

A FRESH START FOR NEW STARTS

HEARING
BEFORE THE
SUBCOMMITTEE ON
HOUSING, TRANSPORTATION, AND COMMUNITY
DEVELOPMENT
OF THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

ON

EXAMINING THE IMPORTANT ROLE OF THE FEDERAL NEW STARTS
PROGRAM IN FUNDING TRANSIT PROJECTS ACROSS OUR NATION

JUNE 3, 2009

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WEDNESDAY, JUNE 3, 2009

U.S. SENATE,
SUBCOMMITTEE ON HOUSING, TRANSPORTATION, AND
COMMUNITY DEVELOPMENT,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Subcommittee met at 2:03 p.m., in room SD-538, Dirksen Senate Office Building, Senator Robert Menendez (Chairman of the Subcommittee) presiding.

OPENING STATEMENT OF SENATOR ROBERT MENENDEZ

Senator MENENDEZ. This hearing will now come to order. Good afternoon, everyone. Today the Banking Subcommittee on Housing, Transportation, and Community Development will have its first hearing on public transit as we prepare to write the reauthorization of the surface transportation bill. I want to thank Chairman Dodd and Senator Shelby for their continued leadership on transit issues, and I look forward to working with them and Senator Vitter on crafting a strong transit title.

Public transit has not always had the easiest time in recent years. The previous administration and many in Congress seemed more concerned about transit justifying its existence rather than trying to make transit flourish. This has meant an increasingly onerous system for transit agencies to get through in order to get funding. Projects have to be justified on a rigid cost/benefit analysis that can often ignore factors like economic development.

Transit agencies have had to do stringent modeling on projected ridership 2 years out, even though these systems will be in service for decades. And often, as new requirements have been added, agencies have had to go back and redo work already completed to meet new standards.

These new requirements have resulted in the new starts process taking 15 to 20 percent longer, according to the FTA, and these delays, along with the added costs associated with them, mean that we are not building new transit projects at the rate we could or should be.

I want to be clear on one point. I am not questioning the excellent work of the Federal Transit Administration. They have done a remarkable job of promoting transit in recent years. What I am saying to the FTA and to the transit agencies is that now, it appears to me, is the time to unleash transit. The leadership of President Obama, Chairman Dodd, and the new FTA Administrator Peter Rogoff means that transit is no longer something we need to

justify; it is something we need to understand is central to many of our Nation's core policy issues.

Transit can help us rebuild our economy by creating jobs and fostering smart economic growth. Transit systems can help us out of our housing crisis because new transit can increase property values and lower rates of foreclosure. Transit can help us improve our energy security by lowering our consumption of oil. And transit can also help us lower greenhouse gas emissions to help solve our climate crisis. There are few things that bring together all of those possibilities as public transit can.

I have personally seen these benefits in the success of the Hudson-Bergen Light Rail in New Jersey, which created new riders, new ratables, new businesses and investment, new employment opportunities, and environmental improvement all along New Jersey's Gold Coast. And I could continue to extol the benefits of transit, but instead I will let the decisions of our constituents speak for themselves.

Transit ridership is higher now than it has been in 40 years. Communities around the country, including Denver, Houston, Dallas-Fort Worth, Salt Lake City, Atlanta, Sacramento, Norfolk, and Charlotte have all made substantial investments recently in transit. So it is not just a question of meeting our policy goals; it is also a question of meeting increased demand for transit.

This administration has already signaled its intent to meet this demand in the Recovery Act, which had \$750 million in transit funding, created \$1.5 billion in additional commitment authority for new transit projects, and I am sure that transit will play a significant role in the \$1.5 billion Transportation Investment Generating Economic Recovery Discretionary Grants program.

So as I see it, our job for this reauthorization is to continue the work of the Recovery Act and provide the funding and a more streamlined process to ensure transit can meet its potential. When we are done, transit can come out of the shadows and finally be a proud part of the country's transportation policy and its future.

Seeing no other colleagues at this point—we will recognize them when they get here—let me turn to our witnesses.

Ms. Nikki Clowers is currently the Acting Director of Physical Infrastructure with the Government Accountability Office. In this role, she has led evaluations examining the Federal Transit Administration's New Starts program. Ms. Clowers has been with GAO for 11 years and has done a lot of work reviewing the New Starts program, so we look forward to learning from their insights.

Mr. Gary Thomas is the President and Executive Director of the Dallas Area Rapid Transit (DART). In this role, Mr. Thomas is responsible for a 13-city transit system over a 700-square-mile area with bus, light rail, commuter rail, and paratransit services. Mr. Thomas is also Vice Chair of Rail Transit for the American Public Transportation Association.

Let me welcome Mr. Richard Sarles, who is the Executive Director of New Jersey Transit, whom I have worked quite a bit with—you do not look worse for the wear, Richard, so we appreciate your service—the third largest transit agency in the Nation. Mr. Sarles is responsible for the agency's bus, light rail, commuter rail network which has been used by more than 240 million people every

year. It has been a tough time to be head of New Jersey Transit. We have several major capital projects going in various stages of construction or planning, we have record ridership, and we have severe budget constraints. And you have managed to guide New Jersey Transit through all of this and to be able to do it without raising fares this year, which I for one appreciate.

Ms. Mariia Zimmerman is Policy Director at Reconnecting America, a national transportation nonprofit devoted to improving the connection between transportation systems and the communities they serve. Mariia brings over a decade of experience working on Federal transportation policy, both in the Federal Transit Administration and on Capitol Hill with Chairman Earl Blumenauer.

Thank you all very much. I would ask each of you to keep your testimony to about 5 minutes. Your full written testimony will be entered into the record, and with that, Ms. Clowers, let us start with you.

**STATEMENT OF A. NICOLE CLOWERS, ACTING DIRECTOR,
PHYSICAL INFRASTRUCTURE ISSUES, GOVERNMENT
ACCOUNTABILITY OFFICE**

Ms. CLOWERS. Thank you, Mr. Chairman, for having me here today to speak about FTA's New Starts program, both challenges that the program faces as well as options to improve it.

As you know, the New Starts program is the primary source of Federal funding for major transit projects throughout the country. However, there are growing concerns that the process has become too time-consuming, too complex, and too costly. Minimizing the delays and costs of project delivery has never been more important as all levels of Government face severe financial stress.

The bottom line is that there are options to help projects move through the process more quickly. However, it is important that we strike the right balance between speeding project development and maintaining a robust evaluation process.

My testimony will address two topics: first, challenges we have previously identified with the program; second, potential options to expedite project development. In terms of challenges, we have previously identified three key issues.

First, the New Starts program has experienced a great deal of change over the last decade. Although these changes were generally intended to make the program more rigorous, the frequent changes have at times caused confusion and rework on the part of project sponsors, leading to delays in project development.

Second, the current New Starts evaluation process does not capture all project benefits, such as economic development, as you mentioned. As a result, the process may underestimate the benefits of certain projects.

Third, while project sponsors and the industry experts we interviewed generally value the rigor of the New Starts process, many are concerned that the process has become too complex, too time-consuming, and too costly, leaving some to question whether pursuing New Starts funding is worthwhile.

For example, one project sponsor told us that constructing a project with New Starts funding delays the timeline for the project by as much as several years, which in turn leads to increased

project costs, since inflation and expenses from labor and material increase with delay.

With regard to options to expedite project development, we have identified a handful of potential options in our ongoing work, which are described in my written statement. Each of these options has advantages and disadvantages to consider. I would like to highlight two of these for you today.

One option is to tailor the New Starts evaluation process to the risks posed by the project. Specifically, the level of oversight by FTA and the number of requirements to be fulfilled by a project sponsor could vary based on the project's cost and scope as well as the experience of project sponsors. This would allow low-risk projects to move through the process more quickly as well as allow FTA to more efficiently use its limited oversight resources.

Another option is to combine one or more of the project development phases. For example, the preliminary engineering and final design phases could be collapsed into a single phase. This would reduce the number of FTA approvals needed to advance the project through the process. Currently FTA must approve a project's advancement into the different phases. Gaining these approvals can cause delays as project development essentially stops as FTA determines whether the project can advance, and FTA's reviews can take anywhere from a few weeks to many months. Thus, combining project development phases would reduce the number of stops and starts projects currently experience and reduce the potential for delay.

In summary, there are several challenges confronting the New Starts program, notably concerns that the process has become too complex, too time-consuming, and too costly. However, there are options to help expedite project development. Options to speed project development must be balanced with the need to preserve the rigor and accountability of the New Starts program.

We look forward to working with the Subcommittee to further explore these options during the upcoming reauthorization, and this concludes my testimony, Mr. Chairman. I would be pleased to answer any questions that you or the other Members of the Subcommittee may have. Thank you.

Senator MENENDEZ. You are under time and on budget. That is always good news.

Ms. CLOWERS. That is what we try to do at GAO.

Senator MENENDEZ. Thank you very much.

Before I turn to Mr. Thomas, let me turn to my distinguished colleague from New York, Senator Schumer.

STATEMENT OF SENATOR CHARLES E. SCHUMER

Senator SCHUMER. Thank you. First, I want to first thank Senator Menendez and Senator Vitter for holding this important hearing. I thank the witnesses. I apologize. I cannot stay for the hearing with other obligations, but I wanted to be here because I think New Starts is a great idea, and I am glad you are having this hearing, Mr. Chairman.

From the Internet to common markets, from higher education to startup businesses, the economy is fundamentally based on interconnectivity. Allowing ideas and the people who devise them

to move ever more freely from place to place. That is why safe and smooth highways and bridges matter. It is why better and faster rail travel matters. And it is why inexpensive, reliable mass transit matters. With the unpredictability of fuel prices and growing traffic congestion, it is now more important than ever that Americans have an affordable alternative means of transportation.

In 2007, Americans took 10.3 billion trips on U.S. mass transit. That is the highest number taken in 50 years. Today we are in a very promising place. We have an administration that understands and is willing to invest in the growing demand for transit and an American public whose imagination has been captured by the promises that modernized transportation systems can deliver. So the environment is ripe to move in a bold new direction.

To take advantage of these new opportunities, we have to prioritize the improvement to the Federal Transit Administration's New Starts program, a major capital investment program that helps localities build fixed guideway systems. New Starts has been incredibly important to my home State. In New York City, East Side Access, the Second Avenue Subway, and a joint project spearheaded by my colleagues, the Chairman of this Subcommittee, Senator Menendez, along with Senator Lautenberg are all beneficiaries of New Starts. The projects will play an instrumental role in relieving roadway congestion and reducing New Yorkers' carbon emissions.

The East Side Access project brings Long Island Railroad commuters to a new terminal underneath Grand Central Station in Manhattan, allowing them to avoid the congested headache that is Penn Station.

The Second Avenue Subway project will create a two-track subway line along Second Avenue from 125th Street to the financial district in Lower Manhattan, creating a critical but presently missing link in New York City's subway map.

The ARC Tunnel—and I am sure my friend from New Jersey can speak about this, and has probably mentioned it already—will double commuter rail capacity between New York and New Jersey via two new railroad tunnels underneath the Hudson.

The existing tracks that are in use are bursting at the seams in terms of capacity on both sides of Manhattan—on the East River for East Side Access, on the West Side for the Hudson River. You get one train stalled during rush hour, and everything comes to a standstill because things are so congested. So the project is going to provide riders with welcome relief.

But the New Starts program is not without its shortcomings. The entire project development process takes anywhere from 6 to 12 years. This is a lifetime for localities gasping for fresh air, anxious to get cars and their accompanying pollution off their streets. It took almost 9 years for both East Side Access and Second Avenue Subway to receive their Full Funding Grant Agreements. ARC is still awaiting the FFGA. Part of the delay is due to the FTA's heavy oversight role over each step of the project's development.

While I agree that the Federal Government must monitor the use of its funds carefully, especially in multi-million-dollar capital projects, I believe the Federal Government must not act as a roadblock to the project's completion. Congress must examine ways to

make the New Starts program more efficient so that our localities are encouraged not discouraged from applying for projects.

Another important note on transit investment I would like to make is that as we approach the new reauthorization bill, I am going to reiterate the importance of striking a proper balance between highway funding and mass transit funding. We all remember last summer when the Highway Trust Fund nearly dried up. The Bush administration's solution was to inject it with funds—funds that would be robbed from mass transit.

Bottom line: You cannot rob Peter to pay Paul. Mass transit funds are more precious than ever, and we must dismiss any future proposal to subtract funding from mass transit.

Again, I want to thank Senator Menendez for holding this hearing, thank the witnesses, and I will look forward to reviewing the record and seeing their testimony.

Senator MENENDEZ. Thank you, Senator Schumer, for your tremendous advocacy in this regard.

Mr. Thomas.

STATEMENT OF GARY C. THOMAS, PRESIDENT/EXECUTIVE DIRECTOR, DALLAS AREA RAPID TRANSIT (DART), AND VICE CHAIR—RAIL TRANSIT, AMERICAN PUBLIC TRANSPORTATION ASSOCIATION (APTA)

Mr. THOMAS. Mr. Chairman and Members of the Subcommittee, on behalf of Dallas Area Rapid Transit and the American Public Transportation Association, we thank you for this opportunity to testify before you today on the Federal Transit Administration's New Starts program, which provides essential funding to cities like Dallas who seek to improve mobility and air quality by establishing new transit services. Changes must be made to the program that will help streamline the Federal transit program, reduce the administrative burdens on transit agencies like ours, and help speed project delivery.

Now, when you think about public transit in the United States, DART may not be the first transit authority you think of, and let me tell you a little bit about what is going on in north Texas. North Texas is the fastest growing region in the United States. It is the fourth largest region in the United States. DART serves 13 cities in just a portion of that region, 2.2 million people, over 700 square miles, and we started that process in 1983, so we are relatively young when it comes to public transportation certainly in the U.S.

We opened our first light rail section in 1996, and then we had an expansion in 1997 and 2002. So we opened with a 20-mile starter system. Between 2001 and 2004, we expanded to a total of 45 miles on the ground. In that second expansion, we received a \$333 million Full Funding Grant Agreement. We actually came in ahead of schedule and under budget on that project, which created somewhat of a dilemma because it had not happened very many times in the past. We worked very closely with our delegation to reapply some of those funds back to the north Texas area.

As we continue to try to provide this response to the insatiable desire for good transportation choices in north Texas, where people spend 60 hours on average a year stuck in traffic—not in traffic, but stuck in traffic—we continue to look at how we can continue

to grow. So we have 45 miles of light rail on the ground. We also provide commuter rail between Fort Worth and Dallas. We operate the HOV lanes, and of course, buses, paratransit systems, and other multimodal opportunities for people to use, and we are in the process of doubling our light rail system again. We have the longest light rail construction project underway in North America right now, 28 miles, the Green Line. Often when I talk to folks in north Texas and ask, "Do you ride the system?" "Well, Gary, it does not go where I want it to go yet. And how quickly can you make that happen?"

So we are in the process of building the 28-mile Green Line; 21 miles of that is federally funded, \$700 million Full Funding Grant Agreement that we received on July 3, 2006. That represented 47 percent of the project cost; 53 percent is locally matched. And then, of course, that balance of the 28 miles, the final 7 miles is all locally matched.

The process that we went through to get to that point was often long and arduous, and to be quite frank with you, sir, the FTA was very helpful in that process. They have extremely bright people and very helpful people, but the process was cumbersome, oftentimes, and it changed multiple times, as we heard earlier in the testimony, as we went through that process. But we received that Full Funding Grant Agreement. That project, the first phase of that project will open September 14th of this year. The rest of that Green Line expansion will open in December of 2010, but we are not stopping there. We have already got an additional 9 miles under contract that we just awarded this January as we head toward DFW airport and another 5 miles as we head out to the eastern suburbs of the Dallas area.

So total right now today, we have 42 miles of light rail under construction. And as we talk to the community, it is, "OK, Gary, that is \$1.63 billion of construction. What are you going to do next? How quickly can you get that next piece? When are you going to do this piece?" And we are looking at how we can make that happen as we continue to expand our system.

We owe a lot to our north Texas delegation, and, of course, Senator Hutchison, who serves on this Subcommittee, we appreciate what she is doing. As we look forward, the funding is absolutely critical, \$123 billion is absolutely necessary over the 6-year period for transit in the new bill. We would like to strengthen the role of the regional FTA offices in the New Starts process. We really believe that we need to reform the ratings standard to take more benefits of the other criteria: land use, TOD, environment. We have almost \$8 billion of transit development already around our stations, and, of course, a greater use of pilot and demonstration projects would be beneficial. We have got a second alignment downtown Dallas that is a perfect opportunity for this. It does not meet the current criteria, but it is absolutely essential, as all lines feed into downtown so that we do not create a bottleneck in the future.

I look forward to working with the Subcommittee as we continue to develop these rules, and I appreciate the opportunity to be here today.

Senator MENENDEZ. Thank you very much.

Mr. Sarles.

**STATEMENT OF RICHARD SARLES, EXECUTIVE DIRECTOR,
NEW JERSEY TRANSIT**

Mr. SARLES. Mr. Chairman, it is a pleasure and I appreciate the opportunity to give testimony today on the New Starts process.

Congress and the Obama administration, through the American Recovery and Reinvestment Act, have sent a strong signal to the American public that improving and expanding public transportation is a priority.

It is precisely because we stand at the gateway of a new era in transit investment that it is critical to ensure that, going forward, we have the most expeditious and transparent process to deliver critically needed projects both at the agency and Federal levels.

First, let me say that we are very pleased to be working with FTA Administrator Peter Rogoff. The Administrator is an extremely knowledgeable transportation expert with considerable experience with New Starts through his work on the Senate Appropriations Committee. He has been a friend to transit for many years and has already hit the ground running, working with us closely in New Jersey to advance New Starts projects. I look forward to his leadership and partnership at FTA.

The FTA has an important, welcomed oversight role in the New Starts process that was designed to realize the benefits for money expended and to ensure both the competitive nature of the program and the proper usage of Federal funds.

What I hope to address today is the fact that the FTA, like New Jersey Transit, has limited resources to devote to these valuable oversight responsibilities. FTA must focus its resources to assure that the costs and benefits of a project are fairly presented and that a grantee has in place the requisite organization, funding, processes, and controls to advance and sustain a project. The FTA does not have nor should have the expertise to plan, engineer, and construct major projects. Nor should it request or demand reams of documentation with multiple revisions from clearly experienced agencies to prove that they know how to plan, engineer, and construct a New Starts project.

While we have worked through the years on multiple New Starts projects that have yielded tremendous benefits, our experience shows a more recent trend toward layers of oversight that can create risks to project schedules and budgets.

Specifically, New Jersey Transit has completed four New Starts projects since the program's inception, including the Frank R. Lautenberg transfer station, the Hudson-Bergen Light Rail Segments 1 and 2 that you referred to earlier, and the Newark Light Rail extension. In addition, New Jersey Transit has also completed the Riverline Light Rail project with State funds only. The total value of these projects was \$3.9 billion.

Let me share New Jersey Transit's experience with the New Starts process on two major projects—one in operation, and one about to break ground this month.

The first, the Hudson-Bergen Light Rail project, which is operational today, offers frequent and convenient service through seven cities along the Hudson River waterfront.

It is important to note that during the project's early stages then-Mayor Menendez of Union City was not only an advocate of

the project, but convinced New Jersey Transit to add a station in Union City, which now has over 5,000 daily riders. The HBLR—

Senator MENENDEZ. By the way, Mr. Sarles, at that time—you were not the Executive Director, but at that time I was told that was not going to happen. And I told them, “Then we are not going to have a rail line.” It is the most highly traveled passenger location of the entire system, is it not?

Mr. SARLES. It was a very wise decision.

Senator MENENDEZ. Thank you. All right. You can have as much time as you need.

[Laughter.]

Mr. SARLES. The HBLR has been a huge driver for economic development in Hudson County. In fact, in a region where cities are shrinking, Jersey City in the last quarter-century has gained about 30,000 residents, 27,000 jobs, and 18 million square feet of prime office space.

New Jersey Transit’s experience with FTA in securing Full Funding Grant Agreements for the HBLR in the late 1990s was fairly straightforward.

New Jersey Transit, in partnership with the Port Authority of New York and New Jersey, is also in final design and will soon break ground on the Access to the Region’s Core (ARC) project—the first new rail tunnel to be built under the Hudson River in 100 years. That was referred to before. This \$8.7 billion project will generate some \$45 billion in new regional economic activity while providing riders with more frequent, direct, and reliable service. The tunnel will accommodate a 50-percent increase in the number of daily passenger trips beneath the river, taking 22,000 cars a day off area highways, and reducing greenhouse gases and other pollution by more than 66,000 tons per year.

The New Starts process in 2005, when we began submitting information for ARC, has changed substantially from the days of the HBLR. Some changes were positive. For instance, FTA required a fleet management plan for all transit modes, a financial plan, a 2030 rail operating plan, and a land use and economic development analysis. The process enforces a discipline on the logic used to develop and analyze a plan, which is useful so that comparisons can be made between different proposed transit projects and also so that the proposing agencies have the resources and skills they need to implement the project. I welcome that discipline.

However, in an environment where investments need to be accelerated to boost the economy and protect the environment, review timetables need to be balanced against the need to progress through the process with a focus on completion.

For example, the current New Starts process has evolved to include many more layers of review, and re-review, which are sometimes onerous and can unnecessarily slow an agency’s ability to advance on a reasonable schedule. Even modest changes to a project now result in more process. In fact, I can say with some certainty that if a mayor requested an additional station for a New Starts project today—a request that would improve the project through increased ridership and economic development—the result would be project delay and cost overruns or increases.

With these experiences in mind, I recommend the Committee consider the following steps with respect to reforming the New Starts process. In order to meet the administration's objectives while providing appropriate oversight, the program should embody five fundamental principles:

One, establish a true partnership between the Federal Government and State and local governments seeking to improve public transit bound together by mutual respect rather than red tape.

Streamline the New Starts process so that predictability of the process is a priority. One way to accomplish this is to make it more of a "procurement" type process.

Three, realign the review process to account for the experience of more established transit agencies.

Four, acknowledge the fact that the FTA has become the minority funding partner and further recognize that a Full Funding Grant Agreement limits the exposure of the FTA to fund more than a specified amount of the proposed project's total cost. At the same time, the local agencies bear the risk of cost increases, including those due to delay in decisionmaking.

Five, encourage the expansion of public transit consistent with concerns about production of greenhouse gases and energy consumption. The weight given to evaluation criteria categories should be revisited.

I deeply appreciate the Committee's leadership on this matter. It is absolutely critical that if we are to achieve the ambitious agenda of building and expanding transit infrastructure across the country, we need to streamline the Federal process and work more urgently together as partners at the Federal, State, and local level. I am grateful for the opportunity to offer our thoughts today on how we can work together to build a better transportation network.

I would be glad to take questions.

Senator MENENDEZ. Thank you very much.

Ms. Zimmerman.

**STATEMENT OF MARIA ZIMMERMAN, POLICY DIRECTOR,
RECONNECTING AMERICA**

Ms. ZIMMERMAN. First of all, thank you for your long-time leadership on transit and economic development issues, Senator Menendez. It is a great pleasure to be here today, and in my organization's work managing the federally funded Center for Transit-Oriented Development, we have been engaged in a number of research projects over the last 5 years to look at the New Starts program and, as a co-founder of the Transportation for America Campaign, are looking at opportunities in the next transportation bill.

In a report that Reconnecting America released last year, we found over 400 rail, bus, rapid transit, and streetcar projects that are being proposed in almost 80 communities across the country at a proposed worth of \$248 billion—far more than can be funded through the Federal transit program alone and at the current rate would take almost 100 years to build these projects.

Regions are aggressively seeking to use transit investments to help focus growth, create sustainable foundations for economic development, and provide mobility options for residents. My organization joins a growing chorus of voices that asks Congress to signifi-

cantly increase funding for public transportation in the upcoming transportation reauthorization, and as part of overall energy and climate change legislation that may be before the Senate this Congress.

Increased investment in public transportation should be viewed as part of a larger goal to build and maintain an integrated national transportation system. And last month, Senators Rockefeller and Lautenberg introduced S. 1036, the Federal Transportation Policy and Planning Act of 2009. This legislation establishes a unifying mission for the Federal surface transportation program and sets needed and achievable performance targets. This Subcommittee may want to consider strengthening that bill to reinforce the linkage between housing and transportation through adding performance targets that ensure low- and moderate-income communities also share in the benefits of a new and improved transportation system. And to help meet growing demand for transit, the New Starts program, as we have all mentioned, must be significantly reformed.

My organization supports a rigorous and transparent review process; however, the unlevel playing field between the current process for planning, designing, and constructing a new transit line unduly burdens these projects with extra costs and delays.

Our research on existing and proposed transit projects shows that actual ridership on many recently built transit lines is higher than predicted by FTA's Transit System User Benefit model. This raises significant concerns about the substantial weight placed on these model results, and we believe validates the need to maintain a multi-measure approach.

Additional suggestions to improve the New Starts project delivery process that we believe warrant more consideration by Congress include:

The development of a metropolitan mobility program that could allocate formula funding for small start capital transit investments, thereby increasing the threshold and maintaining an exemption for smaller-scale transit projects;

The advancement of a set of interrelated expansion projects, similar to the approach taken by Salt Lake City and being pursued by Houston, Texas;

And reconciliation of the major capital investment alternatives analysis with the NEPA Alternatives Analysis requirement to create one integrated comprehensive approach instead of a confusing two-step process.

Finally, I would like to highlight some of the social equity needs of transit-supportive land use policies. As the transit-oriented development market demand increases, as you have seen in New Jersey's Gold Coast, the threat of displacement will force the loss of potential affordable housing options.

We commend the recently announced HUD-DOT interagency sustainability partnership. But in regards to the New Starts process, we feel that more can be done and should be done to simultaneously improve project delivery and reward affordable housing preservation and creation. One idea is to allow communities to count mixed-income housing investments within a half-mile of a proposed transit station as a match against requested Federal dol-

lars. We also believe that focusing the Federal review process on the Federal portion of funding would help to incentivize local actions in the realm of economic development.

Another option is to reward communities that implement mixed-income housing policies in the land use evaluation measure, thus moving beyond just reporting on the number of low-income households to actually rewarding those communities that take steps to ensure long-term affordability for families of a mix of incomes.

The Federal New Starts program sets the rules for engagement in how communities coordinate proposed transit investments with larger regional decisions, and as noted, we believe the challenges facing our Nation on climate change, economic security, energy security, and competitiveness require us to make a greater effort to fund transit in a more timely and cost-effective manner for transit properties and communities.

Thank you very much for this opportunity to appear before the Committee today. My organization looks forward to working with you and this Committee in the upcoming bill.

Chairman MENENDEZ. Well, thank you very much. Thank you all very much for some very good testimony. We appreciate it.

So we will start rounds of questioning, and I don't know if other colleagues will make it. If not, believe me, I have a series of questions.

Let me start with you, Ms. Clowers. You note in your testimony, in your full written testimony, that economic development is a benefit that is not considered when FTA rates New Starts projects, and I worry that a project like the experience we had in New Jersey along the Hudson-Bergen Light Rail, and even listening to Mr. Thomas about some of what he described in the development in the DART region, but in the New Jersey context alone, it generated well over \$5 billion in housing development alone, without even getting into the commercial aspects of it. It would not be fairly rated if it had come through the process today rather than in the 1990s. So how can we create a fair measure of economic development so that it can become part of the New Starts process?

Ms. CLOWERS. As you stated, economic development is currently not considered or weighted in the evaluation process. Cost effectiveness and land use are each weighted 50 percent in the evaluation process. The Transportation System User Benefit does capture some economic development benefits. However, we found in the past that it doesn't capture all the economic development benefits that a project might bring. There are models out there that would allow you to predict economic development benefits that project sponsors can use and some project sponsors have those models. They can be quite expensive.

Another way to incorporate that information into the process, if you don't want to go the quantitative approach of using models, is to use a more qualitative approach. Currently, that is what is done with land use. FTA considers the transit-friendliness of the policies that a community may have in determining the land use benefits and a similar approach can be taken for economic development.

Chairman MENENDEZ. Any other thoughts on that? Does anyone want to jump in? Mr. Thomas?

Mr. THOMAS. Yes, sir. I think the modeling is a good idea. The land use policies in our particular case are also a good idea, but it is somewhat of a challenge with 13 different member cities because they all approach it a little bit differently. What we would also like to see is some of the historical practices that have already occurred around the stations, which I think tend to influence other developers and tend to gain momentum as we go forward. As I said earlier, we have almost \$8 billion of development that is either occurring around stations or already has occurred around the stations, so I think that historical perspective and the past practices of what has gone on around those stations, I think is also very important.

Chairman MENENDEZ. Mr. Sarles?

Mr. SARLES. If I may add, on a very large project, such as the ARC project, use of an economic model makes sense and we, in fact, did that. On the smaller New Starts, not necessarily a small New Start project but smaller ones, I think more of a qualitative approach works best in that you see how the localities have zoned around the proposed station so that, in fact, will encourage that kind of economic development.

Chairman MENENDEZ. Ms. Zimmerman?

Ms. ZIMMERMAN. Thank you. We actually have done a fair amount of work on this, as well, through the Center for Transit-Oriented Development and commissioned some different reports to look at this. One of the issues we found frustrating to this point has been, I think, a confusion over the definitions of economic development, particularly coming out of the administration. When we talk to practitioners who are looking at economic development, they are really looking at the land valuation increases and what policies are communities doing to create tax increment financing tools, business improvement districts, public-private partnerships, developer agreements, and there is a host of these kinds of qualitative things that can be evaluated and measured versus more of a pure economist perspective of looking at sort of microeconomic trends which involve detailed modeling.

And we feel that there are ways through these qualitative measures that it could be analyzed, and that there is a clear distinction between land use and economic development if we work to clearly define what we mean by these terms. And we do find in countries, in Canada and Europe and other places, they take more of a full cost-benefit analysis to look at the full range of costs and benefits. That may be another approach that we would want to consider to sort of get at these bundle of issues in the next bill.

Chairman MENENDEZ. Let me ask you, Ms. Clowers, again, GAO has taken some extensive looks at the New Starts program and you have issued several reports to the agency. One of the issues that I have raised time and time again and we heard it here on the panel is that the New Starts process should really be quicker. I mean, a decade—there is nothing that a decade ago is more expensive than it is now. It is far more expensive now, after a decade, and that is a challenge. The question is what recommendations you all may have when it comes to how do you shorten the process while still ensuring a fair vetting process.

Ms. CLOWERS. That is a very good question. We do in our—

Chairman MENENDEZ. I only ask good questions.

[Laughter.]

Ms. CLOWERS. Absolutely.

Chairman MENENDEZ. Just kidding.

Ms. CLOWERS. We have identified a number of options to help streamline the evaluation process. As I mentioned before, we could tailor the evaluation process to the risk posed by the projects. We also could apply changes to the New Starts program or process only to future projects. So, for example, if you are already in preliminary engineering and FTA makes a change to the process, you would not apply the change to that project. Through our past work, we have found that is a significant pain point for project sponsors. They feel like the goalposts are always changing on them and it again requires rework and delays and cost. But as you mentioned, it is key that we strike the right balance between speeding project development and maintaining a robust evaluation process because we have held up the New Starts program as a model for other agencies in terms of the rigor and analysis that goes into selecting these projects.

I would go back to the idea of looking really at the risks posed by the projects and determining the right balance. What is the risk posed to the Federal Government? For example, you could tailor the process so that if you are requesting more Federal funds from FTA, you would experience greater Federal oversight than if you are requesting less.

Chairman MENENDEZ. What about Mr. Sarles' comments—I was taking down your five notes—a recognition that while a full funding agreement is something that is desirable to get a project going, it also limits the Federal Government's risk, right, to the extent that that is the extent of their engagement. So if their costs go up, it is the other entity, New Jersey Transit or others, who ultimately are the ones responsible for the difference.

Ms. CLOWERS. Correct.

Chairman MENENDEZ. You know, I have heard full-funding agreements described in many ways. I never really thought about it in the context of limiting the government's risk. I think it is worthy of noting.

I want to ask you one other question and then I will turn to the others. There were a series, I think, and I would like you to talk about it—you know, we all understand that a program goes through evolutions and adds things as it learns more experiences with specific projects, but can you identify for the Committee some of the major requirements the FTA added outside of the statutory process via the regulatory and administrative changes in the last administration?

Ms. CLOWERS. I think one of the most significant regulatory changes was the introduction of the Transportation System User Benefit, which is used to help calculate cost effectiveness. As you know, SAFETEA-LU identifies cost effectiveness as a project justification criteria that FTA must use to evaluate projects, and then FTA then looks at those criteria and develops certain measures. And the TSUB measure was a significant change. I think that was in the early 2000s. When that rolled out, that caused a great deal

of problems for project sponsors. It was a new calculation that was very complex, led to rework and some delays of projects.

Other requirements that would fall more into the administrative regulatory realm, they mentioned risk assessments for projects and those risk assessments have evolved over time in terms of its complexity and the timing of the risk assessments. They have also introduced “make the case” documents where projects are required to submit a three- to four-page narrative that explains the benefits of the projects in layman’s terms. That might not sound like a lot of work in terms of the three to four pages, but there is a lot of back and forth between project sponsors and FTA in terms of getting the document to look like what FTA wants.

There has been a significant number of other changes made. I think about 3 years ago, we identified about 16 administrative or regulatory changes that FTA had made, and importantly, a number of those changes had not been made with the review and comment period. And so we recommended to FTA that they ensure that all project sponsors have an opportunity to review and comment on proposed changes because we think that is important to get both input from the project sponsors, sort of real-world perspective about what those changes will do, and also to avoid confusion and delay.

Chairman MENENDEZ. Mr. Sarles, Senator Schumer mentioned something that we have all regionally been working on and break ground Monday, I understand, the new Trans-Hudson Rail Tunnel project, and that has undergone an incredibly strenuous process. If you could change one thing about the New Starts program, what would it be so that the next nationally significant project can complete the process in less than a decade, which is what this took?

Mr. SARLES. If there was one thing I would do, it is to considerably improve the predictability of the process, the timing of it. As it is set up now, there really is no specific deadline to move on to the next phase of the evaluation.

I had mentioned in my testimony to maybe have sort of like a procurement process, where every year, once a year, properties that are interested in applying for the New Starts program have to submit their proposal. The FTA could then spend 2 months evaluating them and scoring them and picking out the successful ones, and the ones that were unsuccessful will have an opportunity to come back, learning from the first round.

Interestingly enough, yesterday, I was at the FRA’s workshop on implementing the \$8 billion high-speed rail stimulus program and they talked about exactly that process, where they are going to submit, I think toward the end of this month, guidance. In 2 months, organizations are to submit the applications, and they are going to have a first round of choices after evaluating the various proposals. Something like that moves things along, gets decisions made, and continues on.

Chairman MENENDEZ. Mr. Thomas, you in your testimony, you mentioned that adding capacity in the core area of your central business district as the type of project that does not meet the current New Starts requirements. How do you think, and do you think we should make projects such as expanding station platforms or

similar efforts a part of the future New Starts program, or do you think core capacity should be its own program?

Mr. THOMAS. You know, I think at every level, as you improve a system, I think those should be opportunities for Federal funding. Now, I also think that the level of review by the FTA should be commensurate with the size of the project. In other words, one of the challenges we have right now is that it doesn't really matter what size the project is. You get the same approach and the same level of review.

So if it is a station expansion that may be absolutely critical to the continued success of the system and to the folks that are riding the system, if you have to go through that same process, you are going to, as Mr. Sarles said, early on, you have got to make a decision. Am I going to follow the Federal process? Am I going to pursue Federal funds or am I not? And we as providers have to make that decision early on in the process because sometimes that can mean millions of dollars of additional cost and years of additional time, and so we have got to weigh those risks. But I think all projects certainly should have the opportunity.

In our particular case, our system right now is a hub-and-spoke kind of system. We are early in our development of the second Downtown Dallas alignment. Although we will have almost 93 miles on the ground by 2014, all of those lines come into downtown, and by adding that second alignment, the TSUB number really doesn't work out. We don't meet the criteria. But it is absolutely vital to the success of the system that we don't bottleneck through that single alignment that we have right now. And so I think there is certainly a need to either change the criteria to allow those types of projects or to have more flexibility and demonstration projects on how we can do some things differently and what those options might be.

Chairman MENENDEZ. Ms. Zimmerman, let me ask you, you mentioned in your oral testimony about the survey your organization has done with reference to how many more projects seeking New Starts funding there are than, in fact, funding that is available. Do you have an estimated amount of annual New Start funding that would address the need you anticipate in the next transportation bill so that we can seek to accomplish some of our economic recovery, energy savings, and land use costs?

Ms. ZIMMERMAN. Sure. Thank you. Of the almost 400 projects that we have identified, a number of those for reasons cited are going outside of the New Starts project, and I think it is actually a fair expectation that the Federal Government does not need to pay for every single new transit project in the country. But we do feel that the Federal funding level should be significantly increased. It has been about one to one-and-a-half to now \$1.9 billion for New Starts funding per year. We think that we should see at least \$6 to \$8 billion per year in the next bill or through bringing in other additional climate change monies or other revenues to help move this forward. We also believe that by tailoring the Federal financial contribution to the Federal risk, we could also unlock really a tremendous amount of local and private investment that actually would like to happen in transit.

But right now, you are actually penalized from bringing in more private or local revenue. There are a number of projects, for instance, where they have wanted to do a tunneling project or they wanted to do stationary improvements. Of course, that adds to the cost and they actually have local money or private entities who are willing to pay for that cost, but right now, you are penalized for anything that adds any cost to a project. And so both increasing the Federal New Starts funding levels, which we think could help get through the pipeline, but also really opening up to leverage the tremendous interest that is out there by the private sector right now.

Chairman MENENDEZ. Great. One last question. Mr. Sarles, the agency, New Jersey Transit, is among others that has delivered, in your case, four New Starts projects. So it is a mature agency, and there are others, as well, that have succeeded in this regard. Should such agencies with a proven track record be able to forego the step of proving they are capable of delivering a New Starts project on time and on budget? If there is a case to be made for that—I am not advocating it, I am not sure whether that is—but it seems to me that if you have a historical pattern of engaging, succeeding, and meeting or in some cases being on time or early and under budget, that why do we have to go through the whole process in that particular context of the process. Would that help reduce project delivery time and costs and free FTA's time to assist other projects that are new to the process?

Mr. SARLES. A most emphatic yes to that.

Chairman MENENDEZ. Could you use the microphone, for this gentleman down here? I heard you, but—

Mr. SARLES. I will get trained yet. A most emphatic yes. FTA should focus on where the risk areas are, and if we have in our case demonstrated time after time that we can deliver significant projects within the criteria, and we have already proven it, then we don't have to make reams of paper submittals to prove that we have the competence to do it.

Chairman MENENDEZ. Any other thoughts on that?

Mr. THOMAS. I certainly agree, and I can appreciate both sides. As we went through this last and most recent FFGA process, we had gone through a couple of FFGAs prior to that, both at the very least on schedule and on budget. And as I said, the 2000–2001 version was ahead of schedule and under budget, and right now, we are in that same process where we are ahead of schedule and under budget again. So I think that that track record certainly ought to count for something, because those processes transcend the people in the organization, basically showing that you have got the processes in place that allow that to happen, that force that to happen, that put the controls there to encourage those kinds of performances. So those things transcend the people, yes, sir.

Chairman MENENDEZ. Yes, Ms. Zimmerman?

Ms. ZIMMERMAN. I would add a slight addendum to that, however, in that I think what we have seen in our research is because particularly the cost effective index model and other things are so complex they require a tremendous amount of technical capacity. We are seeing most of the recent New Start projects that have received FFGAs are sponsored by larger agencies with more technical

capacity, and that have been through the ratings process before. So while I think we should be recognizing that, I think we also need to be aware there are a lot of new communities and medium-sized communities that are wanting to invest in transit, and right now, the current process is very hard for them, not having that capacity to do it.

The Small Starts program, which was supposed to be a streamlined process, you know, we still don't have the guidance that actually has a streamlined process. FTA came up with a very Small Starts process, but I think for those communities that are new to the process or smaller communities, I would say the current system really does unduly burden them in going through it. So I think it is balancing both those needs.

Chairman MENENDEZ. Well, you can achieve both, though.

Ms. ZIMMERMAN. Yes.

Chairman MENENDEZ. You could achieve helping new entities be able to have a legitimate but fully vetted timeframe and having seasoned entities that have a proven track record not necessarily have to go through that element, right?

Ms. ZIMMERMAN.

[Nodding head.]

Chairman MENENDEZ. I would be remiss after everything we went through in Congress in trying to get transit funding, how are you both doing in terms of deploying those funds, if you could give us a sense of it.

Mr. SARLES. We received \$424 million applying to 14 projects. Five of them are already underway. Jobs have been created and people are working. We have put shovels in the ground on a couple of new contracts already. We have others out to bid. We will have all the money obligated well within the timeframe.

Mr. THOMAS. I am envious of Mr. Sarles, but certainly appreciative of the \$62 million that we received. We applied that to the first phase of the Orange Line as well as some additional parking and radio communications systems. We have already received the first half of that \$62 million, so it is putting quite a few people to work.

We also received an advance on our Full Funding Grant Agreement, moving a 2014 payment up to this year, \$78 million. And while we stress that is not new money, certainly the time value of money is new and that equates to \$10 million. So it allows us to pursue additional projects, as I said earlier, as the region continues to ask, how can we get these other projects advanced? We have a 2030 plan, Mr. Chairman, that people are already trying to figure out how we can advance projects by up to 15 years sooner in our financial plan, and so we are looking at every possible opportunity of project delivery as we go through that review, including the Buy America Bonds that are available now.

We anticipate going to the bond market here in about a week and a half for about \$1 billion of bonds, \$750 million in Buy America Bonds and \$250 million in the tax-exempt bonds. It is going to benefit our financial plan tremendously. We do a 20-year financial plan that identifies what we can spend and when we can spend it. But we have estimated—we have actually budgeted a 5.25 percent interest rate on that bond issuance, and if we were to do it last

week, the combined rate based on that issuance would be somewhere in the neighborhood of 4.3 percent, which all those things combined put us in a much better situation, certainly as we look at what the economy is doing throughout the country. It puts us in a good situation.

Chairman MENENDEZ. So the aggressive timeframes that the Congress put in there are being met by both of you?

Mr. THOMAS. Yes, sir.

Mr. SARLES.

[Nodding head.]

Chairman MENENDEZ. Thank you very much.

Let me thank all the witnesses for their testimony, seeing no other colleagues here at this point. Your entire, as I said, written statements will be entered into the record and the record will remain open for 1 week for Members' questions, for their statements and other supporting documents. If, in fact, you do get questions from the Committee, we urge you to be as responsive as quickly as possible to them and we appreciate your collective appearance.

With that, the Subcommittee is adjourned.

[Whereupon, at 3 p.m., the hearing was adjourned.]

[Prepared statements and responses to written questions supplied for the record follow:]

PREPARED STATEMENT OF A. NICOLE CLOWERS
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Testimony

Before the Subcommittee on Housing,
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**PUBLIC
TRANSPORTATION**

**New Starts Program
Challenges and Preliminary
Observations on Expediting
Project Development**

Statement of A. Nicole Clowers, Acting Director
Physical Infrastructure Issues



June 3, 2009

GAO
Accountability Integrity Reliability
Highlights

Highlights of GAO-09-763T, a testimony before the Subcommittee on Housing, Transportation, and Community Development, Committee on Banking, Housing, and Urban Affairs, U.S. Senate

Why GAO Did This Study

The New Starts program is an important source of new capital investment in mass transportation. As required by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, the Federal Transit Administration (FTA) must prioritize transit projects for funding by evaluating, rating, and recommending projects on the basis of specific financial commitment and project justification criteria, such as cost-effectiveness, economic development effects, land use, and environmental benefits. To be eligible for federal funding, a project must advance through the different project development phases of the New Starts program, including alternatives analysis, preliminary engineering, and final design. Using the statutorily identified criteria, FTA evaluates projects as a condition for advancement into each project development phase of the program.

This testimony discusses the (1) key challenges associated with the New Starts program and (2) options that could help expedite project development in the New Starts program. This testimony is based on GAO's extensive body of work on the New Starts program and ongoing work—as directed by Congress. For this work, GAO reviewed FTA documents and interviewed FTA officials, sponsors of New Starts projects, and representatives from industry associations. The FTA reviewed the information in this testimony and provided technical comments.

View GAO-09-763T or key components. For more information, contact A. Nicole Clowers at (202) 512-2834 or clowersa@gao.gov.

PUBLIC TRANSPORTATION

New Starts Program Challenges and Preliminary Observations on Expediting Project Development

What GAO Found

Previous GAO work has identified three key challenges associated with the New Starts program.

- **First, frequent changes** to the New Starts program have sometimes led to confusion and delays. Numerous changes have been made to the New Starts Program over the last decade, such as revising and adding new evaluation criteria and requiring project sponsors to collect new data and complete new analyses. Although FTA officials told GAO that changes were generally intended to make the process more rigorous, systematic, and transparent, project sponsors said the frequent changes sometimes caused confusion and rework, resulting in delays in advancing projects.
- **Second, the current New Starts evaluation process measures do not capture all project benefits.** For example, FTA's cost-effectiveness measure does not account for highway travel time savings and may not capture all economic development benefits. FTA officials have acknowledged these limitations, but noted that improvements in local travel models are needed to resolve some of these issues. FTA is also conducting research on ways to improve certain evaluation measures.
- **Third, striking the appropriate balance between maintaining a robust evaluation and minimizing a complex process** is challenging. Experts and some project sponsors GAO spoke with generally support FTA's quantitatively rigorous process for evaluating proposed transit projects but are concerned that the process has become too burdensome and complex. In response to such concerns, FTA has tried to simplify the evaluation process in several ways, including hiring a consulting firm to identify opportunities to streamline or simplify the process.

As part of ongoing work, GAO has preliminarily identified options to help expedite project development within the New Starts program. These options include tailoring the New Starts evaluation process to risks posed by the projects, using letters of intent more frequently, and applying regulatory and administrative changes only to future projects. While each option could help expedite project development in the New Starts process, each option has advantages and disadvantages to consider. For example, by signaling early federal support of projects, letters of intent and early systems work agreements could help project sponsors use potentially less costly and time-consuming alternative project delivery methods, such as design-build. However, such early support poses some risk, as projects may stumble in later project development phases. Furthermore, some options, like combining one or more statutorily required project development phases, would require legislative action.

Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to provide testimony on the Federal Transit Administration's (FTA) New Starts program. As you know, since the early 1970s, a significant portion of the federal government's share of new capital investment in mass transportation has come through the New Starts program. Through this program, FTA identifies and recommends new fixed-guideway transit projects—including heavy, light, and commuter rail; ferry; and certain bus projects—for full-funding grant agreements (FFGA).¹ Over the last decade, the New Starts program has provided state and local agencies with over \$10 billion to help design and construct transit projects throughout the country.

As required by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU),² FTA must prioritize transit projects for funding by evaluating, rating, and recommending potential projects on the basis of specific financial commitment and project justification criteria—including mobility improvements, cost-effectiveness, economic development effects, land use, environmental benefits, and operating efficiencies. Using these statutorily identified criteria, FTA evaluates potential transit projects annually and as a condition for advancement into each phase of the process, including preliminary engineering, final design, and construction.³ FTA refers to projects in the preliminary engineering or final design phases as the "pipeline" through which successful projects advance to receive funding.

FTA's New Starts program is often cited as a model for other federal transportation programs because of its use of a rigorous and systematic evaluation process to distinguish among proposed New Starts

¹Fixed-guideway systems use and occupy a separate right-of-way for the exclusive use of public transportation services. These systems include fixed rail, exclusive lanes for buses and other high-occupancy vehicles, and other systems. An FFGA establishes the terms and conditions for federal funds available for the project, including the maximum amount of federal funds available.

²Pub. L. No. 109-59 (2005).

³During the preliminary engineering phase, project sponsors refine the design of the proposal, taking into consideration all reasonable design alternatives and estimating each alternative's costs, benefits, and impacts (e.g., financial or environmental). Final design is the last phase of project development before construction and may include right-of-way acquisition, utility relocation, and the preparation of final construction plans and cost estimates.

investments. However, we and others have also identified challenges facing the New Starts program. For example, our past reviews found that many program stakeholders thought that FTA's process for evaluating New Starts projects was too complex and costly and did not effectively use all of the criteria outlined in SAFETEA-LU and previous legislation to account for different project benefits, such as economic development.

My testimony discusses the (1) key challenges associated with the New Starts program and (2) options that could help expedite project development in the New Starts program. My comments are based on our extensive body of work on the New Starts program as well as our ongoing work for the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Transportation and Infrastructure.⁴ We will complete our ongoing work and report to the committees this summer. For our ongoing work—as directed by Congress—we reviewed SAFETEA-LU and other New Starts statutory requirements, FTA guidance and regulations governing the New Starts program and other FTA documents, including the annual New Starts report, and interviewed experts, consultants, project sponsors, industry associations, and FTA officials about the time it takes for a New Starts project to move through the New Starts process, as well as options to address the elements that cause delays.⁵ We conducted our ongoing work from January 2009 through May 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The FTA reviewed the information in this testimony and provided technical comments, which we incorporated.

Background

FTA generally funds New Starts projects through FFGAs, which are required by statute to establish the terms and conditions for federal

⁴See the Related GAO Products section at the end of this testimony for a listing of previous reports on these programs. We conducted these performance audits in accordance with generally accepted government auditing standards.

⁵As required by 49 U.S.C. § 5309(k)(1), the Department of Transportation annually reports its recommendations to Congress for the allocation of funds for the design and construction of fixed-guideway New Starts and Small Starts capital investments.

participation in a New Starts project.⁶ FFGAs also define a project's scope, including the length of the system and the number of stations; its schedule, including the date when the system is expected to open for service; and its cost. For projects to obtain FFGAs, New Starts projects must emerge from a regional, multimodal transportation planning process. The first two phases of the New Starts process—systems planning and alternatives analysis—address this requirement. The systems planning phase identifies the transportation needs of a region, while the alternatives analysis phase provides information on the benefits, costs, and impacts of different options, such as rail lines or bus routes, in a specific corridor versus a region. The alternatives analysis phase results in the selection of a locally preferred alternative, which is the New Starts project that FTA evaluates for funding. After a locally preferred alternative is selected, the project sponsor submits an application to FTA for the project to enter the preliminary engineering phase. When this phase is completed and federal environmental requirements under the National Environmental Policy Act are satisfied, FTA may approve the project's advancement into final design, after which FTA may recommend the project for an FFGA and advance the project into construction. FTA oversees grantees' management of projects from the preliminary engineering phase through the construction phase.

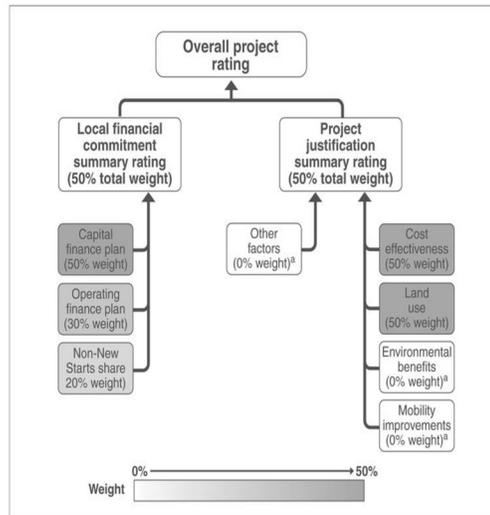
To help inform administration and congressional decision makers about which projects should receive federal funds, FTA currently distinguishes among proposed projects by evaluating and assigning ratings to various statutory evaluation criteria—including both local financial commitment and project justification criteria—and then assigning an overall project rating.⁷ (See fig. 1.) These evaluation criteria reflect a range of benefits and effects of the proposed project, such as cost-effectiveness, as well as the ability of the project sponsor to fund the project and finance the continued operation of its transit system. FTA has developed specific measures for each of the criteria outlined in the statute. On the basis of these measures,

⁶An FFGA for a New Starts project can be for 80 percent of the net capital project cost, unless the grant recipient requests a lower grant percentage.

⁷The exceptions to the evaluation process are statutorily exempt projects, which are those with requests for less than \$25 million in New Starts funding. Sponsors of these projects are not required to submit project justification information (although FTA encourages the sponsors to do so). These projects are exempt until such time as a final regulation implementing certain provisions of SAFETEA-LU is completed. FTA does not rate these projects. As a result, the number of projects in the preliminary engineering or final design phases may be greater than the number of projects evaluated and rated by FTA.

FTA assigns the proposed project a rating for each criterion and then assigns a summary rating for local financial commitment and project justification. These two ratings are averaged together to create an overall rating, which is used in conjunction with a determination of the project's "readiness" for construction to determine what projects are recommended for funding. Projects are rated at several points during the New Starts process—as part of the evaluation for entry into the preliminary engineering and the final design phases, and yearly for inclusion in the New Starts Annual Report. As required by statute, the administration uses the FTA evaluation and rating process, along with the development phases of New Starts projects, to decide which projects to recommend to Congress for funding.

Figure 1: New Starts Evaluation Criteria and Rating Development



Source: GAO analysis of FTA data.

^aThese criteria are not currently assigned a weight in the evaluation framework.

Previous GAO Work
Has Identified Key
Challenges in
Managing New Starts
Program

Frequent Changes to the
New Starts Program Have
Sometimes Led to
Confusion and Delays

Numerous changes have been made to the New Starts program over the last decade. These changes include statutory, regulatory, and administrative changes to the program. For example, we reported in 2005 that FTA had implemented 16 changes to the New Starts application, evaluation, rating, and project development oversight process since the fiscal year 2001 evaluation cycle.⁸ Additional changes have been made to the program since 2005. Examples of these changes made to the program over the last 10 years, in chronological order, include the following.

- **New data collection requirements:** Starting with the fiscal year 2004 evaluation cycle, FTA required project sponsors seeking an FFGA to submit a plan for the collection and analysis of information to determine the impacts of the project and the accuracy of the forecasts that were prepared during project planning and development. SAFETEA-LU subsequently codified this "before and after" study requirement.
- **Evaluation measures revised:** FTA revised its cost-effectiveness and mobility improvements criteria by adopting the Transportation System User Benefits (TSUB) measure that includes benefits for both new and existing transit system riders. Although project sponsors generally view the new cost-effectiveness measure of cost per hour of TSUB as an improvement over the previous measure of cost per new rider, we have reported that some project sponsors have had difficulties correctly calculating the TSUB value for their projects, resulting in delays and additional costs as they conduct multiple iterations of the TSUB measure.⁹

⁸GAO, *Public Transportation: Opportunities Exist to Improve the Communication and Transparency of Changes Made to the New Starts Program*, GAO-05-674 (Washington, D.C.: June 28, 2005).

⁹GAO, *Mass Transit: FTA Needs to Provide Clear Information and Additional Guidance on the New Starts Ratings Process*, GAO-03-701 (Washington, D.C.: June 23, 2003); *Mass Transit: FTA Needs to Better Define and Assess Impact of Certain Policies on New Starts Program*, GAO-04-748 (Washington, D.C.: June 25, 2004).

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- **New analysis requirement added:** Starting with the fiscal year 2005 evaluation cycle, FTA required project sponsors to complete risk assessments. Since implementation, the form and timing of the risk assessments have evolved since 2003, but the intent of the assessments remains to identify the issues that could affect the project's schedule or cost.
 - **Policy on funding recommendations changed:** In 2005, the administration informed the transit community that it would target its funding recommendations to projects that achieve a cost-effectiveness rating of medium or higher. Previously, the administration had recommended projects for funding that had lower cost-effectiveness ratings, if they met all other criteria.¹⁰
 - **New programs established:** SAFETEA-LU established the Small Starts program, a new capital investment grant program, simplifying the requirements imposed for those seeking funding for lower-cost projects.¹¹ This program is intended to advance smaller-scale projects through an expedited and streamlined evaluation and rating process. FTA subsequently introduced a separate eligibility category within the Small Starts program for Very Small Starts projects. Very Small Starts projects qualify for an even simpler evaluation and rating process.
 - **New evaluation criteria introduced:** Given past concerns that the evaluation process did not account for a project's impact on economic development, SAFETEA-LU added economic development to the list of project justification criteria that FTA must use to evaluate and rate New Starts projects.

Although the impetus for each change varied, FTA officials stated that, in general, all of the changes the agency has initiated were intended to make the process more rigorous, systematic, and transparent. This increased

¹⁰In the fiscal year 2010 New Starts report, FTA recommends a Small Starts project, Portland, Oregon Streetcar Loop, for a Project Construction Grant Agreement even though it received a low cost-effectiveness rating. According to an FTA official, FTA is advancing the project for funding because it meets all the statutory criteria. The official also noted that the medium rating cost-effectiveness threshold was an "administrative requirement" of the previous administration, and the new administration believes that the Portland, OR project is worth funding given its other predicted benefits.

¹¹Small Starts projects are defined as those that are requesting less than \$75 million in federal funding and have a total estimated net capital cost of less than \$250 million. Projects are eligible for the Very Small Starts program if their total costs are less than \$50 million.

rigor, in turn, helps FTA and project sponsors deliver more New Starts projects within budget and on time, according to FTA.

However, frequent changes to the New Starts program create challenges for project sponsors. For example, we have previously reported that some project sponsors told us that FTA did not create clear expectations or provide sufficient guidance about certain changes.¹² In addition, we reported that project sponsors said some changes made the application process more expensive and required them to spend significantly more time to complete the application. We have heard similar concerns from project sponsors during our ongoing review. Specifically, some project sponsors we interviewed told us that they have had to redo completed analyses because FTA applies regulatory and administrative changes to projects in the pipeline. In general, according to project sponsors and other stakeholders we have spoken to, this rework adds time and costs to completing the New Starts project development process.

FTA's Project Evaluation Process Does Not Currently Capture All Project Benefits

FTA currently assigns a 50 percent weight to both the cost-effectiveness and the land use criteria when developing the project justification summary rating. The other project justification criteria are not weighted, although the mobility improvements criterion is used as a "tiebreaker." FTA officials have told us that they do not currently use the environmental benefits and operating efficiencies criteria in determining the project justification summary rating because the measures do not, as currently structured, provide meaningful distinctions among competing New Starts projects. FTA does not use the economic development criterion because of difficulty developing a measure that is separate and distinct from the land use criterion. We have found in the past that many project sponsors had similar views, noting that individual projects are too small to have much impact, in terms of, for example, air quality, on the whole region or the whole transit system.¹³ In contrast, FTA officials have told us that the cost-effectiveness and land use measures help to make meaningful distinctions among projects. For example, according to FTA, existing transit supportive land use plans and policies demonstrate an area's commitment to transit and are a strong indicator of a project's future success. Furthermore, according to many FTA officials, experts, and the

¹²GAO, *Public Transportation: New Starts Program Is in a Period of Transition*, GAO-06-819 (Washington, D.C.: Aug. 30, 2006).

¹³GAO-05-674.

literature we have consulted, FTA's cost-effectiveness measure accounts for most secondary project benefits, including economic development, because these benefits are typically derived from mobility improvements that reduce users' travel times. Therefore, developing new measures for these other criteria may result in the double-counting of certain project benefits.

However, in 2008, we reported that FTA's evaluation measures could be underestimating total project benefits.¹⁴ FTA's measure of cost-effectiveness, for instance, considers how the mobility improvements from a proposed project will reduce users' travel times. Although this measure can capture most secondary project benefits, it does not account for benefits for non-transit users (e.g., highway travel time savings) or capture any economic development benefits that are not directly correlated to mobility improvements. The omission of these benefits means proposed projects that convey significant travel time savings for motorists, for example, are not recognized in the selection process. Beyond the cost-effectiveness measure, we reported that project sponsors and experts expressed frustration that FTA does not include certain criteria in the calculation of project ratings, such as economic development and environmental benefits. They noted that this practice limits the information captured on projects, particularly since these are important benefits of transit projects at the local level. As a result, FTA may be underestimating projects' total benefits, particularly in areas looking to use these projects as a way to relieve congestion or promote more high-density development. In these cases, however, the extent to which FTA's current approach to estimating benefits affects how projects are ranked in FTA's evaluation and ratings process is unclear.

FTA officials have acknowledged these limitations, but noted that improvements in local travel models are needed to resolve some of these issues.¹⁵ In particular, many local models used to estimate future travel demand for New Starts are incapable of reliably estimating highway travel time savings as a result of the proposed project, according to FTA officials.

¹⁴GAO, *Public Transportation: Improvements Are Needed to More Fully Assess Predicted Impacts of New Starts Projects*, GAO-08-844 (Washington, D.C.: July 25, 2008).

¹⁵Project sponsors estimate future travel demand and analyze the impacts of alternative transportation investment scenarios using computerized travel demand forecasting models. These models are used to estimate how urban growth and proposed facilities and the associated operational investments and transportation policies will affect mobility and the operation of the transportation system.

There is great variation in the models local transportation planning agencies use to develop travel forecasts (which underlie many of the New Starts measures), producing significant variation in forecast quality and limiting the ability to assess quality against the general state of practice. In 2008, we made a series of recommendations designed to address the limitations of FTA's current evaluation process, including recommending that (1) the Secretary of Transportation seek additional resources to improve local travel models in the next authorizing legislation to improve the New Starts evaluation process and the measures of project benefits; (2) FTA establish a timeline for issuing, awarding, and implementing the result of its request for proposals on short- and long-term approaches to measuring highway user benefits from transit improvements; (3) the Administrators of FTA and Federal Highway Administration collaborate in efforts to improve the consistency and reliability of local travel models; and (4) the Administrator of FTA establish a timeline for initiating and completing its longer-term effort to develop more robust measures of transit projects' environmental benefits.¹⁶ FTA is working to address these recommendations. For instance, FTA conducted a colloquium on environmental benefits of transit projects in October 2008, which resulted in a discussion paper on the evaluation of economic development. Further, in a Federal Register Notice published on January 26, 2009, FTA issued and sought comments on a discussion paper on new ways of evaluating economic development effects.¹⁷ FTA is now reviewing comments on that paper.

In May 2009, FTA also took steps to address concerns about the exclusion of some project justification criteria from the evaluation process. In a Notice of Availability for New Starts and Small Starts Policies and Procedures and Requests for Comments in the Federal Register, FTA proposed changing the weights assigned for the project justification criteria for New Starts projects.¹⁸ Specifically, FTA proposes to set the weights at 20 percent each for the mobility, cost-effectiveness, land use, and economic development criteria, and 10 percent each for operating efficiencies and environmental benefits.¹⁹ According to FTA, these changes reflect statutory direction that project justification criteria should be given

¹⁶GAO-08-844.

¹⁷74 Fed. Reg. 4502 (Jan. 26, 2009).

¹⁸74 Fed. Reg. 23776 (May 20, 2009).

¹⁹74 Fed. Reg. 23776 (May 20, 2009).

"comparable, but not necessarily equal, numerical weight" in calculating the overall project rating.²⁰ FTA is currently soliciting public comments on these proposed changes.

Striking Appropriate Balance between Maintaining a Robust Evaluation Process and Minimizing Complexity Is Challenging

We reported in 2008 that experts and some project sponsors we spoke with generally support FTA's quantitatively rigorous process for evaluating proposed transit projects but are concerned that the process has become too burdensome and complex, and as noted earlier, may underestimate certain project benefits.²¹ For example, several experts and transportation consultants told us that although it is appropriate to measure the extent to which transit projects create primary and secondary benefits, such as mobility improvements and economic development, it is difficult to quantify all of these projected benefits. Additionally, several project sponsors noted that the complexity of the evaluation process can necessitate hiring consultants to handle the data requests and navigate the application process—which could increase the project's costs. Our previous reviews of the New Starts program have noted similar concerns from project sponsors. For example, in 2007, we reported that a majority of project sponsors told us that the complexity of the requirements—such as the analysis and modeling required for travel forecasts—creates disincentives for entering the New Starts pipeline.²² Sponsors also said that the expense involved in fulfilling the application requirements, including the costs of hiring additional staff and consultants, discourages agencies with less resources from applying for this funding.

In response to such concerns, FTA has tried to simplify the evaluation process in several ways. For example, as previously mentioned, FTA established the Very Small Starts eligibility category within the Small Starts program for projects less than \$50 million in total cost. This program further simplifies the application requirements in place for the Small Starts program, which funds lower-cost projects, such as bus rapid

²⁰SAFETEA-LU Technical Corrections Act of 2008, Pub. L. No. 110-244, § 201(d), 122 Stat. 1610 (June 6, 2008). For the Small Starts program, FTA proposes to assign the three required project justification criteria (land use, economic development, and cost-effectiveness) equal weights (i.e., one-third for each criterion).

²¹GAO-08-844.

²²GAO, *Public Transportation: Future Demand Is Likely for New Starts and Small Starts Programs, but Improvements Needed to the Small Starts Application Process*, GAO-07-917 (Washington, D.C.: July 27, 2007).

transit and streetcar projects. Additionally, in its New Starts program, FTA no longer rates projects on the operating efficiencies criterion because, according to FTA, operating efficiencies are already sufficiently captured in FTA's cost-effectiveness measures, and the measure did not adequately distinguish among projects. Thus, projects no longer have to submit information on operating efficiencies. Likewise, FTA no longer requires project sponsors to submit information on environmental benefits because it found that the information gathered did not adequately distinguish among projects and that EPA's ambient air quality rating was sufficient. FTA also commissioned a study by Deloitte in June 2006 to review the project development process and identify opportunities for streamlining or simplifying the process.²³ This study identified a number of ways that FTA's project development process could be streamlined, including revising the policy review and issuance cycle to minimize major policy and guidance changes to every 2 years and conducting a human capital assessment to identify skill gaps and opportunities for reallocating resources in order to enhance FTA's ability to review and assist New Starts projects in a timely and efficient manner. According to FTA, the agency has implemented 75 percent of Deloitte's recommendations; some of the other recommendations are on hold pending the upcoming reauthorization of the surface transportation program, including the New Starts program.

Potential Options to Expedite Project Development in the New Starts Program

As part of our ongoing work, we are reviewing existing research, including past GAO reports, analyzing data on the length of time it takes for projects to complete the New Starts process, and interviewing project sponsors, industry stakeholders and consultants, and transportation experts to identify options to expedite project development in the New Starts program. Using these sources, we have preliminarily identified the following options. While each option could help expedite project development, each option has advantages and disadvantages to consider and some options could require legislative changes. In addition, each option would likely require certain trade-offs, namely reducing the level of rigor in the evaluation process in exchange for a more streamlined process. The discussion that follows is not intended to endorse any potential option, but instead to describe some potential options for expediting project development. We will continue to work with FTA and other stakeholders to identify other options as well as examine the merits

²³Deloitte Development, Inc., *New Starts Program Assessment*, Feb. 12, 2007.

and challenges of all identified options for inclusion in our report later this summer.

- **Tailor the New Starts evaluation process to risks posed by the projects:** Project sponsors, consultants, and experts we interviewed suggested that FTA adopt a more risk-based evaluation process for New Starts projects based on the project's costs or complexity, the federal share of the project's costs, or the project sponsor's New Starts experience. For example, FTA could align the level of oversight with the proposed federal share of the project—that is, the greater the financial exposure for the federal government, the greater the level of oversight. Similarly, FTA could reduce or eliminate certain reviews for project sponsors who have successfully developed New Starts projects in the past, while applying greater oversight to project sponsors who have no experience with the New Starts process. We have noted the value in using risk-based approaches to oversight. For example, we have previously reported that assessing risks can help agencies allocate finite resources and help policy makers make informed decisions.²⁴ By adopting a more risk-based approach, FTA could allow select projects to move more quickly through the New Starts process and more efficiently use its scarce resources. However, the trade-off of not applying all evaluation measures to every project is that FTA could miss the opportunity to detect problems early in the project's development.
- **Consider greater use of letters of intent and early systems work agreements:** The linear, phased evaluation process of the New Starts program hampers project sponsors' ability to utilize alternative project delivery methods, such as design-build, according to project sponsors.²⁵ These alternative project delivery methods have the potential to develop a project cheaper and quicker than traditional project delivery methods can. However, project sponsors told us it is difficult to attract private sector interest early enough in the process to use alternative project delivery

²⁴GAO, *Highlights of a Forum Convened by the Comptroller General of the United States: Strengthening the Use of Risk Management Principles in Homeland Security*, GAO-08-627SP (Washington, D.C.: April 2008).

²⁵Design-build is a project delivery approach where, in contrast to the design-bid-build approach that FTA's project evaluation process is aligned with, the design and construction are contracted out to a single entity. This approach is used to minimize the project risk for an owner and to reduce the delivery schedule by overlapping the design phase and construction phase of a project. Design-bid-build is a project delivery approach in which the agency or owner (e.g., transit operator) contracts with separate entities for the design and construction of a project.

methods because there is no guarantee that the project will ultimately receive federal funding through the New Starts program. The Deloitte study also noted that New Starts project sponsors miss the opportunity to use alternative project delivery methods because of the lack of early commitment of federal funding for the projects. To encourage the private sector involvement needed, project sponsors, consultants, and experts we interviewed suggested that FTA use letters of intent or early systems work agreements. Through a letter of intent, FTA announces its intention to obligate an amount from future available budget authority to a project. A challenge of using letters of intent is that they can be misinterpreted as an obligation of federal funds, when in fact they only signal FTA's intention to obligate future funds should the project meet all New Starts criteria and requirements. In contrast, an early systems work agreement obligates an amount of available budget authority to a project. The challenge of using an early systems work agreement is that FTA can only use these agreements with projects that will be granted an FFGA, thus limiting FTA's ability to use these agreements for projects in the pipeline.

- **Consistently use road maps or similar project schedules:** Project sponsors said that FTA should more consistently use road maps or similar tools to define the project sponsor's and FTA's expectations and responsibilities for moving the project forward. Without establishing these expectations, project sponsors have little information about how long it will take FTA to review its request to move from alternatives analysis to preliminary engineering, for example. This lack of information makes it difficult for the project sponsor to effectively manage the project. Given the benefits of clearly setting expectations, Deloitte recommended that FTA use road maps for all projects. FTA has used road maps for select projects, but the agency does not consistently use them for all projects. A limitation of using road maps is that expected time frames are subject to change—that is, project schedules often change as a project evolves throughout the development process. Furthermore, every project is unique, making it difficult to set a realistic time frame for each phase of development. Consequently, the road maps can provide only rough estimates of expected time frames.
- **Combine two or more project development phases:** Project sponsors and consultants told us that waiting for FTA's approval to enter preliminary engineering, final design, and construction can cause delays. While FTA determines whether a project can advance to the next project development phase, work on the project essentially stops. Project sponsors can advance the project at their own risk, meaning they could have to redo the work if FTA does not subsequently approve an aspect of the project. The amount of time it takes for FTA to determine whether a

project can advance can be significant. For example, one project sponsor told us that FTA's review of its application to advance from alternatives analysis to preliminary engineering took 8 months; about the same amount of time it took the project sponsor to complete alternatives analysis. FTA officials told us the length of time for reviews depends on a number of factors, most importantly the completeness and accuracy of the project sponsor's submissions. To reduce the "start/stop" phenomena project sponsors described, FTA could seek a legislative change to combine two or more of the statutorily required project development phases—for example, combining the preliminary engineering and final design phases. The Deloitte study also recommended that FTA redefine or more clearly define the project phases to more accurately reflect FTA's current requirements and to better accommodate alternative delivery methods.

- **Apply changes only to future projects:** Project sponsors told us that the frequent changes to the New Starts program can result in additional costs and delays as project sponsors are required to redo analyses to reflect the changes. In an attempt to create a process that provides more stability for project sponsors, in May 2006, FTA modified its policy to allow a project that has been approved for entry into final design not be subject to changes in the New Starts policy and guidance.²⁶ However, this policy change does not apply to projects approved for entry into preliminary engineering, which is the New Starts project development phase that has the most requirements for project sponsors and the phase where project sponsors told us that frequent changes to the project by sponsors and to the New Starts process by FTA result in additional costs and delays. Furthermore, another project sponsor noted that new requirements cause delays because each element of a proposed project is interrelated, so changing one requirement can stop momentum on a project. To avoid this rework, some project sponsors, consultants, and experts we interviewed suggested that FTA apply changes only to future projects, not projects currently in preliminary engineering. However, by not applying changes to projects in preliminary engineering, FTA could miss the opportunity to enhance its oversight of these projects.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions that you or other members of the subcommittee may have at this time.

²⁶This policy would not exempt a project from new statutory or regulatory guidelines, as it is outside FTA's authority to do so.

**GAO Contact and
Staff
Acknowledgments**

For further information on this testimony, please contact A. Nicole Clowers, Acting Director, Physical Infrastructure Issues, at (202) 512-2834, or clowersa@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Key contributors to this testimony were Kyle Browning, Gary Guggolz, Raymond Sendejas, and Carrie Wilks.

Related GAO Products

Public Transportation: Improvements Are Needed to More Fully Assess Predicted Impacts of New Starts Projects. GAO-08-844. Washington, D.C.: July 25, 2008.

Public Transportation: Future Demand Is Likely for New Starts and Small Starts Programs, but Improvements Needed to the Small Starts Application Process. GAO-07-917. Washington, D.C.: July 27, 2007.

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PREPARED STATEMENT OF GARY C. THOMAS

PRESIDENT/EXECUTIVE DIRECTOR, DALLAS AREA RAPID TRANSIT (DART), AND
VICE CHAIR—RAIL TRANSIT, AMERICAN PUBLIC TRANSPORTATION ASSOCIATION
(APTA)

JUNE 3, 2009

Introduction

Mr. Chairman and Members of the Subcommittee, on behalf of Dallas Area Rapid Transit (DART) and the American Public Transportation Association (APTA), we thank you for the opportunity to testify before you today and to submit our written testimony on the Federal Transit Administration's (FTA) New Starts program. The New Starts program, which provides essential funding to cities like Dallas, Salt Lake City, Charlotte, Phoenix, and Portland who seek to improve mobility and air quality by establishing new transit services needs a "fresh start." Changes must be made to the program that will help streamline the Federal transit program, reduce administrative burdens on transit agencies and help speed project delivery.

About APTA

APTA is a nonprofit international association of nearly 1,500 public and private member organizations. This includes transit systems and high-speed, intercity and commuter rail operators; planning, design, construction, and finance firms; product and service providers; academic institutions; transit associations and State departments of transportation. APTA members serve the public interest by providing safe, efficient, and economical transit services and products. More than 90 percent of the people using public transportation in the United States and Canada are served by APTA member systems. I have the pleasure of serving as the Vice Chair—Rail Transit of this great organization.

About DART

Dallas Area Rapid Transit (DART) provides direct access throughout Dallas and 12 surrounding cities with modern public transit services and customer facilities tailored to make each trip fast, comfortable and affordable. Our extensive network of bus and rail services moves more than 220,000 passengers per day across our 700-square-mile service area.

To promote ridesharing, we also operate a system of high occupancy vehicle (HOV) lanes allowing carpoolers to bypass freeway traffic jams. More than 145,000 commuters use our HOV lanes each weekday.

Through 2013, the DART Rail System is slated to double in size to 90 miles. With \$700 Million in assistance from the New Starts program, DART is currently constructing the Green Line from Southeast Dallas to the northwest through downtown Dallas, past the American Airlines Center, the Dallas Medical/Market Center, and Love Field Airport, to the cities of Farmers Branch and Carrollton. At 28 miles, this is the longest light rail construction project underway in North America. Revenue service on this corridor will begin September 14 of this year. We will add light rail service to Rowlett, Irving and DFW International Airport between 2011 and 2013. A second alignment in the Dallas central business district will begin in 2016.

Current State of the New Starts Program

I thank the Subcommittee for allowing me to share our views on the New Starts program as you begin efforts to write the transit title of the next surface transportation bill. As this Subcommittee is well aware, we face extraordinary challenges as we look for ways to finance our transportation needs. The mass transit account of the Federal Highway Trust Fund is on a path to insolvency. While the transit account is in less immediate danger than the larger highway account, the balances in both are falling at a rate that will undermine their ability to support current obligation levels. We support maintaining the current basic Federal transit funding structure: a separate Mass Transit Account (MTA) within the Highway Trust Fund, crediting the MTA with at least 20 percent of motor fuel taxes, and preserving the current 20 percent General Fund contribution to the transit program.

Even with that funding structure in place, the New Starts program needs a fresh start. Changes must be made to the program that will help streamline the Federal transit program, reduce administrative burdens on transit agencies and help speed project delivery. Many of the agencies receiving these funds are in fast-growing regions. These agencies have to be creative, resourceful, and nimble to respond to increased congestion and decreased mobility. In our area of North Texas, for example, we are again this year the fastest growing region in the United States. Over the past decade we have added a million new residents—a trend that is continuing. This

year commuters in our region will spend 60 hours stuck in traffic. We simply must build more transit infrastructure, and we must do so today.

With the assistance of both the FTA headquarters and regional office staff, DART successfully navigated the New Starts program for the Green Line receiving just under 50 percent of the Federal project cost. The New Starts program provided DART with an additional funding source that allowed for the use of local dollars on other expansion projects, benefiting our customers and sustaining our capital expansion program.

As reported in the “New Starts Program Assessment” prepared by Deloitte Consulting in 2006 for FTA, the New Starts program submittal requirements or guidance changed several times during the development of the Green Line project. This led to \$100 million dollars in additional finance charges and escalation costs as a result of continuing review, as well as 6–8 months of delay by FTA to review the regional travel demand model and user benefit calculation that did not significantly alter our findings. Nevertheless, the New Starts program is a valuable funding mechanism and should be continued, but with modifications.

We began development of the Green Line in 1998 and received our Full Funding Grant Agreement (FFGA) in July 2006. We made our first New Starts submittal in 2000 and made a subsequent submittal each year thereafter. We completed alternatives analysis in 13 months, preliminary engineering in 48 months and final design in 12 months. The additional time for preliminary engineering was directly related to resolving the alignment issue adjacent to Love Field Airport. All local parties wanted a direct connection via a tunnel and had identified the financial resources to pay for most of the cost that could have been made for a better project. However, the additional capital cost had a substantial impact on our user benefit calculation that would have resulted in a “Not Recommended” rating. We strongly suggest that the cost calculation should only consider the Federal project cost—local sponsors should be able to add project features at their own expense without harming their cost-effectiveness rating.

The role that the FTA regional office plays in the New Starts process needs to be better defined and strengthened. It is through these staff that transit properties work on a daily basis and who have a greater understanding of the local issues and the purpose and need of a project. The regional staff has traveled the local corridors and has been stuck in the same congestion problems we are trying to explain to Washington. Regional staff members have ridden DART and understand the need for change and the value of the improvement. During the Green Line project, DART requested headquarters staff to come visit Dallas and see what we were describing and experiencing, but they were unable to do so. The local staff, who had seen the DART project first hand had to defer to headquarters because that’s where the reviews took place. It is cases like this one that point out the need for the regional office to have a stronger role in project review.

Recommendations for Improving the Programs Application and Evaluation Process

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) expires at the end of the current fiscal year.

As Congress considers a new authorization bill, APTA has developed a set of recommendations that calls for a significant increase in Federal transit investment and improvements within the New Starts program.

Both DART and APTA urge Congress to provide FTA no less than \$12.4 billion to fund public transportation programs, representing the first year’s installment of public transportation investment. This level is consistent with APTA’s recommendations for FY2010 under the next surface transportation authorization bill. APTA also recommends a significant increase in Federal public transportation investment, with no less than \$123 billion provided over the six-year period.

In addition to seeking an increase in funds, we recommend several key changes to the New Starts program structure. These changes will help streamline the Federal transit program, reduce administrative burdens on transit agencies and help speed project delivery. These include:

- We encourage a simplified and streamlined review, rating and approval process for all New Starts projects. Projects are currently strangled in red tape, which unnecessarily delays project construction and increases project costs.
- Strengthen the role and involvement of the FTA regional office in the New Starts process including both reviews and determinations. The local office has a clearer perspective of local issues and how the transit improvements will benefit that specific community.

- Re-establishment of an exempt category of New Starts projects that require small amounts of funding.
- We support major reforms to the New Starts rating standard. The current standard, as implemented by FTA, does not adequately take into account the full range of benefits due to New Starts projects, especially land use, economic development and environmental benefits. In addition, the cost calculation should only consider the Federal project cost—local sponsors should be able to add project features at their own expense without harming their cost-effectiveness rating.
- Re-establish the Program of Interrelated Projects provision of the Intermodal Surface Transportation Efficiency Act (ISTEA). Local sponsors should be able to advance multiple projects simultaneously in such a program in order to reduce costs.
- Greater use of Pilot and Demonstration projects to acknowledge the fact that not all projects fit the requirements of the New Start programs. Our Central Business District Transit Study (D2) is an example. We need to provide for additional capacity in the core area, but do not currently meet the requirements of a New Start. We would like to work with FTA to develop and implement a Demonstration Project to develop new criteria for nontypical projects.
- There should be an opportunity to explore new ways to be flexible and responsive to changing conditions such as increasing fuel costs. As you know, transit agencies around the Nation were challenged to respond to the dramatic ridership increases due to rising fuel prices. Perhaps a pool of emergency operating funds could be made available to support agencies as they deliver more service in response to an immediate need without extensive time lost in processing.

Summary

We face both remarkable opportunities and serious challenges in the days ahead. President Obama recognizes the central importance of our transit systems to our quality of life and the quality of our environment. He has spoken of the need to invest adequately and to invest efficiently. The President has stressed repeatedly the role that public transportation must play in reducing pollution, including greenhouse gas emissions, and moving towards energy independence by diminishing our reliance on foreign oil.

We look forward to working with the Subcommittee to make the necessary changes and investments to grow the public transportation program. We urge the Subcommittee to invest in public transit by authorizing the funds necessary to sustain the growing interest and value that public transit provides in communities across the country through the New Starts program. Finally, we support the efforts of Congress thus far to invest in a sustainable high-speed rail system and encourage your Subcommittee to continue building upon the foundation established in the American Recovery and Reinvestment Act of 2009. It is an exciting time for public transportation and a critical time for our Nation to continue to invest in transit infrastructure that promotes economic growth, energy independence, and a better way of life for all Americans.

Mr. Chairman, this concludes my presentation to the Subcommittee. I will be happy to answer any questions you have. Again, thank you for the opportunity to testify before you today.

PREPARED STATEMENT OF RICHARD SARLES

EXECUTIVE DIRECTOR,
NEW JERSEY TRANSIT

JUNE 3, 2009

Chairman Menendez, Ranking Member Vitter and distinguished Members of the Subcommittee—my name is Richard Sarles and I am the Executive Director of NJ TRANSIT. NJ TRANSIT is the Nation's largest statewide public transportation system providing nearly 900,000 weekday trips on 2000 buses, 3 light rail lines, and 11 commuter rail lines.

Congress and the Obama Administration—through the American Recovery and Reinvestment Act (ARRA)—have sent a strong signal to the American public that improving and expanding public transportation is a priority.

It is precisely because we stand at the gateway of a new era in transit investment that it is critical to ensure that, going forward, we have the most expeditious and

transparent process to deliver critically needed projects both at the agency and Federal levels.

First, let me say that we are very, very pleased to be working with FTA Administrator Peter Rogoff. The Administrator is an extremely knowledgeable transportation expert with considerable experience with New Starts through his work on the Senate Appropriations Committee. He has been a friend to transit for many years and has already hit the ground running, working with us closely in New Jersey to advance New Starts projects. I look forward to his leadership and partnership at FTA.

The FTA has an important, welcomed oversight role in the New Starts process that was designed to realize the benefits for money expended, and to ensure both the competitive nature of the program and the proper usage of Federal funds.

What I hope to address today is the fact that the FTA, like NJ TRANSIT, has limited resources to devote to these valuable oversight responsibilities. FTA must focus its resources to assure that the costs and benefits of a project are fairly presented and that a grantee has in place the requisite organization, funding, processes, controls and personnel to advance and sustain a project. The FTA does not have nor should have the expertise to plan, engineer and construct major projects. Nor should it request or demand reams of documentation with multiple revisions from clearly experienced agencies to prove they know how to plan, engineer, and construct a new starts project.

While we have worked through the years on multiple New Starts projects that have yielded tremendous benefits, our experience shows a more recent trend towards layers of oversight that can create risks to project schedules and budgets.

Specifically, NJ TRANSIT has completed four New Starts projects since the program's inception, including the Frank R. Lautenberg transfer station, the Hudson-Bergen Light Rail Segments 1 and 2, and the Newark Light Rail extension project. NJ TRANSIT also completed the Riverline Light Rail project with State funds only. The total value of these projects was \$3.9 billion.

Let me share NJ TRANSIT's experience with the New Starts process on two major projects—one in operation, and one about to break ground this month.

The first, the Hudson-Bergen Light Rail (HBLR) project, which is operational today, offers frequent and convenient service through seven cities along the Hudson River waterfront.

And it is important to note that during the project's early stages, that then-Mayor Menendez of Union City was not only an advocate of the project, but convinced NJ TRANSIT to add a station in Union City—which now has over 5,000 daily riders. HBLR has been a huge driver for economic development in Hudson County, in fact, in a region where cities are shrinking; Jersey City in the last quarter-century has gained about 30,000 residents, 27,000 jobs and 18 million square feet of prime office space.

NJ TRANSIT's experience with FTA in securing Full Funding Grant Agreements for the HBLR in the late 1990s was fairly straightforward.

NJ TRANSIT, in partnership with the Port Authority of New York and New Jersey, is also in Final Design and will soon break ground on the Access to the Region's Core (ARC) project—the first new rail tunnel to be built under the Hudson River in 100 years. This \$8.7 billion project will generate some \$45 billion in new regional economic activity while providing riders with more frequent, direct and reliable service. The Tunnel will accommodate a 50 percent increase in the number of daily passenger trips beneath the river, taking 22,000 cars a day off area highways and reducing greenhouse gases and other pollution by more than 66,000 tons per year.

The New Starts process in 2005, when we began submitting information for ARC, had changed substantially from the days of the HBLR. Some changes were positive. For instance, FTA required a fleet management plan for all transit modes operated by NJT, a financial plan, a 2030 rail operating plan, and a land use and economic development analysis. The process enforces a discipline on the logic used to develop and analyze a plan, which is useful so that comparisons can be made between different proposed transit projects and also so that the proposing agencies have the resources and skills they need to implement the project. I welcome the discipline.

However, in an environment where investments need to be accelerated to boost the economy and protect the environment, review timetables need to be balanced against the need to progress through the process with a focus on completion.

For example, the current New Starts process has evolved to include many more layers of review, and re-review which are sometimes onerous and can unnecessarily slow an agency's ability to advance on a reasonable schedule. Even modest changes to a project now result in more process—in fact, I can say with some certainty that if a Mayor requested an additional station for a New Starts project today—a request

that would improve the project through increased ridership and economic development—the result would be project delay and cost increases.

With these experiences in mind, I recommend the Committee consider the following steps with respect to reforming the New Starts process. In order to meet the Administration's objectives while providing appropriate oversight, the program should embody five fundamental principles:

1. Establish a true partnership between the Federal Government and State and local governments seeking to improve public transit bound together by mutual respect rather than red tape.
2. Streamline the New Starts process so that predictability of the process is a priority. One way to accomplish this is to make it more of a “procurement” type process.
3. Realign the review process to account for the experience of more established transit agencies.
4. Acknowledge the fact that the FTA has become the minority funding partner and further recognize that a Full Funding Grant Agreement limits the exposure of the FTA to fund more than a specified amount of the proposed project's total cost. At the same time the local agencies bear the risk of cost increases, including those due to delay in decision making.
5. Encourage the expansion of public transit consistent with concerns about production of green house gases and energy consumption. The weight given to evaluation criteria categories should be revisited.

True Partnership

Transit agencies need to renew partnerships with FTA that are bound together by mutual respect and trust, not one bound together by red tape. Over the years, additional requirements, many to do with the level of detail for reporting information and how different sets of analytic results need to link together, have been added to the New Starts process. The FTA should be aggressive in reviving the spirit of partnership that should exist between transit agencies and the Federal Government and permit more flexibility in project development.

Streamlined Process

One option worth considering is streamlining New Starts into more of a “procurement” type process. Rather than continuous reviews of projects, reorganize the new starts process as though FTA is “procuring” transit expansion projects. All proposals would be due on a specific date each year and would be evaluated in a process similar to evaluating a design build proposal—a value based proposal. Projects would be scored and the value put against their respective costs. After reviewing proposals from various transit agencies, FTA would execute FFGAs for the best projects that year.

Again, many components of the New Starts process are helpful and necessary—what is needed is predictability. I can't emphasize this enough—the timetable for the New Starts process, including receiving approvals, should be known and certain. Today the length of time to go through the process is difficult to predict, so the projects become even more difficult to schedule. In the early 1980s, New York City made similar improvements to its land use review process. Today there is a “clock” that moves project review from start to finish in a specified amount of time.

Established and Experienced Public Transit Agencies

While the FTA is seeking to employ a process it intends to be fair and complete, it should also acknowledge that there is less need to probe the management and operations of more established and experienced transit agencies that have demonstrated the ability to build and operate public transit systems and receive triennial reviews by the FTA. Staff and funding resources are too limited at all transit agencies and the FTA, to spend time on multiple, sometimes unnecessary reports.

Federal Funding Participation

Project reporting and oversight by the FTA should reflect its relative commitment of capital funding to the total project cost. Oversight responsibility should reflect the fact that a Full Funding Grant Agreement provides a cap on the Federal funding responsibility and the fact that the FTA is the minority funding contributor.

Accounting for New Concerns

Our Nation's appropriate new focus on reducing green house gas emissions and the use of petroleum based fuels requires that the criteria used in deciding which projects should receive Federal funding should be changed. There is also a need to recognize the positive value of transit investment in stimulating economic develop-

ment consistent with the aforementioned concerns. The strong emphasis now given to the Cost Effectiveness Index and how the mathematics behind the Index is organized should be revised to encourage construction of more transit lines as a means of achieving a reduction in green house gas emissions and energy use rather than limiting them.

I deeply appreciate the Committee's leadership on this matter. It is absolutely critical that if we are to achieve the ambitious agenda of building and expanding transit infrastructure across the country, we need to streamline the Federal process and work more urgently together as partners at the Federal, State, and local level. I am grateful for the opportunity to offer our thoughts today on how we can work together to build a better transportation network.

I would be glad to take your questions.

PREPARED STATEMENT OF MARIIA ZIMMERMAN

POLICY DIRECTOR,
RECONNECTING AMERICA

JUNE 3, 2009

Chairman Menendez, Ranking Member Vitter, and distinguished Members of the Subcommittee, thank you for the opportunity to appear before you today. I am Mariia Zimmerman, Policy Director for Reconnecting America, a national nonprofit dedicated to using transit investments to spur a new wave of development that improves housing affordability and choice, revitalizes downtowns and urban and suburban neighborhoods, and creates lasting value for our communities. Reconnecting America is a cofounder of the Transportation for America campaign, and we also host the national Center for Transit-Oriented Development (CTOD), a partnership with two other groups: the Center for Neighborhood Technology and Strategic Economics.

CTOD is federally funded to provide standards, guidance, and research on transit-oriented development (TOD), including a web-based resource of best practices and cutting edge research, and the National TOD Database, the only database of every existing and planned fixed transit station in America. We provide technical assistance to the 40 regions that either have transit or are planning to build new transit lines.

Today I would like to share with you some of the larger trends that are reshaping consumer preferences, business trends and the real estate market, creating an unprecedented opportunity for transit in defining the future sustainability of our communities. The way the Federal Transit Administration evaluates proposed transit investments has a direct bearing on whether or not regions are able to fully realize the potential of these trends.

In a 2008 study by Reconnecting America, we found that the demand for transit is soaring across the country, with 400 new rail, streetcar and bus rapid transit projects proposed in almost 80 communities across the country at a proposed worth of \$248 billion—far more than can be funded through the Federal transit program alone.¹ Transit ridership is at a 52-year high; since 1995, ridership has increased 38 percent; nearly triple the rate of population growth.² There are a host of reasons for this boom in demand for transit. Mayors value transit in helping to spur urban regeneration and reduce traffic congestion. Businesses value transit because employees can get to work on time and transit is viewed as a key amenity in attracting the highly desirable “creative class” to local economies. Developers see an untapped market for housing near transit and are designing new products and new neighborhoods to meet this demand. And, communities recognize that when all the pieces come together, transit can be a powerful tool to improve quality of life and help lower costs of living.

CTOD has estimated the demand for housing near transit to increase to almost 15 million U.S. households by the year 2030, roughly a quarter of all renters and buyers, and a more than doubling of demand from the 6 million households that live near transit today.³ This is a tremendous potential increase. If we are to come even close to achieving it, we need more transit investment and we need to reduce regu-

¹“Jumpstarting the Transit Space Race: How the New Administration Could Make America Energy-Independent, Create Jobs and Keep the Economy Strong.” Reconnecting America, 2008.

²American Public Transportation Association, 2009.

³“Hidden in Plain Sight: Capturing the Demand for Housing Near Transit.” Reconnecting America, 2005.

latory barriers that still make mixed-use, more compact development illegal in many communities. In addition, we need to maximize opportunities to leverage public resources and reduce the funding and bureaucratic silos between housing, transportation, and economic development.

Regions are aggressively seeking to use transit investments to help focus growth, create a sustainable foundation for economic development and provide mobility options for residents. Take into consideration Denver. In 2004, residents of the region voted to tax themselves to build five new transit lines in 15 years. They're making a \$6.4 billion investment in their future and focusing a significant percentage of regional growth into neighborhoods around each station. Virtually every major job center will now be connected by transit and the remaining 50 stations will accept about a quarter of the region's housing. In Orlando, the Central Florida commuter line will not only provide much needed congestion relief, but will provide the impetus for community revitalization in those towns with transit stops. The proposed Gold Line in Los Angeles is seen as a central strategy to curb sprawl in the Inland Empire and focus growth around the Claremont Colleges and a thriving medical complex. We're seeing similar investments in the Twin Cities, Houston, Dallas-Fort Worth, Salt Lake City, Atlanta, Sacramento, Norfolk and Charlotte, North Carolina—regions that even a few years ago wouldn't immediately come to mind as transit-based places.

Given the tremendous demand for new transit service, many communities are seeking new ways to fund and expedite project development. Federal funding for new transit lines has remained relatively stable, between \$1.5 billion and \$1.9 billion annually, while the time to successfully navigate the Federal New Starts process has increased from 5 years in 1991 to 10 years in 2004.⁴ To cite one example, both the Seattle, Washington, streetcar, which did not go through the New Starts process and Charlotte, North Carolina, South Corridor light rail line, which did, opened at the end of 2007. But the Seattle streetcar was proposed 5 years after the Charlotte project.

The relatively low level of transit investment in the United States stands in stark contrast to funding in other parts of the world. China, for example is dedicating \$88 billion for construction of 1,062 miles of rail over the next 6 years. India has announced it will spend \$56 billion to expand its rail system over the next 5 years. In London, the United Kingdom is spending \$32 billion on just one subway project—the 74-mile Crossrail subway in London.

It is clear from the growing domestic demand for transit, and the need to address our global competitiveness and reduce our dependence on foreign oil that more transit investment is warranted. My organization joins a growing chorus of voices that asks Congress to significantly increase funding for public transportation in the next surface transportation reauthorization, and as part of overall energy and climate legislation that may also be before the Senate this Congress.

Increased investment in public transportation should be viewed as part of a larger national goal to build and maintain a national transportation system that includes a well connected and integrated highway, transit, and rail network. Last month, Senators Rockefeller and Lautenberg introduced S. 1036, "The Federal Transportation Policy and Planning Act of 2009." This legislation sets a bold new vision for Federal transportation policy in order to address the current and future needs of our economy, energy, environment and health. The measure establishes a unifying mission for the Federal surface transportation program and sets needed and achievable performance targets, including goals to increase system safety, to repair and maintain existing assets, and to reduce congestion and carbon emissions through increased use of transit, rail, marine, and nonmotorized transportation. The Transportation for America campaign supports this legislation and hopes that these performance targets will be effectively integrated into the Federal transportation planning process as part of the next transportation bill.

As Congress works to reform Federal transportation policy, it will be important to ensure that it benefits those communities that have been historically disadvantaged by how our Nation has chosen to invest. This Subcommittee may wish to see included performance targets which speak to the critical need to better coordinate transportation with housing, land use and social equity goals—all objectives which fall within your Subcommittee's jurisdiction. Towards this aim, T4America recommends the following additional national transportation performance targets:

- Achieve zero percentage population exposure to at risk levels of air pollution;

⁴"Planning for the Future: New Starts Projects Must Address Next Generation of Transit Projects." APTA, October 2006.

- Reduce average household combined housing + transportation costs 25 percent; and,
- Increase by 50 percent essential destinations accessible within 30 minutes by public transit, or 15-minute walk for low-income, senior, and disabled populations.

In addition to providing more Federal resources for transit and clearly articulate a set of national transportation objectives, the Federal partnership can also be improved through major reform of the Federal New Starts process. I commend the Subcommittee for beginning to address this important issue through today's hearing. There appears to be general agreement that the current program has lost its way and become overburdened by existing statutory and regulatory requirements. My organization supports a rigorous review process to ensure that Federal investments are being wisely made and to ensure transparency and oversight. However, the unlevel playing field between the current process for planning, designing, and constructing a new transit project versus a new highway project severely handicaps transit projects from moving forward and unduly burden transit projects with increased project costs.

We recognize the challenge the administration has in developing a fair and rigorous review process. We are encouraged by some of the proposed changes in the May 2009 Proposed Guidance on New Starts/Small Starts Policies and Procedures, particularly reinstating a multi-measure evaluation rating system. I'd like to use my testimony to highlight two measures particularly important to my organization: land use and economic development.

There is a growing concern among local project proponents, whether real or perceived, that including a full range of amenities, streetscape improvements, and pedestrian safety enhancements in a proposed transit project will jeopardize Federal funding. Yet these are the very features that help maximize walking trips to transit and create high value urbanism. Local concern over meeting the Federal Cost Effectiveness Index has lead some communities to shortchange the number of transit stations, rail cars, or corridor enhancements that would help meet or even exceed 20-year ridership projections.

Our research shows that actual ridership on many recently built transit lines is higher than predicted by the FTA's Transit System User Benefit or "TSUB" model.⁵ This raises significant concerns about the substantial weight placed on these model results, and we believe validates the need to maintain a multi-measure approach to evaluating projects, including qualitative and quantitative measures.

The overall data show that the majority of recent rail lines built with Federal funding through the New Starts program are performing at least as well as pre-construction projections. Some lines, such as Minnesota's Hiawatha Light Rail and the Metro Red Line in Houston are outperforming their ridership estimates 15 years ahead of projections. It is interesting to note that some of these lines would not have been funded if rated solely on their Cost-Effectiveness rating. For example, the Hiawatha Line received only a low-medium Cost Effectiveness rating. This presents both good and bad news.

The good news is that over performing lines give transit agencies and communities the momentum and political capital to expand their transit systems to benefit more of the region. The bad news is that these over performing lines indicate that cost reductions in the planning stage are resulting in a shortage of transit vehicles, parking spaces, inadequate tracking or maintenance facilities or may have contributed to a downgrading of technology.

Reconnecting America continues to support changes made in SAFETEA to raise the significance of land use, and to add economic development to the list of project justification criteria. These are not insignificant changes. They recognize what we know about the potential power of transit investments to generate a host of benefits, beyond cost and travel time savings.

Such an approach is similar to that taken by Canada and the United Kingdom in allocating their national transportation funding. Those two countries give much stronger consideration in their analysis to a full range of benefits including environmental impacts, specifically the reduction of greenhouse gas emissions, and for Canada, consideration of economic development benefits as measured by public/private rates of return. I find it curious that other countries, and indeed American developers, companies and even local economic development agencies can separate and evaluate land use and economic development, yet our Federal Government continues to find this a challenge.

⁵ "Destinations Matter: Building Transit Success." Reconnecting America, May 2009.

Strictly defined from a traditional economist's perspective, economic development is the measure of productivity derived from a specific investment—a difficult and abstract concept. The practitioners' definition for economic development encompass the much easier to measure realm of real estate development, employment gains, access to jobs, concentration of economic activity and return-on-investment. This approach can include the capitalization of user benefits (*e.g.*, users expending less on transportation costs and travel time which can be spent on other goods and services), redistributive economic development benefits represented through revenue generation from increased property values and ridership, and the benefits of agglomeration, or the potential for increased business transactions due to densification and proximity of uses. There are a number of proxies that could be used to evaluate potential economic development impacts of transit investments, ranging from housing, employment and population projections to developer agreements, local financial contributions to the corridor and targeted public finance tools such as Business Improvement Districts and tax increment financing. In short, we believe that there are a number of commonly used indicators of economic development that could be incorporated into the transit project evaluation process.

We do not agree with the argument that economic development and land use are too difficult to measure separately, but we do feel that given the confusion over these terms it may be useful to better define each in the next transportation bill or to develop a fresh New Starts process that incorporates more of a “warrants” approach in the evaluation process to help to expedite project delivery. The basic concept is that a set of corridor and project characteristics and conditions (referred to as warrants) would be established. These could include factors related to employment and population density, or threshold ridership levels, for example. FTA would determine that projects meeting these pre-defined warrants have met the statutory criteria and would be advanced into New Starts or Small Starts project development, and could be recommended for funding.

Additional suggestions to improve the project delivery process for New Starts that warrant more consideration by Congress include:

- Development of a metropolitan mobility program that could allocate formula funding for small start capital transit investments, thereby avoiding the Federal review process but still ensuring these projects are evaluated through existing Federal environmental and planning requirements.
- Advancement of a set of interrelated expansion projects, similar to the approach taken by Salt Lake City, Utah, and Houston, Texas.
- Reconciliation of the major capital investment alternatives analysis with the Alternatives Analysis requirement in NEPA, to create one integrated comprehensive analysis instead of a time-consuming and confusing two-step process.

I'd also like to highlight some of the social equity needs of transit-supportive land use policies. Over the past 5 years, CTOD has worked with the Federal Transit Administration, HUD, AARP, and affordable housing advocates on a series of reports highlighting the importance of transit to racially and economically diverse neighborhoods. Neighborhoods within a half-mile of a fixed transit station are home to a greater share of a region's lower-income households, and also contain a high number of federally assisted housing stock.⁶ The data also shows that in three-quarters of these “transit zones”—defined as the half-mile radius around stations—households have one car or no cars.⁷ This low-rate of auto ownership indicates that residents do realize the cost-savings that comes from lower auto ownership. Our work, sponsored by the Brookings Institution, found that while the average American family spends roughly 19 percent of its household budget on transportation, households with good access to transit spend just 9 percent.⁸

But as the demand increases and the market heats up for land and housing in these neighborhoods, the threat of displacement will force households to lose potential affordable transportation and affordable housing options if they are pushed out of transit accessible neighborhoods. The affordable housing opportunities that are lost cannot be regained without an enormous public expenditure.

One way to ensure the market provides housing opportunities for families of all income levels is through well-designed policies that ensure that housing near public

⁶“Preserving Opportunities: Saving Affordable Homes Near Transit.” National Housing Trust and Reconnecting America, 2007.

⁷“Preserving and Promoting Diverse Transit-Oriented Neighborhoods.” Center for Transit-Oriented Development for the Ford Foundation, 2006.

⁸“The Affordability Index: A New Tool for Measuring the True Affordability of Housing Choice.” Center for Transit-Oriented Development and the Center for Neighborhood Technology for the Brookings Institution's Urban Markets Initiative, 2006.

transit is permanently affordable to families at a mix of incomes—both on the rental side and on the ownership side. The New Starts program and transportation reauthorization provide Congress an opportunity to encourage localities to make investments and adopt land use policies to support both proposed transit investments and address long-term affordability. Reconnecting America, together with the National Housing Conference, has convened a group of national housing and transportation organizations to help identify ways that our Federal housing and transportation programs could be better coordinated.

We commend the recently announced HUD–DOT interagency sustainability partnership and look forward to working with both agencies to identify and implement strategies that make it easier for communities to successfully integrate housing and transportation investments. In regards to the New Starts process, we feel that more can be done to simultaneously improve project delivery and reward affordable housing preservation. One idea we are vetting is to allow communities to count investments in housing affordable to families with a mix of incomes within a half-mile of a proposed transit station as a match against requested Federal dollars. Another option may be to reward communities that implement mixed-income housing preservation and creation policies in the land use evaluation measure; thus moving beyond just reporting on the number of low-income households currently residing in a proposed corridor, to actually rewarding those communities that take steps to ensure long-term affordability to households at a mix of income levels. For example, a growing number of States including New Jersey, North Carolina, Illinois, and California already give higher credit in the allocation of State low-income housing tax credits to areas well served by transit.

The Federal New Starts and Small Starts program sets the rules for engagement in how communities coordinate proposed transit investments with larger regional decisions about population growth and economic development. Our Nation is facing significant challenges to maintain our economic competitiveness, address energy security, meet the demands of projected population growth, and preserve our quality of life. Expanding the number of regions with high quality transit, and growing existing transit systems is critical to achieving these goals.

Thank you very much for this opportunity to appear before the Committee today, and my organization looks forward to working with you on giving the New Starts and Small Starts program a fresh start in the next surface transportation bill.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR MENENDEZ
FROM A. NICOLE CLOWERS**

Q.1. Some have said that the FTA may be using the approval process to slow down some projects to fit the amount of commitment authority they have available. Do you think that is true? If so, should there be a mechanism for FTA to use so that it can prioritize projects rather than just slowing some down with red tape?

A.1. According to FTA officials, the number of projects recommended for funding each year reflects the project's readiness for a full funding grant agreement, not the amount of commitment authority available. Specifically, to be eligible for an FTA funding recommendation, proposed New Starts and Small Starts projects must complete the appropriate steps in the planning and project development process and, per SAFETEA-LU, receive an overall project rating of medium or higher. Furthermore, FTA officials told us that not all project delays can be attributed to FTA or the New Starts process. FTA officials cited a number of reasons that a project could be delayed during preliminary engineering or final design that are outside FTA's control, such as changes to a project's scope, changes in local political leadership, or the loss of local financial commitment.

In contrast, many within the transit industry point to the New Starts process as being the cause for delays in project development, arguing that the process has become too time consuming, costly, and complex. To expedite project development within the New Starts program, industry stakeholders and consultants, and transportation experts we interviewed identified the following options. While each option could help expedite project development, each option has advantages and disadvantages to consider. In addition, each option would likely require certain trade-offs, namely reducing the level of rigor in the evaluation process in exchange for a more streamlined process.

- Tailor the New Starts evaluation process to risks posed by the projects. FTA could adopt a more risk-based evaluation process for New Starts projects based on the project's cost or complexity, the Federal share of the project's costs, or the project sponsor's New Start experience. By adopting a more risk-based approach, FTA could allow select projects to move more quickly through the New Starts process and more efficiently use its scarce resources.
- Consider greater use of letters of intent and early systems work agreements. The linear, phased evaluation process of the New Starts program hampers project sponsors' ability to utilize alternative project delivery methods, such as design-build, according to project sponsors. These alternative project delivery methods have the potential to develop a project cheaper and quicker than traditional project delivery methods can. However, project sponsors told us it is difficult to attract private sector interest early enough in the process to use alternative project delivery methods because there is no guarantee that the project will ultimately receive Federal funding through the New Starts program. To encourage the private sector involve-

ment needed, project sponsors, consultants, and experts we interviewed suggested that FTA use letters of intent or early systems work agreements.

- Consistently use road maps or similar project schedules. Project sponsors said that FTA should more consistently use road maps or similar tools to define the project sponsor's and FTA's expectations and responsibilities for moving the project forward. Without establishing these expectations, project sponsors have little information about how long it will take FTA to review its request to move from alternatives analysis to preliminary engineering, for example. This lack of information makes it difficult for the project sponsor to effectively manage the project.
- Combine two or more project development phases. Project sponsors and consultants told us that waiting for FTA's approval to enter preliminary engineering, final design, and construction can cause delays. While FTA determines whether a project can advance to the next project development phase, work on the project essentially stops. To reduce the "start/stop" phenomena project sponsors described, FTA could seek a legislative change to combine two or more of the statutorily required project development phases.
- Apply changes only to future projects: Project sponsors told us that the frequent changes to the New Starts program can result in additional costs and delays as project sponsors are required to redo analyses to reflect the changes. To avoid this rework, some project sponsors, consultants, and experts we interviewed suggested that FTA apply changes only to future projects, not projects currently in preliminary engineering.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR MENENDEZ
FROM GARY C. THOMAS**

Q.1. How do you envision a program to help transit agencies create additional core capacity in their city centers? Do we alter New Starts criteria or do we create a new program? If possible I would appreciate hearing specific suggestions on how the next bill could address this urgent need.

A.1. A core capacity constraint is defined as a limitation on transit system capacity that prevents service expansion, without significant capital investment, to meet growing ridership demand. Ridership has or can be expected to exceed the system's design capacity.

In many of the largest urban regions in the Nation, transit plays a key role in the regional transportation system and "transit bottlenecks" have the potential to contribute to travel delays and decreased mobility. The issue is most pronounced on commuter rail, heavy rail and light rail systems in large metropolitan areas that have faced rapid increases in ridership over a number of years. As transit ridership continues to rebound, a number of the Nation's largest cities like New York, Chicago, Washington, DC, and Dallas are facing this issue and may need to make significant capital investments. The demographics of increasing urbanization and limited options for roadway expansion means that the issue of core ca-

capacity is likely to become more significant and affect an increasing number of urban systems. The issue has potential regional and even national significance for the Nation's transportation system. Some of the most important considerations in developing a national approach to the issue include:

- The lack of an industry definition for a transit bottleneck does not readily allow for an assessment of the national need for capital investments to address current bottlenecks—though a recent survey by APTA suggests the identified need approaches \$25 billion;
- Potential short-term effects of not addressing transit bottlenecks include an increase in transit operating cost, reduced reliability, and an inability to meet regional travel demand;
- The negative effect of transit bottlenecks on transit service has the potential to shift travel from transit to the automobile in major urban centers and increase regional highway congestion, potentially reducing regional air quality;
- Potential long-term effects include a dispersal of residential and job growth away from existing transit lines to areas not as readily served by transit; and
- FTA's current funding structure does not specifically target core capacity constraints with a designated funding source and large capital projects intended to address core capacity compete with an already highly competitive underfunded New Starts Program.

Transit Bottlenecks at DART

DART light rail ridership has increased significantly over the past several years. On average, more than 65,000 people a day are riding light rail during the week, compared with 63,000 riders during the same period last year. This increase in ridership is occurring while unemployment rates are up and regular gas is selling for about \$2.40 on average as opposed to the \$4 a gallon rate last summer. As a result of this increased ridership and anticipated future demands for service, DART is advancing a major construction program to double the size of the system to meet the anticipated additional demand. Without significant capital investment to expand the core capacity of the system, it is likely that DART will be unable to address growing demands. As ridership continues to grow, we will be operating near or in excess of our physical capacity.

No single source of information exists that effectively frames the magnitude of the core capacity issue nationally. A more specific definition of a bottleneck or core capacity constraint is necessary for transit agencies to consistently identify these constraints and provide a national picture of need. Some agencies have identified specific projects that very likely fall into the definition. DART is conducting a Dallas Central Business District Transit Study to address the issues of regional transit capacity, service reliability, providing operational flexibility through downtown Dallas for all transit services, and improving access and circulation. A recent survey conducted by APTA estimated the cost of addressing existing core capacity issues at almost \$25 billion, although the variation in cost

across agencies suggests that a consistent definition is not being applied. Continued increases in ridership—expected by a number of large urban transit systems—are likely to increase the number of systems facing core capacity constraints.

How Can Bottlenecks Be Fixed?

The relative challenge of solving bottlenecks varies. Bottlenecks might be addressed through minor capital improvements or relatively inexpensive operations strategies, or they can be very hard to resolve, such as where there are limits on the line-haul capacity of rail lines into the cores of major metropolitan areas such as New York or Washington, DC. Specific strategies to address transit bottlenecks will vary depending on the identified constraint. Specific “point” improvements can be made, but the nature of the problem may require more systemic approaches—fixing one point may just transfer the problem to a different point on the same line.

Potential strategies to address core capacity or “bottlenecks” include:

- Changes in transit operations;
- Managing peak demand through fare policies or other targeted efforts to spread the peak demand;
- Upgrading existing equipment to allow for increased operations (*e.g.*, switching or electrical);
- Expanding capacity on existing lines (*e.g.*, addition of a passing tracks or additional track);
- Expansion of station facilities (*e.g.*, platform expansion, station egress expansion); and
- Construction of parallel facilities on a new alignment.

Proposal: National Transit Bottleneck Mitigation and Core Capacity Program

Core capacity constraints are currently addressed through a variety of funding sources through FTA, though no targeted program is in place and the source of funds varies.

1. The New Starts program is the first option and the major funding source for the three New York MTA projects, East Side Access, the Second Avenue Subway, and the ARC.
2. Rail modernization is an option for needed investments to upgrade existing rail systems that result in an enhanced system capacity.
3. Formula funds are an option, though the total dollars available are limited. Finally, some flexible funds under the Federal Highway Administration programs may also be used for transit purposes, at the direction of the State, such as the Congestion Mitigation and Air Quality (CMAQ) in nonattainment areas and the Surface Transportation Program (STP).

There are several options available to develop a more systematic, national approach to target core capacity constraints. The first is to use the existing New Starts Program with an expansion of funding and the second is to establish an independent program specifically targeted at core capacity on existing systems.

Expansion of the New Starts Program

A number of existing projects in the New Starts Program, as discussed in this paper, are using the New Starts Program to fund projects that are attempting to relieve core capacity constraints. The current funding stream for New Starts does not provide sufficient funding for the multitude of projects that have been justified with less than \$1.5 billion in funding proposed for the program in Fiscal Year 2007. The actual Federal share of funding for projects is now at 50 percent or less (even though the projects remain eligible for funding at the 80 percent level) and projects still face delays due to a lack of funding. By effectively rationing New Starts dollars with this lower Federal match, compared to the 80 percent Federal match for new capacity highway projects, the inadvertent result is that a transit investment may become less competitive in regional prioritization plans, particularly when leveraging of Federal funds is considered.

The advantage to expanding the existing New Starts Program is that it has developed a detailed process to evaluate the user benefits of projects that can be applied to core capacity projects. However, there are two important issues to consider with the current process. First is the possibility that a core capacity project may not be deemed eligible under New Starts definitions, which require the inclusion of certain fixed guideway infrastructure elements. Second is how such projects might rate according to the established New Starts criteria measures. Because some core capacity projects are likely to involve upgrades to existing transit elements that improve operations and reliability but do not result in major changes to travel time—the key measure used by FTA to rate New Starts projects—the projects may not be deemed “meritorious.”

A further disadvantage is the sheer magnitude of cost of these projects and the political implications of projects that benefit only a single metropolitan area. A single core capacity project, like the East Side Access project at \$7.8 billion, with more than \$2.6 billion proposed from the New Starts Program, is almost twice the annual funding for New Starts. This project would consume a large share of the New Starts Program funding and potentially delay a number of other projects across the country. This has political implications and sets up direct competition between large urban centers with older transit systems and many smaller to mid-size urban regions attempting to introduce rail into their regional transportation systems. Projects at the scale of those attempting to address core capacity issues often face funding delays and are under pressure to increase the share of local funding. In the case of East Side Access, Federal funding is proposed at just 34 percent of the project.

Distinct Core Capacity Program

An alternative, given the potential benefits of some of these investments, is consideration of a targeted program to address transit core capacity constraints. Similar to the New Starts Program, any targeted program should establish a mechanism to assess the relative value of projects based on specific criteria and user benefits. The program should provide the flexibility to fund a range of potential strategies. The challenge is to establish a new program, with sufficient funding, without taking away funding from existing

capital programs. If insufficient funding is provided to a targeted program, projects with significant funding requirements would likely face delays due to insufficient funding. Further, the targeting of funding to what may be a small number of existing systems may create equity issues for other urbanized areas that have adopted their own strategies and supplied their own funds to provide adequate transit capacity.

Demonstration Project

DART is proposing that the new Transportation Authorization Bill or under FTA's research activities authorized by 49 USC 5312, Research, Development, Demonstration, and Deployment Projects include new demonstration projects that would look at the current capacity and ridership of a select number of transit systems to determine how close they are to capacity and project when they will reach capacity. The study would also look at the cost and effectiveness of various infrastructure investments (automated operation, additional vehicles, substations, energy storage technologies, track structure improvements, *etc.*) to increase capacity and how long it would take to put them into place. Ultimately, the study will provide sufficient information for the issue to be thoroughly addressed by the FTA and the Congress.

RESPONSE TO WRITTEN QUESTIONS OF SENATOR MENENDEZ FROM MARIA ZIMMERMAN

Q.1. You indicated in your testimony that your organization has suggestions on how to institute an economic development measure for the New Starts program. Should the measure be qualitative such as zoning laws and land use planning, or should it be based on some sort of economic modeling?

A.1. In our work on economic development impacts of transit investments, Reconnecting America has identified both a set of localized economic impacts being pursued by localities and regions as part of the reason behind their support for fixed-guideway investment. This includes not only the job creation in building a new transit line and in operating it, but the desired increase in property values, economic activity and long-term community benefits associated with the investment. These types of benefits are not well captured by current economic models that predict economic development. Such models tend to be used for evaluating regional economic development impacts associated with redistributive growth. Both have merit, but also trade-offs in terms of their ability to ensure that a project's economic development benefits are evaluated in a reliable, predictable and easy to use process that ensures that they are distinguishable from other criteria.

Reconnecting America has recommended to FTA that it pursue a mix of quantitative and qualitative measures of economic development. We recommend that FTA require project sponsors to provide benchmarks on a set of qualitative measures backed by quantitative data and applicable across project types to describe the anticipated economic development impacts and identify the commit-

ment of public and private revenue towards development and infrastructure improvements within the transit corridor.¹

Potential metrics that could be implemented today include :

- A. Determination of the Economic Development Environment for the Proposed Project
 - Existence of development agreements and other private sector financial contributions towards proposed transit project or ancillary infrastructure improvements (*i.e.*, sidewalk, sewer, station area improvements) and tied to focusing new development and/or serving existing development around the transit stations.
 - Existence and extent of Urban Renewal Districts, LIDs, BIDs and Tax Increment Financing with funding allocated to the transit corridor (not representative of new private revenue, but rather reflect a commitment of public revenue within transit corridor towards necessary infrastructure improvements that can generate further economic development).
 - Projections regarding affect of proposed project on the number or proportion of properties with an improvement-to-land value ratio of greater than one in the project area.
 - Describe the project's proximity and relationship to: (1) other primary transit lines and/or facilities; (2) employment centers; (3) activity centers; (4) economic development zones; (5) central business districts, (6) other.
 - Existence and extent of TOD-supportive comprehensive plan amendments and transit overlay districts—this should be given greater weight in the Transit-Supportive Land Use review, not included as an economic development measure.
- B. Anticipated Economic Development Impacts of Proposed Project
 - Projections of new and existing housing and commercial space to be developed within half-mile radius of proposed station locations.²
 - Projections of population/household growth within half-mile of proposed station locations.³
 - Projection of new and existing employment and diversity of job types within one-mile buffer of the proposed corridor.
 - Projected tax receipts from increased values and economic activity occurring within the proposed corridor as a result of the transit investment.
 - Projected transportation efficiencies (*e.g.*, cost per trip and estimated transportation cost savings to households within the corridor).

¹The term corridor refers to the geographic area/alignment of the transit investment, be it a traditional light rail corridor, a fixed-guideway route for bus rapid transit (BRT), or a streetcar alignment. Similarly, the term stations includes both rail stations and fixed streetcar or BRT stops.

²For streetcar projects which typically include a larger number of stops in close proximity, this could be measured as the amount of housing and commercial space to be developed within half-mile buffer of the alignment.

³*Ibid.*

- Describe any past experience with similar existing projects that have had effects similar to those anticipated by the project and describe how past development experience within the proposed project area has differed from that of the existing projects. Use quantitative and qualitative descriptions, with documentation when available.

Q.2. FTA says that it is difficult to distinguish environmental benefits of one project from another, but from what we hear from transit agencies they believe they have to buy the cheapest and most inefficient equipment available in order to keep the project with a good cost benefit rating. Is there a way to reward projects that attempt to maximize environmental benefits of their projects without jeopardizing the cost/benefit analysis process?

A.2. There is currently no incentive in FTA's cost-effectiveness index to acquire additional property, incorporate sustainable design in facilities or to add any additional costs to the project. If we want to shape land use and development, there needs to be land use policies and station area plans, but also some incentive to acquire property or engage in value capture to shape economic development. Data from the green buildings community has documented higher upfront costs for sustainable building design and materials, many of which are recaptured within several years. However, incorporating such design technologies is not encouraged under current policy.

Finally, there are diminutive environmental benefits when comparing one transit project to another or even one transit project to the overall region. Moreover, the environmental impacts of the project over the forecast period are enhanced to the extent there is a greater emphasis on development since we have enough data on the relationship of transit and land use on reducing VMT. However, those benefits are reduced when measured at a project level as opposed to regionally until the system is built out. In order to address these challenges, the following policy changes may be warranted:

- Allow project sponsors to remove or apply a weight to project costs associated with improved environmental and energy efficiency so that these are not penalized in the project development process and cost effectiveness index.
- Amend Title 49, Section 5309 funds for land acquisition to specifically allow land acquisition for transit-oriented development as part of development of corridors under subsections (d) and (e).
- Require environmental analysis to consider regional benefits that capture corridor and network environmental benefits.