

Background: On November 15, 2021, President Biden signed the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58, also known as the “Bipartisan Infrastructure Law”) into law. The 23 U.S.C. 148 note (135 STAT. 478) requires the USDOT to update the HRRR Study, report and Best Practices Manual first completed under MAP–21.

(b) HIGH-RISK RURAL ROADS.—

(1) **STUDY.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall update the study under section 1112(b)(1) of MAP–21 (23 U.S.C. 148 note; Pub. L. 112–141).

(2) **PUBLICATION OF REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall publish on the website of the Department of Transportation an update to the report described in section 1112(b)(2) of MAP–21 (23 U.S.C. 148 note; Pub. L. 112–141).

(3) **BEST PRACTICES MANUAL.**—Not later than 180 days after the date on which the report is published under paragraph (2), the Secretary shall update the best practices manual described in section 1112(b)(3) of MAP–21 (23 U.S.C. 148 note; Pub. L. 112–141).

In carrying out the study update, it is required to conduct a nationwide survey of the current practices of various agencies. The results of the survey are to be used in conjunction with a research study to prepare a report to be published on the Department of Transportation website. The report is required to include: (1) A summary of cost-effective roadway safety infrastructure improvements; (2) a summary of the latest research on the financial savings and reductions in fatalities and serious bodily injury crashes from the implementation of cost-effective roadway safety infrastructure improvements; (3) and recommendations for State and local governments on best practice methods to install cost-effective roadway safety infrastructure on high-risk rural roads. The legislation also requires the results of the survey and the report to be used to update a best practices manual to support Federal, State, and local efforts to reduce fatalities and serious injuries on high risk rural roads.

Respondents: The respondents will include all 52 State Departments of Transportation (including the District of Columbia and Puerto Rico). In addition, a representative sampling of 100 local agencies, including county highway departments and municipal public works agencies will be surveyed.

Frequency: Once.

Estimated Average Burden per Response: Approximately 4 hours per participant.

Estimated Total Annual Burden Hours: The total burden for this collection is approximately 608 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA’s performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB’s clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued On: March 9, 2022.

Michael Howell,

Information Collection Officer.

[FR Doc. 2022–05355 Filed 3–14–22; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA–2021–0010]

Notice of Availability of Initial Guidance Proposals for the Capital Investment Grants Program

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of availability of initial guidance proposals for the capital investment grants program.

SUMMARY: The Federal Transit Administration (FTA) invites public comment on initial guidance proposals to implement changes made to the Capital Investment Grants (CIG) program by the Infrastructure and Investment Jobs Act (IIJA) (also known as the “Bipartisan Infrastructure Law”). The proposed guidance has been placed in the docket and posted on the FTA website. This policy guidance continues to complement FTA’s regulations that govern the CIG program.

DATES: Comments must be received on or before April 14, 2022. Late-filed comments will be considered to the extent practicable.

ADDRESSES: You may submit comments to DOT docket number FTA–2021–0010 by any of the following methods:

Federal eRulemaking Portal: Go to <http://www.regulations.gov> and follow

the online instructions for submitting comments.

U.S. Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Fax: 202–493–2251.

Instructions: You must include the agency name (Federal Transit Administration) and docket number (FTA–2021–0010) for this notice at the beginning of your comments. You must submit two copies of your comments if you submit them by mail. If you wish to receive confirmation FTA received your comments, you must include a self-addressed, stamped postcard. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties submitting comments may wish to consider using an express mail firm to ensure prompt filing of any submissions not filed electronically or by hand.

All comments received will be posted, without charge and including any personal information provided, to <http://www.regulations.gov>, where they will be available to internet users. You may review DOT’s complete Privacy Act Statement published in the **Federal Register** on April 11, 2000, at 65 FR 19477. For access to the docket and to read background documents and comments received, go to <http://www.regulations.gov> at any time or to the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Management Facility, West Building Ground Floor, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Elizabeth Day, FTA Office of Planning and Environment, telephone (202) 366–5159 or Elizabeth.Day@dot.gov.

SUPPLEMENTARY INFORMATION: FTA is seeking comment on three initial proposed changes to FTA’s CIG Final Interim Policy Guidance last issued in June 2016. (<https://www.transit.dot.gov/funding/grant-programs/capital-investments/final-capital-investment-grant-program-interim-policy>). The proposals relate to changes made in the Infrastructure and Investment Jobs Act (IIJA) (Pub. L. 117–58, also known as the “Bipartisan Infrastructure Law”) to 49

U.S.C. 5309 and cover three topics: Eligibility as a Core Capacity project; how FTA will determine that a CIG project sponsor has demonstrated progress on meeting Transit Asset Management targets; and how bundles of CIG projects can enter the Project Development phase of the program. The proposals being made today are available on the agency's public website at <https://www.transit.dot.gov/funding/grant-programs/capital-investments/capital-investment-grants-program-regulations-guidance> and in the docket to this notice.

After review and consideration of the comments provided on the three initial CIG proposals in this document, FTA will issue a final notice and incorporate these changes into the existing CIG Policy Guidance. No other changes to the CIG Policy Guidance are being proposed at this time. Instead, FTA intends in the future to propose a more comprehensive update of the CIG Policy Guidance for notice and comment, incorporating feedback FTA received in response to its Request for Information published in the **Federal Register** in July 2021 (86 FR 37402). The three initial topics covered in this document are intended to assist FTA in managing the CIG program in the near term while the more comprehensive CIG policy guidance changes are developed and proposed.

Nuria I. Fernandez,
Administrator.

[FR Doc. 2022-05466 Filed 3-14-22; 8:45 am]

BILLING CODE 4910-57-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0085]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Request for Comment; Driver Alcohol Detection System for Safety Field Operational Test

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on an extension of a currently approved information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) summarized below will be submitted to

the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection and its expected burden. This document describes the collection of information for which NHTSA intends to seek OMB approval to allow NHTSA to continue to conduct research on the development of a driver alcohol detection system. NHTSA is seeking an extension of the information collection, titled "Driver Alcohol Detection System for Safety Field Operational Test" (OMB Control Number 2127-0734), which is currently approved through March 31, 2022. The extension is necessary to complete data collection that was delayed due to COVID-19 restrictions. The burden hour and cost calculations have been adjusted to reflect only the remaining data collection, adjustments for recruitment based on current experience, and adjustments in participation based on current experience. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on December 30, 2021. One comment was received in response to this notice.

DATES: Comments must be submitted on or before April 14, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection, including suggestions for reducing burden, should be submitted to the Office of Management and Budget at www.reginfo.gov/public/do/PRAMain. To find this particular information collection, select "Currently under Review—Open for Public Comment" or use the search function.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Eric Traube, Vehicle Safety Research, Human Factors/Engineering Integration Division (NSR-310), (202) 366-5673, National Highway Traffic Safety Administration, W46-424, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), a Federal agency must receive approval from the Office of Management and Budget (OMB) before it collects certain information from the public and a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. In compliance with these requirements, this notice announces that the following

information collection request will be submitted OMB.

Title: Driver Alcohol Detection System for Safety Field Operational Test.

OMB Control Number: 2127-0734.

Form Number: None.

Type of Request: Extension of a currently approved information collection.

Type of Review Requested: Regular.

Length of Approval Requested: Three years.

Summary of the Collection of Information: NHTSA and the Automotive Coalition for Traffic Safety (ACTS) began research in February 2008 to try to find potential in-vehicle approaches to the problem of alcohol-impaired driving. Members of ACTS comprise motor vehicle manufacturers representing approximately 99 percent of light vehicle sales in the U.S. This cooperative research partnership, known as the Driver Alcohol Detection System for Safety (DADSS) Program, is exploring the feasibility, the potential benefits of, and the public policy challenges associated with a more widespread use of non-invasive technology to prevent alcohol-impaired driving. The 2008 cooperative agreement between NHTSA and ACTS for Phases I and II outlined a program of research to assess the state of detection technologies that are capable of measuring blood alcohol concentration (BAC) or Breath Alcohol Concentration (BrAC). The 2008 cooperative agreement and a subsequent 2013 cooperative agreement support the creation and testing of prototypes and subsequent hardware that could be installed in vehicles. As part of this research program, and pursuant to the 2013 cooperative agreement, NHTSA and ACTS developed both breath- and touch-based sensors to evaluate the potential implementation and integration of both breath- and touch-based sensor technologies. The sensors are to be integrated into a vehicle in a manner that does not significantly alter the appearance of the vehicle interior. Further research is needed to evaluate the potential implementation and integration of both breath- and touch-based sensor technologies.

The purpose of this information collection is to collect data needed to evaluate the functionality of the touch- and breath- based sensors in varying operating conditions by having study participants provide breath and touch samples in DADSS research vehicles equipped with the sensors. Although the sensors will undergo significant laboratory testing, it is necessary to evaluate their function in extreme real-

Federal Transit Administration Capital Investment Grants Program Initial Guidance Proposals

March 2022

Office of Planning and Environment
1200 New Jersey Avenue, SE
Washington, DC 20590

Introduction

The Capital Investment Grants (CIG) statute, 49 U.S.C. § 5309 (Section 5309), outlines a multi-year, multi-step process that proposed transit capacity and expansion projects must go through to be eligible for and receive discretionary CIG program funding from the Federal Transit Administration (FTA). Section 5309 establishes three categories of eligible projects under the CIG program, which are known as New Starts, Small Starts, and Core Capacity projects. Each type of project has a unique set of requirements, although many similarities exist among them. In addition, Section 5309 specifies that a project sponsor may submit a bundle of CIG projects or a joint intercity rail and public transportation project. Each individual project within a bundle, as well as joint intercity rail and public transportation projects, are still required to prove eligibility as either a New Starts, Small Starts, or Core Capacity project.

FTA implements the CIG program, in part, through a CIG policy guidance document found at https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FAST_Updated_Interim_Policy_Guidance_June%202016.pdf. In July 2021, FTA published a Request for Information in the Federal Register seeking input on the Capital Investment Grants (CIG) program implementation (see <https://www.federalregister.gov/documents/2021/07/15/2021-15079/request-for-information-concerning-the-capital-investment-grants-program>). In November 2021, the Infrastructure and Investment Jobs Act (IIJA) (Public Law 117-58, also known as the “Bipartisan Infrastructure Law”) was enacted, which made changes to the CIG program framework.

This proposed guidance document contains binding obligations, which 49 U.S.C. § 5334(k) defines as “a substantive policy statement, rule, or guidance document issued by the Federal Transit Administration that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.” Under 49 U.S.C. § 5334(k) FTA may issue binding obligations if it follows notice and comment rulemaking procedures under 5 U.S.C. §553. Prior to making any amendments that would create a new binding obligation or modify an existing one, FTA will follow such notice and comment rulemaking procedures.

Accordingly, this document proposes initial guidance updates for notice and comment related to FTA’s implementation of certain changes made to the CIG program by IIJA. Specifically, these changes are related to three topics: 1) CIG project eligibility; 2) CIG grant award requirements that an applicant must demonstrate progress toward achieving Transit Asset Management (TAM) targets; and 3) how applicants can request entry into the initial phase of the CIG process entitled “Project Development” for bundles of CIG projects. After review and consideration of the comments provided on the proposals in this document, FTA will issue final guidance on these three issues.

FTA intends in the future to propose a more comprehensive update of the CIG Policy Guidance for notice and comment, incorporating feedback FTA has received in responses to the RFI. The three topics covered in this draft guidance are intended to assist FTA in managing the CIG program in the near term while the more comprehensive changes are developed and proposed.

Eligibility for New Starts, Small Starts, Core Capacity, and Bundles

New Starts

Previously, eligible New Starts projects were new fixed guideway projects or extensions to existing fixed guideway systems with a total estimated capital cost \$300 million or more, or that are seeking \$100 million or more in 49 U.S.C. 5309 (Section 5309) CIG program funds. The IIJA changed this eligibility to new fixed guideway projects or extensions to existing fixed guideway systems with a total estimated capital cost \$400 million or more, or that are seeking \$150 million or more in Section 5309 CIG program funds. This change is self-effectuating and is not subject to notice and comment. FTA is including this item in this document for clarity and informational purposes only.

Small Starts

Previously, eligible Small Starts projects were new fixed guideway projects, extensions to existing fixed guideway systems, or corridor-based bus rapid transit projects that have a total estimated capital cost of less than \$300 million and that are seeking less than \$100 million in Section 5309 CIG program funds. The IIJA changed this eligibility to new fixed guideway projects, extensions to existing fixed guideway systems, or corridor-based bus rapid transit projects that have a total estimated capital cost of less than \$400 million and that are seeking less than \$150 million in Section 5309 CIG program funds. This change is self-effectuating and is not subject to notice and comment. FTA is including this item in this document for clarity and informational purposes only.

Core Capacity

IIJA made changes to some of the eligibility parameters for Core Capacity projects but left other portions of the eligibility requirements unchanged. The table below shows in red text what was changed in IIJA from the prior requirements in law. It also underscores some important eligibility requirements noted in law that did not change.

49 U.S.C. 5309	49 U.S.C. 5309 as amended by IIJA
<p>Substantial <u>corridor-based capital investment</u> in an existing fixed guideway system that:</p> <ul style="list-style-type: none"> • is in a corridor that is at or over capacity; or projected to be at or over capacity within the next 5 years; • increases the capacity of a corridor by not less than 10%; and • does not include elements designed to maintain a state of good repair. <p>Grants may include acquisition of real property, acquisition of rights-of-way, double tracking, signalization improvements,</p>	<p>Substantial <u>corridor-based capital investment</u> in an existing fixed guideway system that:</p> <ul style="list-style-type: none"> • is in a corridor that is at or over capacity; or projected to be at or over capacity within the next 10 years, without regard to any temporary measures employed by the applicant expected to increase short-term capacity within the next 10 years; • increases the capacity of a corridor by not less than 10%; and • does not include elements designed to maintain a state of good repair. <p>Grants may include acquisition of real property, acquisition of rights-of-way, double tracking, signalization improvements, electrification, expanding system platforms,</p>

<p>electrification, expanding system platforms, acquisition of rolling stock associated with corridor improvements increasing capacity, and construction of infill stations. Improvement projects <u>do not include elements to improve general station facilities or parking, or acquisition of rolling stock alone.</u></p>	<p>acquisition of rolling stock associated with corridor improvements increasing capacity, and construction of infill stations. Improvement projects <u>do not include elements to improve general station facilities or parking, or acquisition of rolling stock alone.</u></p>
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First and foremost, pursuant to the portion of Section 5309 that did not change, a proposed Core Capacity project must be “a substantial corridor-based capital investment in an existing fixed guideway system.” Therefore, FTA requires Core Capacity projects to be corridor-specific rather than focused on system-wide improvements. FTA considers improvements along a trunk line with several branches to be an eligible Core Capacity corridor project.

Another portion of Section 5309 that did not change is that vehicles, station facilities, or parking improvements by themselves are not eligible Core Capacity projects. However, FTA notes that any or all those elements may be combined with other elements as part of a larger Core Capacity project.

FTA also continues to encourage project sponsors seeking CIG funds to incorporate resilience elements in their Core Capacity project design, provided the project continues to meet the requirements in law for receipt of funding.

The IIJA indicates that for a project to be eligible for Core Capacity, the project corridor must be at capacity today or reach capacity in 10 years. Through CIG policy guidance, FTA develops and explains a methodology for how project sponsors demonstrate their project corridor meets the statutory requirement. Given the change made in IIJA related to how far in the future a corridor must reach capacity to be eligible (extended from within 5 years to within 10 years), FTA is proposing to alter its methodology for making a Core Capacity eligibility determination. The table below describes FTA’s proposal of less stringent current usage requirements, reflecting the longer timeframe now allowed in the law for the corridor to reach capacity.

<p>Existing CIG Policy Guidance Demonstrating at capacity today or will be in five years</p>	<p>Proposal to Incorporate Changes Made by IIJA Demonstrating at capacity today or will be in ten years</p>
<ul style="list-style-type: none"> • Light Rail/Heavy Rail – less than 5.7 square feet/passenger in peak hour in peak direction • Commuter Rail – 95% of seats or more filled in peak hour in peak direction 	<ul style="list-style-type: none"> • Light Rail/Heavy Rail – less than 10.8 square feet/passenger in the peak hour in peak direction • Commuter Rail – 80% of seats or more filled in peak hour in peak direction

Light Rail and Heavy Rail Projects Eligibility for Core Capacity

FTA is proposing to continue to use the same, simple method to calculate peak hour, peak direction person capacity to determine whether a proposed light rail or heavy rail project corridor is at capacity today or will be within ten years. When project sponsors submit a request to enter the

Project Development phase, they must provide FTA with existing peak hour ridership in the peak direction on the existing fixed guideway corridor, the number of trains currently operated in the peak hour in the peak direction, the number of cars per train in the peak direction, and the length and width of the rail cars used on the peak hour trains in the peak direction. Using this information, FTA proposes to calculate the existing average useable space per passenger in the corridor during the peak hour going in the peak direction and compare it to a comfortable loading level of 10.8 square feet per passenger as defined in the industry-recognized “Transit Capacity and Quality of Service Manual” published through the Transit Cooperative Research Program (TCRP Report 165 - https://onlinepubs.trb.org/onlinepubs/tcrp/tcrp_rpt_165fm.pdf). TCRP research indicates 5.4 to 10.8 square feet of space per passenger is a comfortable loading level and, based on an earlier version of the Transit Capacity and Quality of Service Manual (TCRP Report 100- <https://onlinepubs.trb.org/onlinepubs/tcrp/docs/tcrp100/Part0.pdf>) represents a transit level of service of C or D.

The specific calculations FTA proposes to use in its eligibility determination for light rail and heavy rail projects include:

- $(\text{Length of railcar minus 6 feet 7 inches}) \times (\text{width of railcar minus 8 inches}) = \text{useable space of each railcar}$
- $\text{Trains per peak hour in the peak direction} \times \text{cars per train} = \text{cars per peak hour in the peak direction}$
- $\text{Cars per peak hour in the peak direction} \times \text{useable space per car} = \text{total useable space per peak hour in the peak direction}$
- $\text{Total useable space per peak hour in the peak direction} \div \text{ridership per hour on the line} = \text{useable space per passenger in the peak hour in the peak direction}$

Rather than using a simple length multiplied by width calculation to determine the total area of each railcar in the calculations above, FTA proposes to use the information from the TCRP Report 165 describing how to calculate the gross interior floor area of a railcar to determine the average useable space per railcar. The manual says for heavy and light rail cars to subtract 8 inches from the external width to account for wall thickness, and 6 feet 7 inches from the external length to account for a driver cab compartment. This takes into consideration that not all space on a railcar is useable by passengers. While FTA recognizes each vehicle configuration may be different, for simplicity of the calculation and verification by FTA, FTA is proposing to continue to use this standard calculation for all light rail and heavy rail projects, rather than system-specific and vehicle-specific calculations.

FTA also recognizes there is a range of factors that play a role in determining the capacity of a line such as station configurations, control and signal systems, junctions, yards, dwell times, fare collection methods, and vehicle configurations. However, those factors are very system-specific and not easily verifiable by FTA without extensive analysis and review. For streamlining and time-saving purposes, particularly in light of the 45-day timeframe specified in law within which FTA must make a determination about a project’s eligibility to enter the Project Development phase, FTA believes the simple calculations shown above represent an acceptable method for determining whether a project is at capacity today or will be in ten years. [Please note the above calculations are peak hour person capacity along the entire project corridor and are not based on a peak load point.] The need to improve those other items constraining capacity on the line exists only if ridership is such that additional service needs to be provided to help with crowding.

Additionally, FTA acknowledges that each transit system establishes its own load standards that guide its decisions on service planning. In the Request for Information published in July 2021, FTA asked what load standards transit systems use to see if there might be information FTA could use from the responses to develop a different method. Few respondents provided their load standard data. Regardless, to make eligibility determinations for a national funding program, FTA believes it is more appropriate to use a general industry-wide standard rather than to rely on system specific measures based on local preferences.

Commuter Rail Projects Eligibility for Core Capacity

FTA recognizes most commuter rail systems do not allow standees due to the nature of the trip length and safety considerations. Thus, FTA proposes to continue using a different calculation to determine core capacity eligibility of commuter rail projects. FTA is proposing that a project sponsor of a proposed commuter rail Core Capacity project must provide information on equipment design, cars per train, trains per peak hour and current ridership to FTA with their Project Development request that shows at least 80 percent of available seats are used in the peak hour going the peak direction. In this way, FTA proposes to determine if the proposed commuter rail project is at capacity or will be within ten years.

Ferry Projects Eligibility for Core Capacity

Section 5309 defines ferry projects as fixed guideway transit service, making them eligible for CIG funding. However, ferry projects seldom apply for CIG funding because FTA has separate ferry discretionary grant programs. FTA is not proposing a ferry project core capacity calculation at this time but welcomes feedback on how such calculations could work. FTA is instead proposing to work with ferry project sponsors on a case-by-case basis to determine whether a proposed project is eligible.

Fixed Guideway Bus Rapid Transit (BRT) Projects Eligibility for Core Capacity

At this time, FTA is not proposing a fixed guideway BRT capacity calculation, particularly because vehicle purchases alone are not eligible as a Core Capacity project and often adding additional buses can alleviate any capacity constraints in a BRT corridor. FTA is proposing to continue to work with fixed guideway BRT projects on a case-by-case basis to determine whether a proposed project is eligible for Core Capacity. FTA welcomes feedback on specifically how fixed guideway BRT projects might be evaluated in a consistent fashion for determining eligibility. Corridor-based BRT projects are not eligible in law for Core Capacity.

Verifying Proposed Core Capacity Project Increases Capacity by at Least 10 Percent

A Core Capacity improvement project must increase the capacity of a corridor by not less than 10 percent. For light rail train or heavy rail projects, FTA proposes using a calculation method similar to the one described above, where FTA evaluates peak hour person capacity in the peak direction in the corridor once the proposed project is complete and open for service to determine whether the project increases capacity by at least 10 percent as required by law. Project sponsors submit information on the estimated trains per peak hour in the peak direction, cars per train in the peak direction, and rail car dimensions that would be in place when construction on the proposed project is complete and open for service. FTA then determines whether the proposed project improves the useable space per existing passenger in the peak hour in the peak direction by at least 10 percent.

Similarly, for commuter rail projects, FTA proposes using a calculation method similar to the one described above, where FTA evaluates the peak hour peak direction seated load after the proposed project is complete and open for service to determine whether the project increase capacity by at least 10 percent. Project sponsors submit information on equipment design, train consists, and trains per peak hour that would be in place when construction on the proposed project is complete and open for service.

For all types of Core Capacity projects, FTA proposes to maintain the current requirement that service must increase when project construction is complete rather than at some point further in the future. In other words, the project must provide for capacity improvements by itself and not just provide for distant horizon year improvements that can result only if additional improvements apart from the Core Capacity project are undertaken.

FTA proposes to maintain the current requirement stating that if the proposed Core Capacity improvements are being implemented by the project sponsor in distinct phases, each phase is considered a separate Core Capacity project. Each phase is evaluated on its own merits to verify it will result in service improvements that represent a capacity increase of at least 10 percent.

Differentiating Core Capacity from State of Good Repair

Section 5309 provides that Core Capacity projects may not include elements designed to maintain a state of good repair. However, Core Capacity projects are likely to be intertwined with improvements to bring an existing line into a state of good repair (SGR). When a transit agency begins contemplating rehabilitation and replacement projects, it normally also considers upgrades and improvements. Because Section 5309 provides that Core Capacity projects cannot fund elements related to SGR, FTA and the project sponsor must differentiate the costs. FTA's SGR program circular (<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/stategood-repair-grant-program-guidance-and-application>) indicates SGR projects may include elements to replace and rehabilitate: rolling stock, track, line equipment, and structures, signals and communications, power equipment and substations, passenger stations and terminals, security equipment and systems, maintenance facilities and equipment, administration buildings, support vehicles, and operational support equipment (including computer hardware and software). SGR projects can also include preventative maintenance and the development and implementation of a transit asset management plan. SGR projects may not include expenditures that are needed for new or expanded service.

FTA believes there will often be cases where a project sponsor will propose to undertake a major construction project that involves both Core Capacity and SGR elements, and that the sponsor may seek both Section 5309 discretionary Core Capacity and 49 U.S.C. § 5339 formula SGR funds for the project. FTA allows such a combination of FTA funding for such projects. For purposes of determining what costs are eligible for which type of FTA funds, FTA proposes to require project sponsors to differentiate early in the Project Development phase the percentage of costs in each Standard Cost Category (SCC) line item associated with capacity improvements versus the percentage associated solely with SGR replacements and rehabilitations. For example, if the project includes straightening and relocating track in some places to improve travel speeds and increase train throughput but also rehabilitating track, the track being moved may be considered a core capacity element while the track remaining in its original location and simply being rehabilitated would be considered an SGR element. Other examples include station expansions and relocations

and signal and control system upgrades that allow for either additional train throughput or longer trains versus station rehabilitations that do not allow for improved service and capacity. During the Project Development phase, FTA is proposing that the project sponsor submit a proposed accounting of SGR elements versus core capacity elements for the project to FTA for review and approval. Once FTA and the project sponsor agree on a reasonable accounting approach, FTA is proposing the percentages for each SCC line item would be “locked-in” with little opportunity to revise them in the future unless special extenuating circumstances arise. This is to guard against continuous recalculations that could delay a project from moving forward, and from recalculations meant solely to try to improve an evaluation criterion calculation.

Existing Capacity Needs Criterion Ratings Thresholds for Core Capacity Projects

The breakpoints for light rail and heavy rail Core Capacity projects for the Existing Capacity Needs evaluation criterion are proposed to be based on transit passenger levels of service (LOS) outlined in the previous edition of the Transit Cooperative Research Program Transit Capacity and Quality of Service Manual (TCRP Report 100). Because LOS is used by USDOT when discussing and evaluating highway projects, FTA believes it worthwhile to incorporate the past manual’s information on transit service LOS into the breakpoints for this criterion even though the more recent TCRP Report 165 eliminated the transit LOS table. FTA has established the breakpoints using the parameters outlined in TCRP Report 100 for LOS C, D, E, and F. FTA does not anticipate assigning medium-low or low ratings equivalent to LOS B and A since the corridor would not be eligible for Core Capacity funding if it operated at those LOS. Below is a table comparing the breakpoints in the existing CIG policy guidance versus what is now being proposed by FTA for comment:

LRT/HRT Existing space per passenger in peak hour in peak direction in the corridor	Existing Capacity Needs Criterion Ratings Thresholds	Proposed Capacity Needs Criterion Ratings Thresholds
High (TCRP Manual LOS F)	Less than 3.2	Less than 3.2
Medium-High (TCRP Manual LOS E)	Between 3.2 and 5.3	Between 3.2 and 5.3
Medium (TCRP Manual LOS C/D)	Between 5.4 and 5.7	Between 5.4 and 10.8
Medium-Low	NA	NA
Low	NA	NA

Commuter Rail Seats filled in peak hour in peak direction	Existing Capacity Needs Criterion Ratings Thresholds	Proposed Capacity Needs Criterion Ratings Thresholds
High	> 105%	≥ 100%
Medium-High	100 - 105%	90 - 99%
Medium	95 - 100%	80 – 89%
Medium-Low	NA	NA
Low	NA	NA

Demonstrating Progress Toward Transit Asset Management Targets

The IIJA introduced a new requirement to receive a CIG grant award. Specifically, 49 U.S.C. § 5309(c)(1)(C) states that when FTA is making a CIG grant award it must determine that, “the applicant has made progress toward the performance targets in section 5326(c)(2)”. 49 U.S.C. § 5326 (Section 5326) requires FTA to establish SGR performance measures and requires all 49 U.S.C. Chapter 53 FTA recipients and subrecipients to set transit asset management performance targets annually based on the FTA SGR measures and to report annually to FTA their progress toward meeting the performance targets established. For complete information on FTA’s Transit Asset Management (TAM) requirements based on Section 5326, please see <https://www.transit.dot.gov/TAM>.

FTA established SGR performance measures in its Transit Asset Management final rule for four areas (see <https://www.govinfo.gov/content/pkg/FR-2016-07-26/pdf/2016-16883.pdf>):

- Rolling stock. The performance measure for rolling stock is the percentage of revenue vehicles within a particular asset class that have either met or exceeded their useful life.
- Infrastructure: rail fixed-guideway, track, signals, and systems. The performance measure for rail fixed guideway, track, signals, and systems is the percentage of track segments with performance restrictions.
- Facilities. The performance measure for facilities is the percentage of facilities within an asset class, rated below condition 3 on the TERM scale.
- Equipment: (non-revenue) service vehicles. The performance measure for non-revenue, support-service and maintenance vehicles equipment is the percentage of those vehicles that have either met or exceeded their useful life.

The TAM targets based on the above SGR measures are set each year by the FTA recipients and subrecipients and reported to FTA through the National Transit Database (NTD). The recipients also report their progress toward meeting the TAM performance targets each year to the NTD. NTD reporting deadlines are based on each agency’s fiscal year end date, with submittals to the NTD due four months after the agency’s fiscal year ends. Reporting on the TAM targets and performance to the NTD began in a limited fashion in fiscal year 2018, but complete data for all reporters to the NTD (TAM targets and performance data) are currently only available only for FY2019 and FY2020.

Rolling Stock performance targets are set by agencies based on the percent of revenue vehicles expected to meet or exceed their useful life. For each vehicle type, per NTD definition, reported across all modes, transit agencies must set an individual target. An agency is required to report an asset to the NTD in the fiscal year that the agency begins using the asset for public transportation service. Agencies should not report assets that are being assembled, assets under construction, or assets that are in testing at the end of the fiscal year.

Given the nature of NTD reporting deadlines, the limited data NTD currently available, and the fact that targets for FY2021 and FY2022 have already been set by agencies with no advanced notice that the targets and performance against those targets would be used in this fashion for CIG grant determinations, FTA is proposing the following method of determining whether a CIG project is eligible for a CIG grant award under this new provision in IIJA:

Through December 31, 2023

- Until January 2024, FTA would gather all years of available NTD data on TAM targets and performance for rolling stock vehicle asset classes for the entity that will be operating and maintaining the proposed CIG project. In some cases, this may be a different entity than the CIG project sponsor/grant recipient.
- If at least one of the asset classes has met or done better than its target in at least one of those years, FTA can determine that progress toward meeting the targets has been demonstrated and the CIG grant can be awarded.
- If none of the asset classes has met or done better than its target in those years, then FTA cannot determine that progress toward meeting the targets has been demonstrated and a CIG grant cannot be awarded.
- FTA seeks public comment not only on the above proposal but on any alternative methodologies on demonstrating progress on toward TAM targets.

On or After January 1, 2024

- From January 2024 and onward, FTA would gather the most recent three years of available data from the NTD on TAM targets and performance for rolling stock vehicle asset classes for the entity that will be operating and maintaining the proposed CIG project.
- If at least one of the asset classes has met or done better than its target in at least one of those years, FTA can determine that progress toward meeting the targets has been demonstrated and the CIG grant can be awarded.
- If none of the asset classes has met or done better than its target in those years, then FTA cannot determine that progress toward meeting the targets has been demonstrated and a CIG grant cannot be awarded.
- FTA seeks public comment not only on the above proposal but on any alternative methodologies on demonstrating progress on toward TAM targets.

Although targets and performance are reported to the NTD on other asset classes besides rolling stock vehicles, FTA has found that NTD data for the other asset classes is difficult to use for this CIG purpose due to data anomalies and inconsistencies. Thus, FTA is proposing to use only performance on rolling stock vehicle asset classes to make this CIG grant award determination.

Targets and performance can vary widely from year to year for an individual asset type. For example, an agency may have a target in one year of 10 percent or less of its standard bus fleet being beyond its useful life but in the following year that target can be changed to a much higher or lower percentage. One reason for this is because transit agencies often purchase vehicles in bulk periodically to gain better pricing rather than purchasing in a more steady and consistent annual flow. The annual targets established by transit agencies, therefore, take into consideration the age of vehicles in each previous bulk purchase and the anticipated timeframe of when resources may be available to replace those vehicles with another bulk purchase. Because of the potential variability in targets and performance, FTA has chosen to measure progress based on performance against an agency's chosen targets. FTA is seeking comment, however, on alternative methodologies to measure progress towards TAM performance targets.

Bundles of CIG Projects

The IIJA created a new eligibility under the CIG program known as project bundles. There are two types of bundles outlined in IIJA – immediate bundles and future bundles. As a first step, FTA is

proposing in this document how a project sponsor may seek entry of a bundle of CIG projects into the first phase of the CIG process known as Project Development. FTA's proposals for implementation of the remaining steps in the CIG process for bundles, including the evaluation process and the award of letters of intent and construction grants, will be addressed in the future comprehensive CIG policy guidance update.

Based on changes made in IIJA, 49 U.S.C. 5309(i) describes CIG bundles in two ways:

- 49 USC 5309(i)(1) – a future bundle of CIG projects comprises an initial CIG project seeking entry into Project Development as well as other CIG projects being proposed by the same project sponsor that will be ready to enter the Project Development phase within five years.
- 49 USC 5309(i)(2) -- an immediate bundle of CIG projects comprises multiple CIG projects being proposed by a single project sponsor who is seeking entry of the projects into the Project Development phase at the same time.

Section 5309 specifies that each of the projects in a future or immediate bundle must be individually eligible as a New Starts, Small Starts, and/or Core Capacity project and that all of the projects must be included in the metropolitan transportation plan as required by 49 U.S.C. 5303. Section 5309 also says the bundling of projects must enhance or increase the capacity of the transportation system of the applicant or the region the applicant serves and must streamline procurements for the applicant or enable time or cost savings for the projects. Finally, Section 5309 states that a Project Development request submitted for a future or immediate bundle must include each proposed project's estimated cost and CIG share.

Based on these statutory requirements, FTA is proposing that the information described below must be submitted by a project sponsor seeking entry into Project Development for an immediate or future bundle of CIG projects. This FTA proposal mirrors very closely the information that FTA currently requires a project sponsor to submit when seeking entry into Project Development for a single New Start, Small Start, or Core Capacity project. However, there are a few key differences due to requirements outlined in Section 5309 related to bundles. For ease of public comment, these differences in what is required with a routine Project Development request for a bundle versus a single CIG project are highlighted in red text.

FTA is proposing to require that project sponsors seeking to enter a bundle of CIG projects into the Project Development (PD) phase submit as their application a short letter addressed to the FTA Associate Administrator for Planning and Environment that includes the following information. The information in red text is information unique to bundle requests. All other information contained in the list below is similar to the information currently required of individual New Starts, Small Starts, and Core Capacity projects:

- The name of the project sponsor, any partners involved in the project corridor studies, and the roles and responsibilities of each;
- Identification of a project manager and other key staff that will perform the PD work for each corridor in the bundle;
- A brief description and clear map of the project corridors being studied, including their length and key activity centers;
- Electronic copies of or weblinks to prior studies done in the corridors, if any;
- A brief description of current levels of transit service in the corridors today;

- A brief description of the transportation problem in the project corridors or a statement of purpose and need for transportation improvements in the corridors;
- Identification of the proposed CIG projects and any alternatives if any are being considered;
- Identification of the type of CIG project for each project in the bundle – New Starts, Small Starts, or Core Capacity – and the information needed to demonstrate eligibility for that type of project.
- Identification of the estimated capital cost for each project in the bundle and the requested CIG share of each project in the bundle as required by law;
- The anticipated cost to complete PD, not including the cost of any work done prior to officially entering the PD phase:
 - For a future bundle the request need only specify the cost of the PD work for the initial project in the bundle; or
 - For an immediate bundle the request should specify the cost of the PD work for each project in the bundle.
- Identification of the non-CIG funding available and committed to conduct the PD work, including documentation demonstrating commitment of funds for the PD work (e.g. Board resolutions, adopted budgets, approved Capital Improvement Programs, approved Transportation Improvement Programs, letters of commitment)
 - For a future bundle this involves documenting funding committed for the PD work for the initial project in the bundle;
 - For an immediate bundle this involves documenting funding committed for the PD work for all projects in the bundle.
- An anticipated draft timeline for completing the following activities for each project in the bundle (which should demonstrate the ability to complete the PD work within two years as prescribed in law for New Starts and Core Capacity projects in the bundle):
 - Compliance with NEPA and related environmental laws;
 - Selection of a locally preferred alternative (LPA);
 - Completion of the activities required to obtain a project rating under the evaluation criteria outlined in Section 5309;
 - Completion of the readiness requirements for entry into Engineering as described further below in this guidance for any New Starts or Core Capacity projects in the bundle;
 - Anticipated receipt of a construction grant agreement from FTA; and
 - Anticipated start of revenue service.
- A narrative, and any supporting information, of how the proposed bundle of CIG projects meets the eligibility requirements noted in law:
 - How it streamlines procurements or enables cost or time savings; AND
 - How it enhances or increases the capacity of project sponsor's total transportation system or the transportation system of the region the applicant serves.

Again, FTA is proposing that a project sponsor seeking entry of a future or immediate bundle of CIG projects into the Project Development phase submit a short letter describing the items above. There is no specific format the letter must follow. It simply must address each of the items listed above. A large, lengthy submittal is not required. Electronic submissions are preferred by FTA. Mailed submissions can get delayed due to security steps in place at USDOT.

Also, as noted in the list above with the elements required in a PD request, FTA is proposing that project sponsors must have funds available and committed to begin the PD work for the initial project in a future bundle and for all projects included in an immediate bundle. Funding available one or more years in future does not qualify as available and committed for entry into PD, even if it is programmed in a Transportation Improvement Plan, agency Capital Improvement Program, or future fiscal year budget document. Section 5309 is structured for projects to make quick progress and not linger in the CIG program, which can happen only if funding is available to begin performing the PD work immediately upon entry into Project Development.

Requests to enter PD may be submitted to FTA at any time throughout the year, whenever the project sponsor believes the project is ready for entry. FTA discourages project sponsors from submitting PD requests during the early fall, which is the production time for FTA's Annual Report on Funding Recommendations, because processing could get delayed due to the large workload being handled by FTA at that time. Importantly, there is no advantage to a project sponsor in submitting a PD request during the Annual Report cycle, as projects just entering the program are not considered candidates for funding recommendations because they are not being evaluated and rated. Often project sponsors believe being listed in the Annual Report as one of the projects in the CIG program, even though the project has not yet been evaluated or rated by FTA, gives the project credibility. Thus, they push to submit their request during the production cycle for the Annual Report. FTA maintains a webpage listing all current projects in the program. As soon as FTA notifies a project sponsor that it has been granted entry into PD, the project is displayed on FTA's webpage making it visible to Congress and any others who may be interested. Additionally, FTA briefs congressional staff monthly on all projects in the program, including notifying them of new entrants to the program.

If a project sponsor with one or more projects already in the CIG process wishes to now be considered for a CIG bundle because that sponsor is pursuing multiple CIG projects either now or within the next five years, FTA is proposing they submit the same letter as described above explaining the bundle of CIG projects, their timeframes, etc. The projects already in the CIG program would remain in the phase of the process they are in currently.

Upon receipt of a request to enter PD for a bundle, FTA reviews the request to ensure it contains all the information listed above. FTA communicates via email with the project sponsor, identifying any missing information or specifying the request is considered complete. Upon receipt of complete information, FTA processes the request and notifies Congress and the project sponsor in writing whether the information was deemed sufficient for entry into PD for the initial project in a future bundle or all projects in an immediate bundle.

In the future, a more comprehensive CIG Policy Guidance update will be released for public comment where FTA will propose how bundles of CIG projects can proceed through the evaluation and rating process and obtain a letter of intent or construction grant award. While Section 5309 requires each project in a bundle to be evaluated individually according to the applicable statutory New Starts, Small Starts, or Core Capacity criteria, it also allows FTA to propose in policy guidance potential changes to the measures used under each evaluation criterion to enable simultaneous evaluation of multiple projects. FTA welcomes ideas and suggestions on how the evaluation criteria outlined in law and guidance might be structured to allow simultaneous evaluation of multiple projects in a bundle.