American Public Transportation Association

November 16, 2026

Mr. Matthew Cahill
Acting Deputy Administrator and Chief Counsel
Federal Transit Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

**Subject: Federal Transit Administration Notice of Availability of Proposed Policy Guidance for the Capital Investment Grants Program (Docket No. FTA-2026-0331)**

Dear Acting Deputy Administrator and Chief Counsel Cahill,

The American Public Transportation Association (APTA) represents the $102 billion public transportation industry, which directly employs more than 450,000 people and supports millions of private-sector jobs. We greatly appreciate the opportunity to respond to the Federal Transit Administration's (FTA) Notice of Availability of Proposed Policy Guidance for the Capital Investment Grants Program (Docket No. FTA-2026-0331), published in the Federal Register at 91 FR 62586, on October 1, 2026.

APTA strongly supports the Capital Investment Grants (CIG) program. It is a critical Federal investment for communities to implement high-quality, high-capacity public transit projects that safely and efficiently connect families to jobs, schools, healthcare, and economic opportunities. Over the past decade, communities have constructed 70 CIG projects in 22 States—from small Bus Rapid Transit (BRT) in El Paso to light rail in Phoenix and subway extensions in New York City—and they make a difference in people's lives every day. Moreover, 3,000 suppliers in more than 1,700 communities in all 50 States manufacture the buses, railcars, and infrastructure used in CIG projects. Every $1 invested in public transit infrastructure generates $5 in long-term economic return.

**APTA has serious concerns with FTA's Proposed Guidance and urges the agency to withdraw it.** The Proposed Guidance is contrary to law and exceeds FTA's statutory authority; increases project costs and causes significant delays; imposes unnecessary bureaucratic barriers; creates uncertainty for project sponsors; jeopardizes transit rail projects; and causes major economic damage to the private-sector businesses of the public transit industry and the U.S. economy generally.

In addition, APTA strongly opposes FTA's intent to immediately apply these fundamental changes to communities that have spent millions of local dollars and years of dedication advancing projects through FTA's multi-year, multi-step CIG pipeline. Moving the goalposts for current projects in the CIG pipeline will increase costs and cause more delays—effectively stopping these critical investments in their tracks.

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Finally, based on our discussions with dozens of project sponsors, APTA believes that the Proposed Guidance threatens many of the 47 New Start, Core Capacity, and Small Start projects in the CIG pipeline that do not have signed construction grant agreements. APTA urges FTA to publicly provide detailed information on the significant impacts of its Proposed Guidance. Specifically, APTA urges FTA to outline the impacts of its proposed changes to the Federal share, project justification ratings, and local financial commitment ratings for each project in the pipeline. This request includes providing a specific list of projects that will no longer meet program requirements (e.g., "Medium" project rating) for a construction grant agreement pursuant to FTA's proposed changes. This detailed information will facilitate a more productive discussion of the significant impacts of the Proposed Guidance. For these and other reasons, APTA urges the agency to withdraw the Proposed Guidance.

## I. FTA's Proposed Guidance is Contrary to Law and Exceeds the Agency's Statutory Authority

The Proposed Guidance is contrary to law and exceeds the agency's statutory authority. Specifically, the Proposed Guidance impedes or hinders projects seeking a CIG share of greater than 40 percent which is contrary to law; establishes new weightings for CIG project justification criteria that are not "comparable" as required by law; adds Federal share factors regarding marriage rates and birth rates that are not authorized in law; and eliminates statutorily required public comment on important Guidance changes.

### *Impedes or Hinders Projects Seeking a CIG Share of Greater than 40 Percent*

Since 2020, Congress has specifically prohibited FTA from impeding or hindering a project that seeks a Federal CIG contribution of greater than 40 percent.[1] Yet, FTA's Proposed Guidance does precisely that—by not only impeding and hindering projects seeking a greater CIG share, but outright preventing some subset of these projects from advancing at all if they seek a share greater than 40 percent.

Section 164 of the Consolidated Appropriations Act, 2026 (P.L. 119-75, Division D) specifically states:

> None of the funds made available by this Act or any other Act shall be used to impede or hinder project advancement or approval for any project seeking a Federal contribution from the capital investment grant program of greater than 40 percent of project costs as authorized under section 5309 of title 49, United States Code.[2]

FTA proposes a fundamental change to cap the maximum dollar amount of CIG investment for New Start and Core Capacity projects at a level below the statutory maximum. Specifically, under the Proposed

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[1] Continuing Appropriations and Extensions Act, 2027 (P.L. 119-103), § 103; Consolidated Appropriations Act, 2026 (P.L. 119-75, Division D), § 164; Full-Year Continuing Appropriations and Extensions Act, 2025 (P.L. 119-4), § 1102 and § 1105; Consolidated Appropriations Act, 2024 (P.L. 118-42, Division F), § 164; Consolidated Appropriations Act, 2023 (P.L. 117-328, Division L), § 164; Consolidated Appropriations Act, 2022 (P.L. 117-103, Division L), § 164; Consolidated Appropriations Act, 2021 (P.L. 116-260, Division L), § 164; and Further Consolidated Appropriations Act, 2020 (P.L. 116-94, Division H), § 165.

[2] Consolidated Appropriations Act, 2026 (P.L. 119-75, Division D), § 164; *see* Continuing Appropriations and Extensions Act, 2027 (P.L. 119-103), § 103.

Guidance, FTA crafts a new multi-part rubric, found nowhere in statute, to determine the maximum dollar amount of CIG investment that FTA will provide for projects. Under FTA's proposed methodology and project rating system, many projects that meet the statutory criteria for a CIG award would nevertheless be prohibited from receiving more than a 40 percent CIG share.

The proposed formula holds communities that seek a Federal CIG share greater than 40 percent to a higher standard than required by statute. Under 49 U.S.C. § 5309, CIG projects are required to receive a "Medium" overall project justification rating to advance to the Engineering phase and be eligible for a construction grant agreement. Under FTA's Proposed Guidance, projects seeking a greater CIG share will be forced to exceed § 5309 statutory rating requirements (e.g., Medium-High or High ratings) to receive a CIG share greater than 40 percent. The Proposed Guidance directly impedes or hinders CIG project advancement and approval for these projects that otherwise meet the statutory requirements for CIG funding, which is contrary to appropriations law.

FTA may not circumvent Federal law by inventing a rubric found nowhere in statute that is designed to impede or hinder projects seeking a larger Federal share. The Proposed Guidance, which significantly limits the ability of CIG projects to qualify for more than 40 percent Federal CIG share, directly contravenes appropriations law.[3]

***Establishes New Weightings for CIG Project Justification Criteria That Are Not "Comparable" as Required by Law***

FTA's Proposed Guidance establishes new weightings for the six project justification criteria in which the cost-effectiveness criterion is weighted at five times the lowest criterion.[4] Federal transit law requires that the agency's weighting of criteria must be "comparable".[5] On its face, this weighting is not "comparable". It is not similar in size or amount;[6] nor is it functionally equivalent.[7] Moreover, it is directly contrary to more than a decade of agency practice where the agency has strongly supported equal weighting for the rating of each of the six project justification criteria.[8]

Specifically, Federal transit law requires that the agency's weighting of criteria must be "comparable, but not necessarily equal, numerical weight to each of the criteria…."[9] Under FTA's 2025 CIG Guidance, the

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[3] *See id.*
[4] The new weightings for the project justification criteria are 25 percent cost effectiveness, 20 percent mobility improvements, 20 percent congestion relief, 15 percent economic development, 15 percent land use/existing capacity needs of the corridor, and five percent environmental benefits. FTA Capital Investment Grants Proposed Policy Guidance (Oct. 1, 2026) [hereinafter FTA CIG Proposed Guidance], at 50.
[5] 49 U.S.C. § 5309(g)(2)(B)(ii); 49 U.S.C. § 5309(h)(6)(A).
[6] The Cambridge Dictionary defines "comparable" as "similar in size, amount, or quality to something else." Cambridge Dictionary.
[7] *See e.g.*, the Uniform Relocation Assistance and Real Property Acquisition Policies Act, 42 U.S.C. § 4601(10), where a "comparable replacement dwelling" must be, among other things, *functionally equivalent*. In implementing regulations, the U.S. Department of Transportation states, "[t]he term *functionally equivalent* means that it performs the same function and provides the same utility." 49 C.F.R. § 24.2.
[8] 49 U.S.C. § 5309(d)(2)(A)(iii); 49 U.S.C. § 5309(e)(2)(A)(iv); FTA, Final Rule Major Capital Investment Projects, 78 Fed. Reg. 1992 (Jan. 9, 2013).
[9] 49 U.S.C. § 5309(g)(2)(B)(ii); 49 U.S.C. § 5309(h)(6)(A).

agency weighs each of the project justification criteria equally at 16.66 percent.[10] The agency has used this exact weighting system of project justification criteria since 2013.[11]

FTA proposes to significantly increase the weight of the cost-effectiveness criterion to 25 percent, resulting in the criteria receiving five times the weight as the lowest criterion.[12] As the agency has stated previously, this type of "thumb on the scale" for the cost-effectiveness criterion undervalues the other five statutorily required project justification criteria. In adopting the equal weighting system more than a decade ago, the agency made this exact point. In its final rule on Major Capital Investment Projects, and in direct response to commenters who proposed to increase the weighting for cost effectiveness to a level greater than other criteria, FTA stated:

> FTA believes each of the project justification criteria provides important information about project merit and, thus, feels that equal weights are appropriate. *Although cost-effectiveness is important, it remains only one legislatively mandated criterion among several. Thus to give it a higher weight would undervalue some of the other significant benefits…. Given that this is a competitive, national discretionary grant program, FTA believes that consistent weights must be applied to all projects to assure fair evaluations* (emphasis added).[13]

FTA's proposed weighting system does not assign "comparable" weights to the project justification criteria, and is thus contrary to law (49 U.S.C. § 5309).

***Adds Federal Share Factors regarding Marriage Rates and Birth Rates That Are Not Authorized in Law***

FTA proposes to add marriage rates and birth rates as factors in establishing the Federal CIG share, which exceeds the agency's statutory authority. In 49 U.S.C. § 5309, Congress provides a specific, detailed roadmap of six project justification criteria for evaluating CIG projects.[14] In addition, appropriations law, in place since 2018, specifically directs FTA to administer the CIG program in accordance with the substantive requirements of 49 U.S.C. § 5309:

> *Provided further*, That the Secretary shall continue to administer the capital investment grants program in accordance with the procedural and substantive requirements of section 5309 of title 49, United States Code, and of section 3005(b) of the Fixing America's Surface Transportation Act;[15]

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[10] FTA Capital Investment Grants Final Policy Guidance (November 2025), at I-33, II-30, and III-24.
[11] *See* FTA, Final Rule Major Capital Investment Projects, 78 Fed. Reg. 1992 (Jan. 9, 2013).
[12] FTA CIG Proposed Guidance, *supra* note 4.
[13] Final Rule Major Capital Investment Projects, at 1997 (Jan. 9, 2013).
[14] *See* 49 U.S.C. § 5309(d)(2)(A)(iii); 49 U.S.C. § 5309(e)(2)(A)(iv).
[15] Consolidated Appropriations Act, 2026 (P.L. 119-75, Division D); s*ee* Continuing Appropriations and Extensions Act, 2027 (P.L. 119-103), § 103; Full-Year Continuing Appropriations and Extensions Act, 2025 (P.L. 119-4), § 1102 and § 1105; Consolidated Appropriations Act, 2024 (P.L. 118-42, Division F); Consolidated Appropriations Act, 2023 (P.L. 117-328,

Under FTA's Proposed Guidance, CIG projects in areas with higher marriage rates for people 15 years and older receive a higher Federal share.[16] This factor is inconsistent with 49 U.S.C. § 5309 and the appropriations law proviso that directs the agency to administer the CIG program in accordance with the substantive requirements of section 5309. Nothing in section 5309 authorizes this type of extraneous policy factor to directly impact the determination of the Federal share available for CIG projects. In addition, the proposal disadvantages the overwhelming majority of States that do not authorize minors to marry.[17]

Similarly, the Proposed Guidance provides a higher Federal share for projects located in areas with higher birth rates.[18] As with marriage rates, this factor is inconsistent with 49 U.S.C. § 5309 and the appropriations law proviso. In addition, FTA proposes to calculate the total number of births per year per 1,000 people.[19] This information is not readily available.[20] Assembling this data for a grant application would place a new administrative and financial burden on project sponsors.

FTA's proposed Federal share factors for marriage rates and birth rates are contrary to 49 U.S.C. § 5309 and appropriations law. These factors are unrelated to the statutorily defined purpose of the program, arbitrary and capricious, and not authorized by law. APTA opposes adding extraneous policy factors that are wholly unrelated to factors prescribed under the law to determine the Federal share available for CIG public transit projects.

***Eliminates Public Comment on Important Proposed Guidance Changes***

Finally, the Proposed Guidance eliminates public comment on important future CIG Guidance changes. Under the Guidance, FTA proposes to move lists of required documents from the Guidance to other documents, which are not subject to public review and comment. This proposal violates 49 U.S.C. §5334(k) by removing sections of the Guidance from public review and comment.

Specifically, in Requesting Entry into Engineering and the Application for Construction Grant Award, the Proposed Guidance moves a list of required documents to FTA's Project Management Oversight (PMO) Procedures.[21] Similarly, in Economic Development, the Proposed Guidance moves a list of documents to the Guidelines for Economic Development Effects for New Starts and Small Starts Projects document.[22]

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Division L); Consolidated Appropriations Act, 2022 (P.L. 117-103, Division L); Consolidated Appropriations Act, 2021 (P.L. 116-260, Division L); Further Consolidated Appropriations Act, 2020 (P.L. 116-94, Division H); Consolidated Appropriations Act, 2019 (P.L. 116-6, Division G); and Consolidated Appropriations Act, 2018, (P.L. 115-141, Division L).

[16] FTA CIG Proposed Guidance, at 17.

[17] According to the Legal Information Institute of Cornell Law School, 46 States do not authorize 15-year-olds to marry. Cornell Law School, Legal Information Institute, Marriage Laws of the Fifty States, District of Columbia, and Puerto Rico.

[18] FTA CIG Proposed Guidance, at 17.

[19] *Id.*

[20] The Census Bureau's American Community Survey tracks fertility rates, which provide a wide-ranging estimate of the number of women who have given birth in the past 12 months.

[21] FTA CIG Proposed Guidance, at 15. FTA's PMO Procedure Manuals provide instructions to the PMOCs and ensure consistency in oversight.

[22] FTA CIG Proposed Guidance, at 36. These changes also reduce clarity in the Proposed Guidance. Whereas prior CIG Guidance included a list of engineering and planning documents that were required to advance projects in the pipeline, now project sponsors will need to review more than 923 pages of PMO Procedure Manuals and the 29-page "Guidelines for

FTA updates these PMO contractual oversight procedures and other guideline documents regularly and is not required to submit changes for public review in the Federal Register, or to consider public comments. Thus, in the future, FTA could make major changes to CIG document requirements without submitting those changes for review and comment.

Removing these required CIG document lists to the PMO or other suite of documents without the opportunity for public review and comment violates 49 U.S.C. § 5334(k), which requires FTA to follow applicable rulemaking procedures before it issues a binding obligation on recipients.[23] These lists of required documents are essential information for project sponsors to meet applicable milestones in the CIG process. If these lists are removed from the CIG Guidance, project sponsors would be unable to adequately prepare for any required document changes to meet their obligations. Moreover, project sponsors could be subject to multiple PMO Manual changes prior to receiving construction grant agreements.

This proposal violates 49 U.S.C. §5334(k) by removing binding obligations from public review and comment.

## II. The Proposed Guidance Immediately Increases Costs and Causes Significant Delays

The Proposed Guidance will immediately increase the costs of current projects and cause significant delays to projects currently in the pipeline by moving the goalposts under FTA's existing multi-year, multi-step CIG process. APTA strongly opposes FTA's intent to immediately apply these fundamental changes to communities that have spent millions of local dollars and years of dedication advancing projects through FTA's CIG pipeline. Moving the goalposts for current projects in the CIG pipeline will immediately increase costs and cause more delays—effectively stopping these investments in their tracks.

### *Moves the Goalposts for Current Projects in the CIG Pipeline*

FTA intends to apply the fundamental changes of the Proposed Guidance to all of the 47 New Start, Core Capacity, and Small Start projects in the CIG pipeline immediately upon publication of the Guidance.[24] The Proposed Guidance fundamentally changes the Federal share calculation, project justification rating system, and local financial commitment rating system for each project in the pipeline.[25] Project sponsors that have spent years and millions of local dollars to meet the existing CIG requirements will be required to spend more funding and time to meet new requirements. Based on our discussions with dozens of

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Economic Development Effects for New Starts and Small Starts Projects" to gather information that was previously available in the CIG Guidance.

[23] 49 U.S.C. § 5334(k)(1). Section 5334(k)(1) states: "The Administrator of the Federal Transit Administration shall follow applicable rulemaking procedures under section 553 of title 5 before the Federal Transit Administration issues a statement that imposes a binding obligation on recipients of Federal assistance under this chapter." *Id.*

[24] In the Notice, FTA states: "The final CIG Policy Guidance, when published on the FTA website, is to be effective immediately; no grandfathering will be allowed for any projects currently in the CIG pipeline." FTA, Notice of Availability of Proposed Guidance for Capital Investment Grants Program, 91 Fed. Reg. 62586 (Oct. 1, 2026).

[25] FTA CIG Proposed Guidance, at 16, 50, 46.

project sponsors, APTA believes that the Proposed Guidance threatens many of the projects in the CIG pipeline that do not have signed construction grant agreements.

For instance, project sponsors will be required to re-rate their projects against the newly established weighting systems for both project justification and local financial commitment. If the projects do not receive an overall "Medium" rating they are unable to advance to Engineering or be eligible for a construction grant agreement—thus, terminating the project or requiring significant changes.[26] Project sponsors may be required to drastically alter—if not entirely restart—design and engineering work to bring their projects into compliance with new requirements of the Proposed Guidance.[27] Requiring re-rating of projects will not lead to stronger projects receiving grant funding, and may result in millions of dollars in wasted local taxpayer funds.

Similarly, FTA's proposed fundamental changes to the Federal CIG share calculation may result in a significant decrease in a CIG project's expected grant amount. This proposal will directly impact the viability of many current projects in the CIG pipeline. It also creates an uneven playing field for communities considering public transit and highway investments—with highway investments consistently receiving a higher Federal share than public transit CIG projects. Given that FTA currently has **$1.9 billion** in unallocated CIG funds,[28] the rationale for this proposal is unclear.

The adverse impact of the Proposed Guidance is best illustrated by noting that FTA would apply these fundamental changes to nine projects in eight States in the CIG pipeline that have already received 100 percent of their CIG funding.[29] Although FTA has allocated 100 percent of the proposed CIG funds for each of these projects, they await agency action to sign a construction grant agreement. Under the Proposed Guidance, the projects may no longer qualify for a construction grant agreement—jeopardizing the project when they have their CIG funding in hand and are literally at the goal line.

Moreover, the Proposed Guidance will exacerbate the slow pace of project advancements in the CIG pipeline in recent years.[30] Congress has appropriated billions of dollars for this program and has repeatedly

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[26] *See* 49 U.S.C. § 5309 (k)(2)(B); FTA CIG Proposed Guidance, at 46, 50.

[27] Notice of Availability of Proposed Guidance for Capital Investment Grants Program, at 62591 (Oct. 1, 2026). The Proposed Guidance removes incentives for project sponsors to include certain elements of good transit design in their projects. The current Guidance allows for certain categories of infrastructure improvements not to be counted toward total project costs. The Proposed Guidance removes several of these categories, meaning some projects will see their total project costs increase unless project sponsors remove key features that greatly benefit the project.

[28] FTA currently has $1.9 billion of CIG funds immediately available for obligation, including $1.584 billion of unallocated FY 2025 CIG funds and $156 million of FY 2026 CIG funds. APTA CIG Project Pipeline Dashboard; FY 2026 Section 5309 Fixed Guideway Capital Investment Grants Allocations (Full Year); FY 2025 Section 5309 Fixed Guideway Capital Investment Grants Allocations (Full Year).

[29] Capital Investment Grants Projects with Total CIG Allocations; FY 2026 Section 5309 Fixed Guideway Capital Investment Grants Allocations (Full Year); and Consolidated Appropriations Act, 2026 (P.L. 119-75, Division D).

[30] Since January 2025, FTA has signed one construction grant agreement ($150 million of CIG funds). Currently, FTA has $1.9 billion of CIG funds immediately available for obligation. APTA CIG Project Pipeline Dashboard; FY 2026 Section 5309 Fixed Guideway Capital Investment Grants Allocations (Full Year); FY 2025 Section 5309 Fixed Guideway Capital Investment Grants Allocations (Full Year).

stated its clear intention that FTA make all efforts to continue to advance sufficiently rated projects and deliver new public transportation services for Americans in a timely manner.[31]

In good faith, project sponsors have adhered to and relied upon the current Guidance while shouldering the upfront costs of planning, designing, and engineering projects and navigating the multi-year CIG process. FTA now proposes to move the goalposts. APTA strongly opposes this approach and notes that it is inconsistent with FTA's past practice.[32] The Proposed Guidance will drive up costs and delay, or potentially kill, existing projects.

APTA's overriding goal is to work with FTA in advancing the mandate of expeditiously putting in service high-quality CIG projects that will provide access to jobs and reduce costs for Americans in communities across the country. We do not believe that this proposal achieves that objective. In fact, the Proposed Guidance will exacerbate the problem of increased costs for project sponsors and ultimately, Americans. APTA urges the agency to refocus its undivided attention toward advancing CIG projects to construction, beginning with the nine projects that have received 100 percent of their CIG funding.

## III. The Proposed Guidance Imposes Unnecessary Bureaucratic Barriers

The Proposed Guidance increases the difficulty of navigating the already arduous and time-consuming CIG process. In particular, the Proposed Guidance establishes new local financial commitment burdens on project sponsors; establishes new cost-effectiveness breakpoints without justification and ignores the significant impacts of inflation; and eliminates support for good transit design. FTA's proposed new bureaucratic barriers lack justification and will not lead to better projects receiving grant funding.

### *Establishes New Burdens on Project Sponsors*

The Proposed Guidance increases the required amount of non-CIG funding committed for New Starts and Core Capacity projects from 30 percent to 50 percent for project sponsors to request entry into the Engineering phase.[33] This increase is a significant burden for project sponsors to achieve and provides no

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[31] *See* Continuing Appropriations and Extensions Act, 2027 (P.L. 119-103), § 103; Consolidated Appropriations Act, 2026 (P.L. 119-75, Division D); Full-Year Continuing Appropriations and Extensions Act, 2025 (P.L. 119-4), § 1102 and 1105; Consolidated Appropriations Act, 2024 (P.L. 118-42, Division F); Consolidated Appropriations Act, 2023 (P.L. 117-328, Division L); Consolidated Appropriations Act, 2022 (P.L. 117-103, Division L); Consolidated Appropriations Act, 2021 (P.L. 116-260, Division L); Further Consolidated Appropriations Act, 2020 (P.L. 116-94, Division H); Consolidated Appropriations Act, 2019 (P.L. 116-6, Division G); and Consolidated Appropriations Act, 2018, (P.L. 115-141, Division L). In addition, Congress intends that enacted appropriations be spent in a timely manner in the amount and for the purpose that has been set in law. *See* Impoundment Control Act of 1974 (P.L. 93-344).

[32] In 2024, FTA exempted certain projects from following the new, amended Final CIG Policy Guidance. Projects already in the Project Development or Engineering phases as of the date of publication of the 2024 CIG Policy Guidance that had been evaluated and rated at least once by FTA under the January 2023 CIG Policy Guidance had the choice to continue to follow the 2023 Guidance. Those projects could remain under the 2023 Guidance until September 1, 2025, when project sponsors were required to submit a complete construction grant application to remain under that Guidance. Notice of Availability of Final Policy Guidance for the Capital Investment Grants Program, 89 Fed. Reg. 102248 (Dec. 17, 2024).

[33] Notice of Availability of Proposed Guidance for Capital Investment Grants Program, at 62588 (Oct. 1, 2026). FTA CIG Proposed Guidance, at 14.

benefits to ensuring projects complete the CIG process.[34] FTA's justification for the increased burden is that requiring earlier commitment of funds will lower financial risk to the Federal Government. However, this justification is misplaced. The Federal Government undertakes no financial risk until the end of the CIG process, when project sponsors must have committed 100 percent of local funds.[35] Until the project receives a construction grant agreement, all financial risk is borne by the project sponsor.[36]

***Establishes New Cost-Effectiveness Breakpoints Without Justification and Ignores the Significant Impacts of Inflation***

The Proposed Guidance establishes new cost-effectiveness "breakpoints"[37] for Medium, Medium-Low, and Low ratings, as shown in the table below:

**Cost-Effectiveness Breakpoints**[38]

| Rating | Current Cost per Trip Range | Proposed Cost per Trip Range |
|---|---|---|
| High | <$8.00 | <$8.00 |
| Medium-High | Between $8.00 and $9.99 | Between $8.00 and $9.99 |
| Medium | Between $10.00 and $19.99 | Between $10.00 and $12.99 |
| Medium-Low | Between $20.00 and $34.99 | Between $13.00 and $19.99 |
| Low | >$35.00 | >$20.00 |

These breakpoints are significantly lower than the breakpoints in FTA's 2025 CIG Guidance.[39] FTA provides no justification for the changed breakpoints. Instead, the agency notes that the new breakpoints, which will apply to New Start, Small Start, and Core Capacity projects, produce "substantially similar results as would be achieved using separate breakpoints, once recent inflation-related adjustments were incorporated."[40] APTA urges FTA to publicly release its inflation analysis to show what inflation adjustments it considered that led to a decrease in its proposed breakpoint levels.[41]

APTA also opposes the proposed breakpoints because they are unified across all project types.[42] The difference in size, scope, and complexity of projects seeking diverse grant types means the projects cannot

[34] In the current FTA CIG Dashboard, the average non-Federal share for New Starts projects is $3.1 billion and for Core Capacity projects is $1.5 billion. The Proposed Guidance would require, on average, New Starts project sponsors to commit an additional $620 million and Core Capacity project sponsors to commit an additional $300 million before entry into the Engineering phase.
[35] According to FTA's Proposed CIG Guidance, "[t]he CIG funding commitment is not made until FTA awards a construction grant." FTA CIG Proposed Guidance, at 9.
[36] *See id.*
[37] Breakpoints are the thresholds that determine the rating of a project (i.e., projects between certain breakpoints, as outlined in the table above, will receive certain ratings).
[38] FTA CIG Proposed Guidance, at 31.
[39] FTA Capital Investment Grants Final Policy Guidance, at I-19.
[40] Notice of Availability of Proposed Guidance for Capital Investment Grants Program, at 62591 (Oct. 1, 2026).
[41] In addition, APTA encourages the agency to provide information on how it determined that the new breakpoints produced "substantially similar results", when applied to New Start, Core Capacity, and Small Start projects.
[42] *See* FTA CIG Proposed Guidance, at 31.

be judged against one another using one set of breakpoints. Projects that seek to create new fixed guideway routes are inherently more expensive than corridor-based BRT projects. Despite the added expense, a community may be best served by the larger, more expensive project, but using one set of breakpoints fails to properly account for the differences between project types.

The Proposed Guidance also ignores inflation when maintaining the current project cost cap of $600 million for project justification warrant thresholds.[43] Project justification warrants allow projects that meet certain benchmarks to advance through CIG pipeline on an expedited basis.[44] Because the project cost cap remains unchanged and construction costs continue to rise, few New Start and Core Capacity projects will be able to access this expedited process.[45]

According to FTA, large projects are unable to apply for warrants because "one of the primary project justification warrant criteria is total cost."[46] However, the statute outlines four specific criteria for the use project justification warrants, and total project cost is not among them.[47] APTA urges FTA to eliminate the $600 million cost cap in its Proposed Guidance and use its warrant authority to expedite projects.

The lower cost-effectiveness breakpoints of the Proposed Guidance and the inadequate consideration of inflation will force project sponsors to unnecessarily reduce the size and scope of their projects or suffer penalties for lower cost-effectiveness ratings.

***Eliminates Support for Good Transit Design***

The Proposed Guidance includes changes that punish project sponsors for designing the best transit project possible. It removes "enrichments", or infrastructure elements that improve overall project design but are not counted toward total project costs.[48] Specifically, the Proposed Guidance will no longer support project elements such as sustainable building design features and pedestrian/bike access and accommodation.[49] Public transit works best when it provides first- and last-mile solutions for passengers. For a project to be effective, it must feature connected infrastructure, including accommodation for pedestrians and bikers. In addition, constructing more energy-efficient buildings leads to lower costs to project sponsors in the long term. Removing support for these aspects of well-designed public transit infrastructure will lead to less effective and more-expensive-to-maintain projects.

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[43] FTA CIG Proposed Guidance, at 45.
[44] Warrants are pre-qualification approaches that allow a proposed project to automatically receive a satisfactory rating on a given criterion based on the project's characteristics or the characteristics of the project corridor. FTA Capital Investment Grants Final Policy Guidance, at I-29.
[45] There is only one New Start or Core Capacity project currently in the CIG pipeline that qualifies for project justification warrants. *See* FTA CIG Dashboard.
[46] Notice of Availability of Proposed Guidance for Capital Investment Grants Program, at 62593 (Oct. 1, 2026).
[47] 49 U.S.C. § 5309(g)(3). Section 5309(g)(3) requires the Secretary use warrants if (1) the CIG share of the project does not exceed 50 percent, (2) the applicant requests the use of warrants, (3) the applicant certifies that its existing public transportation system is in a state of good repair, and (4) the applicant meets any other requirements that the Secretary considers appropriate. *Id.*
[48] FTA CIG Proposed Guidance, at 30.
[49] Notice of Availability of Proposed Guidance for Capital Investment Grants Program, at 62591 (Oct. 1, 2026). FTA CIG Proposed Guidance, at 30.

In addition, the Proposed Guidance decreases the weight of the "tools to maintain or increase the share of affordable housing in station areas" subfactor of the economic development criterion from 33 percent to 20 percent.[50] Considering the affordability crisis in the United States and the role of public transit in connecting communities to economic opportunity, FTA should not minimize the importance of access to affordable housing when considering CIG projects.

APTA opposes these changes that punish project sponsors for designing the best transit project possible.

***Penalizes Project Sponsors for Policies Outside Their Control***

The Proposed Guidance increases the weighting of the "supportive zoning in station areas" subfactor for the economic development criterion from 33 percent to 40 percent.[51] Project sponsors often do not control local zoning decisions. Increasing the weight for this subfactor will lead to lower overall ratings for some CIG projects due to policies outside of the project sponsors' control.

APTA opposes this change.

## IV. The Proposed Guidance Creates Uncertainty for Project Sponsors

The Proposed Guidance greatly expands FTA's authority while providing neither a justification for how the increased authority will improve the CIG program nor an explanation on how that authority will be administered. If implemented, these changes will create a more arbitrary and opaque CIG review process.

***Elevates Subjective Measures Creating a More Arbitrary and Opaque CIG Review Process***

The Proposed Guidance changes the local financial commitment rating process to create a more arbitrary and opaque process than under current Guidance. The Proposed Guidance increases the weight of the "reasonableness of the financial plan" subfactor of the local financial commitment rating from 50 percent to 60 percent.[52] This is the only local financial commitment subfactor that is determined based on FTA's subjective opinion rather than the quantitative measures used for the other subfactors.

In addition, the Proposed Guidance greatly diminishes the opportunity for a rating boost for project sponsors seeking a CIG percentage share of less than 50 percent of the project's capital cost by applying the boost to a subfactor rather than the overall rating.[53]

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[50] Notice of Availability of Proposed Guidance for Capital Investment Grants Program, at 62592 (Oct. 1, 2026). FTA CIG Proposed Guidance, at 35.
[51] *Id.*
[52] Notice of Availability of Proposed Guidance for Capital Investment Grants Program, at 62594 (Oct. 1, 2026). Under the current Guidance, a project with a low reasonableness rating could receive a Medium overall rating if the other two subfactors received Medium-High or High ratings and could be boosted higher. Under the Proposed Guidance, a project with a low reasonableness rating can only receive a Medium rating if it receives High ratings in the other two subfactors. No overall rating boost is available.
[53] Notice of Availability of Proposed Guidance for Capital Investment Grants Program at 62594 (Oct. 1, 2026). FTA CIG Proposed Guidance, at 47.

Finally, the Proposed Guidance changes the calculation of a project's local financial commitment rating by "rounding down" the average ratings of the three subfactors.[54] This change results in much lower local financial commitment ratings across the board. For instance, under the Proposed Guidance, if a project receives a local financial commitment rating of 2.8,[55] it would be rounded down to 2, which is a Medium-Low overall rating. Projects with a Medium-Low local financial commitment rating are not eligible to advance to the Engineering phase or receive a construction grant agreement.

The cumulative effect of these changes is that subjective measures carry more weight. FTA does not provide additional information on the process in determining the "reasonableness of the financial plan" subfactor, nor does it provide any new guardrails on the decision-making process commensurate with the increased authority.[56] Project sponsors have no recourse if they disagree with FTA's determination of "reasonableness".

***Grants FTA New, Unchecked Authority***

The Proposed Guidance grants FTA authority to remove projects from the pipeline during the Engineering phase if the project does not demonstrate "sufficient progress" during an annual review.[57] The Proposed Guidance does not define sufficient progress, which allows FTA to unilaterally remove projects from the pipeline with no checks on its authority. Furthermore, after a project is removed from the pipeline, all project costs are borne by project sponsors and not eligible for reimbursement. Beyond the chilling effect this change will have on local governments considering applying for CIG grants, it will also deter capital markets from bonding or backing public transit projects, cutting off a vital source of local funding for these projects. The lack of clear guidance on when FTA can and cannot use this new authority will render localities unable to project total costs of advancing through the pipeline, leading to fewer applications for CIG funds.

APTA opposes these changes that create uncertainty for project sponsors. These changes increase the financial risk of CIG projects and, as a result, will further increase project costs.

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[54] Notice of Availability of Proposed Guidance for Capital Investment Grants Program, at 62594 (Oct. 1, 2026). FTA CIG Proposed Guidance, at 51. Longstanding practice has been for FTA to round the rating up to the nearest rating.

[55] Under the Proposed Guidance, a project receives a 2.8 overall rating if it receives a Medium-Low "reasonableness of the financial plan" rating and Medium-High ratings in the other two local financial commitment subfactors.

[56] *See* FTA CIG Proposed Guidance, at 49. FTA's justification for increasing the weight for the "reasonableness of the financial plan" subfactor is that it reduces risk for Federal investment in CIG Projects. However, CIG projects do not receive any Federal funds until they have secured a construction grant agreement. At that point, projects have completed design and engineering, and secured 100 percent of the local funding for the project. Any cost overruns are the responsibility of the project sponsor, and if the project is not fully built and operational the Federal funds must be repaid. *Id.*

[57] FTA CIG Proposed Guidance, at 18.

## V. The Proposed Guidance Jeopardizes Transit Rail Projects

FTA is tasked with administering the CIG grant program such that all eligible projects, regardless of size, scope, and complexity, receive fair access to available funds. The Proposed Guidance marks a fundamental redesign of the CIG program that jeopardizes transit rail projects by instituting structural changes that make it much less likely that transit rail projects will be eligible for funding.

A preliminary analysis of the proposed cost-effectiveness breakpoints shows that all New Start rail projects currently in the CIG pipeline will receive a Low rating. The Proposed Guidance increases the weight of cost effectiveness when determining a project's overall justification rating, meaning rail projects will receive a lower score.[58] At the same time, it places the most weight on cost effectiveness when determining CIG share using the proposed formula, such that rail projects will receive less Federal investment.[59] Finally, no transit rail project can qualify for the new project justification warrants expedited review process. The fundamental redesign of the program blocks rail projects from receiving a fair evaluation and leaves these major projects without a source of discretionary grant funding at the Federal level.

## VI. The Proposed Guidance Causes Major Economic Damage to the Public Transit Industry and U.S. Economy

In addition to the proposal's negative impacts on communities that want to expand existing public transit BRT and rail systems or create new ones, the Proposed Guidance will cause major economic damage to the private-sector businesses of the public transit industry and U.S. economy. Today, 3,000 suppliers in more than 1,700 communities in all 50 States manufacture the buses, railcars, and infrastructure used in CIG projects. Every $1 invested in public transit infrastructure generates $5 in long-term economic return. In addition, 77 percent of Federal transit investment flows to American companies and workers in the private sector.[60]

The Proposed Guidance threatens the continued viability of CIG projects and will cause major economic damage.

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[58] Notice of Availability of Proposed Guidance for Capital Investment Grants Program at 62594 (Oct. 1, 2026). FTA CIG Proposed Guidance, at 50.
[59] FTA CIG Proposed Guidance, at 16. With a low cost-effectiveness rating, the maximum CIG share that transit rail projects can receive is 33 percent, even if the projects receive a High rating in every other criterion. *See id.*
[60] APTA's 2026 Economic Impact of Public Transportation Investment Report, at 1.

## VII. Conclusion

APTA strongly supports the CIG program. It is a critical Federal investment for communities to implement high-quality, high-capacity public transit projects that safely and efficiently connect families to jobs, schools, healthcare, and economic opportunities.

**APTA has serious concerns with FTA's Proposed Guidance and urges the agency to withdraw it.** The Proposed Guidance is contrary to law and exceeds FTA's statutory authority; immediately increases project costs and causes significant delays; imposes unnecessary bureaucratic barriers; creates uncertainty for project sponsors; jeopardizes transit rail projects; and causes major economic damage to the private-sector businesses of the public transit industry and the U.S. economy generally.

In addition, APTA strongly opposes FTA's intent to immediately apply these fundamental changes to communities that have spent millions of local dollars and years of dedication advancing projects through FTA's multi-year, multi-step CIG pipeline. Moving the goalposts for current projects in the CIG pipeline will increase costs and cause more delays—effectively stopping these investments in their tracks.

FTA adopted its current CIG Guidance one year ago,[61] and the agency has not identified any precipitating factor for its proposed drastic changes to program requirements. In fact, Congress is currently in the process of considering the next Surface Transportation Authorization legislation, which will likely include significant changes to the CIG program.[62] The statutory changes of the new Surface Transportation Authorization Act will require FTA to issue new CIG Guidance.

APTA urges FTA to withdraw the Proposed Guidance and use this intervening period before enactment of the next Surface Transportation Authorization Act to meet with public transit industry stakeholders to identify changes that will best streamline the CIG process, including expanded pre-award authority.[63]

APTA appreciates the opportunity to comment on this Proposed Guidance. If you have any questions regarding this Comment, please contact Ward W. McCarragher, Vice President, Government Affairs and Advocacy, at wmccarragher@apta.com.

Thank you for your consideration and support for public transportation in the United States.

Sincerely,

Paul P. Skoutelas

Paul P. Skoutelas
President and CEO

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[61] Notice of Availability of Final Policy Guidance for the Capital Investment Grants Program, 90 Fed. Reg. 50886 (November 12, 2025).
[62] *See* H.R. 8870, the BUILD America 250 Act.
[63] *See APTA 2026 Surface Transportation Authorization Recommendations*.