; telephone: (781) 238-7119; fax: (781) 238-7199; e-mail: [karen.m.grant@faa.gov](mailto:karen.m.grant@faa.gov).

We have filed in the docket all substantive comments received, and a report summarizing them. If you wish to review the docket in person, you may go

to the above address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. If you wish to contact the above individual directly, you can use the above telephone number or e-mail address provided.

**How to Obtain Copies:** A paper copy of AC 33.87-2 may be obtained by writing to the U.S. Department of Transportation, Subsequent Distribution Office, DOT Warehouse, SVC 121.23, Ardmore East Business Center, 3341Q 75th Ave., Landover, MD 20785, telephone 301 322-5377, or by faxing your request to the warehouse at 301-386-5394. The AC will also be available on the Internet at <http://www.faa.gov/regulations/policies> (then click on "Advisory Circulars").

**Authority:** 49 U.S.C. 106(g), 40113, 44701-44702, 44704.

Issued in Burlington, Massachusetts on June 25, 2009.

**Peter White,**

*Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[Docket Number: FTA-2009-0009]

### Final Guidance on New Starts/Small Starts Policies and Procedures

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

**ACTION:** Response to comments; final guidance.

**SUMMARY:** The purpose of this notice is to convey the 2009 final guidance on New Starts/Small Starts policies and procedures. On May 20, 2009, FTA announced in the **Federal Register** the availability of proposed guidance and requested public comment. FTA received a total of 29 comments, primarily from transit agencies and metropolitan planning organizations, as well as cities, advocacy groups, State departments of transportation, and other interested parties. After reviewing the public comments, FTA is issuing final guidance, which is included at the end of this notice. Please note that FTA is concurrently publishing a separate notice in today's **Federal Register** that includes additional proposed guidance on the New Starts and Small Starts program for public comment.

**DATES:** This final guidance is effective July 29, 2009.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Day, Office of Planning and

Environment, telephone (202) 366-5159 and Christopher Van Wyk, Office of Chief Counsel, telephone (202) 366-1733. FTA is located at 1200 New Jersey Ave., SE., East Building, Washington, DC 20590. Office hours are from 8:30 a.m. to 5 p.m., EST, Monday through Friday, except Federal holidays.

### Organization

The proposed guidance issued on May 20, 2009 was developed to implement the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Technical Corrections Act of 2008 (Pub. L. 110-244), which amends 49 U.S.C. 5309. The guidance covered three distinct topics: Proposed weighting of project justification criteria and evaluative methodology for the economic development effects, operating efficiencies, and transit supportive land use criteria for New Starts projects; Proposed weighting of project justification criteria and evaluative methodology for the economic development effects and transit supportive land use criteria for Small Starts projects; and Proposed procedures for considering the benefits of project alternatives that include a tunnel, as well as certain costs when a tunnel is considered but not selected for a project. Responses to comments on each of these topics are presented below. Following the responses, the final guidance is articulated in full.

### Response to Comments

#### 1. New Starts Project Justification Rating

The SAFETEA-LU Technical Corrections Act directed that the project justification criteria for New Starts projects be given comparable, but not necessarily equal, weights. In the proposed guidance, FTA suggested the use of the following weights: mobility improvements (20 percent); environmental benefits (10 percent); cost effectiveness (20 percent); operating efficiencies (10 percent); economic development effects (20 percent); and public transportation supportive land use ("land use") (20 percent). FTA also proposed methods for evaluating the criteria for economic development effects, land use, and operating efficiencies.

Of the 29 respondents, 19 expressed general support for FTA's proposed weighting scheme. Of the remaining respondents, four did not directly address the proposal; three proposed minor changes to the weighting scheme and three others proposed significant changes—modifications to both the weighting scheme and the criteria

measures (two of these three respondents proposed identical modifications). Each of the six proposals suggesting different weighting schemes is discussed in the comments and responses below.

**Comment:** One respondent suggested reducing the weight on operating efficiencies to zero, on the premise that the cost effectiveness measure captures this criterion, and suggested increasing the weight on mobility improvements to 30 percent.

**Response:** FTA formerly used the operating efficiencies criterion in evaluating projects, but found that the measure did not provide meaningful distinctions between projects. Consistent with the direction in the SAFETEA-LU Technical Corrections Act, FTA will evaluate operating efficiencies as a stand-alone criterion, but, in recognition of the limitation of the current measure for this criterion, will give it less weight than some of the other criteria.

**Comment:** One respondent suggested modifying the distinction between land use and economic development by: (1) Removing the evaluation of existing land use; (2) considering the transit supportive plans and policies for present and future development as the core of the land use evaluation; (3) considering the transportation performance and impact of land use policies in the land use evaluation (e.g., parking requirement reductions); and, (4) considering the economic performance and impact of land use policies to economic development (e.g., increase in tax base). The respondent stated that existing land use is already captured by the estimates of ridership generated by the travel forecasting model.

**Response:** For project evaluation and rating, FTA uses travel forecasts based upon forecast year population and employment projections compiled by regional metropolitan planning organizations, not opening year forecasts which would be more reflective of existing transit supportive land use. FTA considers the existence of existing transit supportive land use in the corridor to be relevant to the understanding of the proposed project and a criterion for which credit should be given in the evaluation of the project.

FTA is working with the transit community to develop a more robust methodology for measuring economic development effects and will consider the alternative proposed by the respondent as it continues that work. The proposed measure for economic development effects in this guidance is intended to be an interim approach,