AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

May 8, 2015

U.S. Department of Transportation
Docket Management Facility
Room W12-140
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590-0001

RE: Docket No. FTA-2015-0007-0001

Dear Docket Clerk:

On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), I write to provide comments on the Federal Transit Administration's (FTA) request for comments on its Proposed Interim Policy Guidance for the Capital Investment Grant Program, published on April 8, 2015 at 80 FR 18796.

About APTA

APTA is a non-profit international trade association of more than 1,500 public and private member organizations, including public transit systems; high-speed intercity passenger rail agencies; planning, design, construction and finance firms; product and service providers; academic institutions; and state associations and departments of transportation. More than ninety percent of Americans who use public transportation are served by APTA member transit systems.

General Comments

APTA commends the FTA for a number of advances represented in the Proposed Guidance. We believe the expanded use of warrants, which provide predictable and understandable measures with minimal burden to calculate and review, is a positive step for the continued development of the Section 5309 Capital Investment Grant process.

Project Advancement

The draft proposes to lock-in the Section 5309 Capital Investment Grant funding amount at the level requested with entry into Engineering. APTA believes this is too early in the process. It increases the overall risk to the FTA and the project sponsor because a cost estimate at entry into engineering is not as robust as a cost estimate based on a higher percent design. A more measured commitment timeline will allow a thorough exploration of risks and appropriate costs and contingencies. Otherwise, the two-year deadline of Project Development completion could force projects to apply higher than needed contingencies, driving up the cost and committing scarce 5309 funds where they may not be necessary. The industry strongly suggests that the goals of successful project delivery on-time and on-

budget will be better supported by having Section 5309 Capital Investment Grant funding amounts locked in - at the earliest - at 65-85% design, but preferably at the awarding of the Full Funding Grant Agreement (FFGA).

The draft proposes that Small Starts projects must be recommended in the Annual Report before application for a construction grant agreement. Because the Annual Report provides only one chance per year and has an approximately five or six month timeline between when information is due in the fall and when the recommendations are released, that draft process would introduce a minimum of five and potentially up to seventeen months of delay. This impact on project schedule could be mitigated by not finalizing the financial commitment rating until just before execution of a construction grant agreement. The financial commitment should be fully informed by a complete cost estimate with a good understanding of risk and contingency needs as well as already incorporated environmental mitigations. Thus, financial commitment should occur near the end of Project Development and the rating of such commitment should do so as well.

To meet the statutory two-year timeline for Project Development, the draft would require project sponsors to notify FTA at least six months before requesting entry into Engineering. FTA should confirm that this six month notice is not to be counted within the statutory two-year timeline. The list of required documents needed for requesting entry into Engineering includes many items such as a Project Management Plan and sub-plans, Contracting Plans, and Identification of Third Party Agreements that go well beyond the required documentation to receive a rating. In order to not overly compress the time for development of these important project management materials, the time should be excluded from Project Development. Project sponsors should instead submit these plans during the Engineering phase.

The draft proposes to allow for an expedited review process for reviewing the project definition, scope, cost, schedule, and the Project Management Plan and sub-plans. APTA supports the expedited review process because it will help clear the pipeline of projects from sponsors with a proven history of delivering projects on time and on budget.

Warrants

APTA supports and applauds the expanded use of warrants, as proposed in the guidance. The expanded warrants will allow project sponsors to apply to the Capital Investment Grant Program without conducting the expensive and time-consuming analysis that was previously required. In addition, APTA proposes that the FTA expand the use of warrants for New Starts projects further, to the Environmental Benefits, Economic Development, and Land Use criteria. We also recommend that the warrants that are currently proposed for New Starts be applicable to Core Capacity.

The draft would limit warrants to projects expected to cost under $500 million. We believe this is too restrictive, considering all but one of the current New Starts projects are over $500 million dollars. APTA suggest that there be no upper limit on the total project cost when applying warrants, as long as the project still meets the existing daily ridership breakpoints. This would be more consistent with MAP-21.

We note the statutory requirement that agencies must be in a state of good repair to apply for any warrant. Given the absence of a regulatory definition of state of good repair, we recommend FTA assume applicant agencies are in a state of good repair and move forward on warrants in the interim. This approach would be similar to FTA's post-MAP-21 assumption that in the absence of a means to measure congestion relief, all projects would receive an automatic medium. In addition, the APTA State of Good Repair Standards Committee has developed a simple and straightforward definition of a State of Good Repair: "State of Good Repair is a condition in which assets are fit for the purpose for which they were intended." We encourage FTA to adopt this definition, which is discussed in detail in our comments on Advanced Notice of Proposed Rulemaking on Safety and Asset Management.

The draft proposes a requirement that if any warrant is applied to a project, all of the related warrants must be used. APTA believes this is too restrictive. Project sponsors should have the freedom to select which warrants to apply. Moreover, the draft proposes that once an agency chooses to apply a warrant to a project, it cannot reevaluate the project later in the process for a higher rating. We suggest allowing projects to apply a warrant and reevaluate later in the process if new information becomes available that would significantly alter the ratings of the project.

Previously adopted guidance established a simplified Environmental Benefit calculation. While we support the simplified Environmental Benefit calculation, we reiterate our past comments that the actual environmental benefits of a transit network extend far beyond a reduction in vehicle miles traveled. We recommend FTA also consider information on greenhouse gas emission reductions and long-term trip reductions, due to the "trip not taken," resulting from a walkable, bikeable, and transit-friendly urban environment enabled by a transit network.

In addition, the use of VMT reduction as the primary indicator of environmental benefits, disregards the significant and well-documented environmental benefit of dense energy-efficient land use that public transportation enables and does not give credit to projects that support communities with low carbon footprints. Denser communities also create shorter trip lengths and therefore fewer VMTs, even for people taking those trips in automobiles. More mature regions with well-established transit systems and a high transit market share are more likely to see shifts from other parts of the transit system rather than from auto to transit, so the use of VMT reduction puts large cities at a comparative disadvantage.

Moreover, use of VMT as the basis for calculating environmental benefits seems to contradict findings of TCRP's January 2012 report "Assessing and Comparing Environmental Performance of Major Transit Investments." Chapter 5 of that report summarizes the most promising metrics of environmental performance, citing GHG emissions per passenger-mile or project air pollutant emissions per passenger-mile. While VMT reduction is one measure listed in the report, it is incorrect to assert that this measure is based on the recommendations of the TCRP report. We strongly disagree with this interpretation.

To better capture a broader range of environmental benefits, we urge the FTA to consider using GHG emissions per passenger-mile or energy use per passenger-mile to calculate the environmental benefits of transit projects. These inputs are easily obtainable, and normalizing through the use of passenger miles would reflect the relative scale and utilization of projects. This method also aligns with APTA Recommend Practices on quantifying the environmental impact of transit systems.

Criteria

While we support congestion relief criterion, we believe that new ridership is an inadequate measure to capture all types of congestion relief for Core Capacity projects and some New Starts projects. The goal of Core Capacity projects is to relieve congestion on the transit system, which in turn provides more capacity for travel. We propose that for Core Capacity projects that the Congestion Relief criteria measure the congestion relief in the transit corridor. APTA suggests using the change in space per passenger as the basis for measuring congestion relief for Core Capacity projects. For New and Small Starts projects aimed at relieving transit congestion on overcrowded routes, we recommend applying the change in passenger space per square foot to the overcrowded route or routes that will see improved reliability when the project is complete.

New ridership is an inadequate measure for New Starts and Small Starts projects because the true congestion relief goes far beyond the mode shift to transit. Most measures of congestion relief do not treat the transportation system as an integrated system, where modal preferences can change with the weather. Because travel habits change and most peak-hour travel is to or from the urban core, we should focus on throughput of people to the urban core. As an example, if a new transit line is built and removes drivers from the highway, highway travel time should initially decrease. Over time, as people learn there is reduced traffic on the highway, drivers will tend to shift from using side streets to the highway. This reduces congestion on the side streets and may actually increase highway travel times. However, a focus on throughput of people to the urban core will capture the congestion relief enabled by the additional transit. The integrated transportation system is now able to move more people into the urban core in less time. APTA suggests focusing the Congestion Relief criteria on the throughput of people in the corridor to or from the urban core.

APTA believes the affordable housing measure is an important part of the Land Use criterion and allows for better integrating of transit and affordable housing major investments. This methodology is too new to tell if it has an impact on transit or affordable housing location decisions as both take many years to plan, finance and construct. We are concerned that using a ratio may not accurately portray housing availability for all communities. For example, if there is only one affordable housing unit in the county and it happens to lie in your corridor, a project would be evaluated highly in this aspect of the Land Use criterion. However, if there are thousands of units of affordable housing in the corridor, with service to an area with a higher percentage of affordable housing units, the project would score poorly in the Land Use criteria. FTA should continue to allow project sponsors to provide supplemental information to describe these local dynamics. APTA suggests using the absolute number of affordable housing units in the corridor or a normalized total of affordable housing units per incremental rider to avoid skewing ratings through this criteria. Alternatively, FTA could conduct a qualitative evaluation of the policies in place that support maintaining or increasing the number of affordable housing units in the corridor.

Core Capacity

APTA supports using the Transit Capacity and Quality of Service Manual standard for determining a corridor is at capacity, specifically for Core Capacity project eligibility requirements. This is an improvement over previous requirements because it returns focus to the passenger and not simply transit vehicle throughput. However, APTA suggests determining capacity based on the passenger carrying capacity physically recommended on the line using the Transit Capacity and Quality

of Service Manual, not necessarily the current service capacity. Some examples of physical elements that can constrain line capacity include flat junctions, terminal layouts, constrained yards, signal design, limited power capacity, and lengthy cycle time. If additional capacity could be added simply by purchasing and operating additional rolling stock, the line should not be considered at capacity. If transit operators already run more trains than is recommended based on line capacity, this should be reflected as "over capacity" not the baseline for capacity. Similarly, passenger loading should be considered to be "over capacity" if loading is already over the guidelines described below.

APTA supports using a simplified metric for determining passenger capacity as proposed in the interim guidance. However, APTA has found the "area of each train car" calculation method does not accurately reflect how transit vehicles function across agencies. Simply multiplying the length and width of a rail car on its own does not give an accurate enough estimate for usable internal square footage because there are spaces inside the vehicle that are not usable for passengers (e.g., cabs, equipment cabinets, steps, etc.). We propose using the basic length x width calculations, but updating the level of service thresholds to consider "usable internal square footage." APTA has found that applying a percentage of useable space to the length multiplied by width calculation would better reflect the actual space per passenger.

APTA suggests that FTA recognize the variation in loading standards between various transit agencies. Many commuter rail agencies establish a standard of no standees due to very long trips. For these agencies, APTA has found that demonstrating the occupancy of 95 percent of the seats available in the peak hours going in the peak direction is an adequate measure to determine a commuter rail line is at capacity. However, we suggest keeping the standard flexible to allow for alternative calculation methods in special circumstances.

Although APTA recognizes the variety of Bus Rapid Transit (BRT) corridors in existence today, we suggest using a similar capacity standard for Bus Rapid Transit and commuter rail. Some agencies assume that a Bus Rapid Transit vehicle capacity is a seated load, much like commuter rail. Unlike commuter rail, it is not the length of the trip that drives this assumption, but the safety perceptions of passengers travelling at relatively high speeds in a transit vehicle which is not connected to a track. Because of this, APTA recommends measuring a Bus Rapid Transit corridor is at capacity by demonstrating the occupancy of 95 percent of the seats available in the peak hours going in the peak direction. However, FTA should remain flexible in this definition because it does not apply to all Bus Rapid Transit corridors.

APTA suggest that FTA develop a station specific metric to determine whether a station or series of adjacent stations are at capacity, in order to provide guidance for one of the listed Core Capacity uses, namely infill stations and also to determine whether crowding at existing stations increases dwell times, reducing throughput. By including infill stations as a use for Core Capacity funds, Congress has indicated its belief that stations over capacity may need to be expanded or new stations need to be added. As such, some methodology separate from passenger line capacity is required to evaluate stations over capacity. We recommend FTA work with the industry to identify methodologies for measuring station capacity.

FTA should clarify that a corridor's capacity is measured by the space per passenger at the peak load points and not at every station along the entire corridor.

The proposed differentiation between Core Capacity and State of Good Repair elements for a Core Capacity project is workable for the purpose of the grant program, and we agree that it is generally feasible to differentiate elements that allow for greater throughput or passenger space from those that do not markedly increase capacity. We note, however, that any capital projects that upgrade technology will most likely increase capacity. Moreover, station, depot, yard or other improvements needed to achieve a state of good repair often involve measures to accommodate the growing ridership associated with capacity improvement projects. Consequently, overlap between capacity needs and state of good repair occurs if, using APTA's proposed definition, an asset cannot meet its intended purpose due to existing or near-term projected demand.

We request that FTA correct its characterization of eligibility requirements under the Section 5337 State of Good Repair formula program. The 5337 Circular states that funds may not be used for for projects that "solely expand capacity or service," while the draft guidance states, 5337 funds may not be used for "projects that include expenses for new or expanded services." This is am important distinction. As transit ridership increases across the country, state of good repair projects should allow for increased capacity or expanded service, so that assets can be fit for their intended purpose given demand for transt service.

For New Starts projects, the proposed guidance allows for the cost of "enrichments" to be subtracted from the capital cost that is used to rate projects for Cost Effectiveness and Environmental Benefits criteria. APTA believes that "enrichments" for Core Capacity projects should be treated the same way. We support FTA's clear definition of which specific measures constitute "enrichments."

We support using a space per passenger calculation similar to those defined in the Transit Capacity and Quality of Service Manual as the criteria for Capacity Needs. However, APTA believes the breakpoints of the Capacity Needs criterion for Core Capacity are too high because the simple use of exterior length and width measures overestimates the interior space available to passengers. Furthermore, the Transit Capacity and Quality of Service Manual established these thresholds for space per passenger based on a different calculation methodology that utilizes the usable internal square footage. This essentially renders them useless as breakpoints when applied to FTA's new methodology. Few project sponsors would qualify for the, "less than 3.2," high rating in the draft. APTA suggests updating the methodology to account for "usable standing space," then setting the breakpoints for each level to correspond with industry practice. While a more complicated calculation, a simple template with fewer than 10 inputs could be developed to more accurately calculate crowding across agencies with different vehicle types. This would allow projects that improve the capacity of corridors that the industry has traditionally considered chronically overcrowded to rate above a medium. Additionally, we propose there be a separate set of breakpoints for commuter rail because capacity is measured by seats per passenger and not space per passenger.

Bus Rapid Transit

The draft reiterates the eligibility requirements in MAP-21 for fixed guideway Bus Rapid Transit (BRT) projects. One of these is that the project "represents a substantial investment in a single route in a defined corridor or subarea." We suggest that FTA offer guidance interpreting "single route"

to allow trunk lines with several branches to be eligible provided they meet the other eligibility requirements (separated right-of-way, features that emulate the services provided by rail) in MAP-21. This flexibility would allow transit agencies to develop fixed guideway systems that efficiently meet the needs of complex corridors.

The allowance for Corridor Bus Rapid Transit in Small Starts Projects is an improvement in the guidance. APTA believes this allowance will prevent sponsors from installing fixed guideway infrastructure where it is unwarranted. In addition, it allows agencies to capture in-place ridership and land use without building a dedicated fixed guideway.

The draft suggests the definitions in law for fixed guideway BRT and corridor based BRT are the same, other than the requirement for a fixed guideway. The statutory definition for corridor based BRT does not contain the requirement for a single route. The guidance should recognize this added flexibility and not require corridor based BRT to "include all the same characteristics defined for fixed guideway BRT except the separate right-of-way."

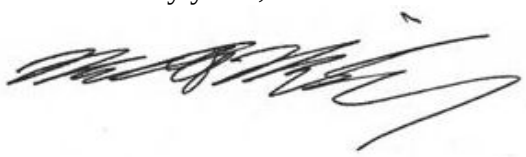
Other

Building projects and transit systems that are resilient to climate change is essential for the continuous functioning of transit agencies in the future. APTA supports FTA's recognition of the need for resiliency measures.

Although, the Program of Interrelated Projects was left out of this guidance, APTA is still very much in favor of developing the program.

We appreciate the opportunity to assist FTA in this important endeavor. For additional information, please contact James LaRusch, APTA's chief counsel and vice president corporate affairs, at (202) 496-4808 or jlarusch@apta.com.

Sincerely yours,



Michael P. Melaniphy
President & CEO

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