OVERSIGHT OF THE FEDERAL TRANSIT ADMINISTRATION'S IMPLEMENTATION OF THE CAPITAL INVESTMENT GRANT PROGRAM

(116–27)

HEARING

BEFORE THE

SUBCOMMITTEE ON
HIGHWAYS AND TRANSIT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

JULY 16, 2019

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JULY 12, 2019

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Highways and Transit
FROM: Staff, Subcommittee on Highways and Transit
RE: Subcommittee Hearing on "Oversight of the Federal Transit Administration's Implementation of the Capital Investment Grant Program"

PURPOSE

The Subcommittee on Highways and Transit will meet on Tuesday July 16, 2019, at 10:00 a.m. in 2167 Rayburn House Office Building, to receive testimony related to the "Oversight of the Federal Transit Administration's Implementation of the Capital Investment Grant Program." The purpose of this hearing is to examine how the Federal Transit Administration (FTA) is implementing the Capital Investment Grant (CIG) program in light of the Administration's FY 2018 and FY 2019 budget requests to phase the program out and the June 29, 2018, FTA Dear Colleague letter to transit agencies. The Subcommittee will hear from the Federal Transit Administration and representatives of the American Public Transportation Association, the American Road & Transportation Builders Association, and the Kansas City Streetcar Authority.

BACKGROUND

The Capital Investment Grant (CIG) program is a multi-year, multi-step process to fund the construction of new or the expansion of existing fixed-guideway public transportation systems. Fixed guideway systems include subway, light rail, commuter rail, streetcar, ferry, and bus rapid transit (BRT) projects. Currently, there are 54 projects in the CIG program pipeline.[1] There are three types of CIG projects:

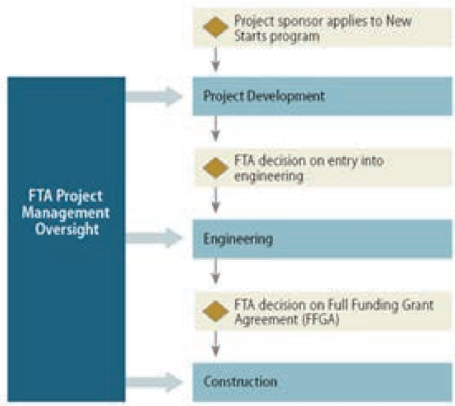
- New Starts are projects that exceed $300 million in total costs or request $100 million or more in CIG funding and must move through a three step approval process.
- Core Capacity projects must go through the same three step approval process, but are projects that expand an existing fixed-guideway corridor to increase capacity by 10 percent or more.
- Small Starts projects cost less than $300 million and receive less than $100 million of CIG funding, and have a more streamlined approval process.[2]

APPROVAL PROCESS NEW STARTS AND CORE CAPACITY

New Starts and Core Capacity projects are required by law (49 U.S.C. § 5309) to go through a three-phase approval process—Project Development, Engineering, and Construction, as shown in Figure 1.

[1] Overview of Capital Investment Grant Program. Federal Transit Administration.
[2] Public Transportation Capital Investment Grant (New Starts) Program: Background and Issues for Congress. Congressional Research Service.

Figure 1: The Capital Investment Grants Program Process



Congressional Research Service, Federal Transit Administration. Capital Investment Grant MAP 21 Overview.

After FTA accepts and approves an application for CIG program funding, the project advances to the Project Development phase (PD). During PD, FTA requires an applicant to conduct an environmental review, as required by the National Environmental Policy Act (NEPA), and submit it to FTA. FTA will use this and other documentation to determine a project rating, which includes an assessment of the project justification criteria and local financial commitment criteria. The applicant has two years to complete the PD, although an extension can be granted in certain circumstances.

Moving from the PD to the Engineering phase requires formal approval from FTA. A project can enter into the Engineering phase (Engineering) once the NEPA process is concluded (under which the project is selected as the locally preferred alternative), the project is adopted into the metropolitan plan, and the project is determined by FTA to be justified on its merits through a project rating (discussed in detail below), including an acceptable degree of local financial commitment.

The amount of CIG funding requested by the project sponsor is fixed when the project is approved for entry into Engineering. This means that if a project's cost increases after entry into Engineering, the extra cost must be borne by the project sponsor from non-CIG funding sources.

After the Engineering phase is completed, FTA can approve the project for entry into Construction by signing a Full Funding Grant Agreement, (FFGA), which is a multiyear agreement between the Federal Government and a transit agency. An FFGA establishes the terms and conditions for federal financial participation, including the maximum amount of federal funding that is committed. FTA retains some oversight of a project during Construction to ensure compliance with the terms of the FFGA.

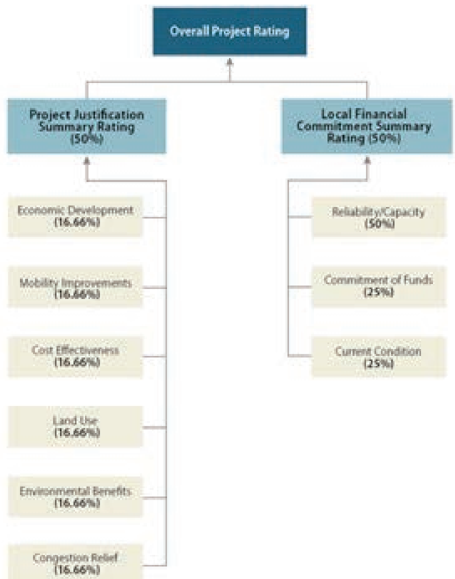
SMALL STARTS APPROVAL PROCESS

Small Start projects are also required by law (49 U.S.C. § 5309(h)) to go through an approval process, but it only consists of two phases—PD and construction. As with New Starts projects, entry into PD only requires the project sponsor to apply to FTA and initiate the NEPA process. Consequently, for Small Starts only one formal decision is made by FTA, and that is whether to award funding and, hence, move the project into construction. Once FTA approves a small start project, funding is provided in a Small Starts Grant Agreement (SSGA). The Federal Government's funding commitment, as stipulated in the SSGA is typically for a single year.

PROJECT RATING

FTA determines a project rating to decide whether to approve a project's advancement to the next phase in the CIG process. FTA computes an overall project rating by averaging the summary ratings that the project received in the project justification criteria and local financial commitment criteria. A New Starts or Core Capacity project is required by law to achieve an overall rating of at least "medium" on a five-point scale (low, medium-low, medium, medium-high, high). Small Starts projects are similarly rated, but the law does not set a minimum rating to be eligible for a grant.

Figure 2: Capital Investment Grants Program Project Rating



Source: Federal Transit Administration, Final Interim Policy Guidance Federal Transit Administration Capital Investment Grant Program, June 2016.

LOCAL FINANCIAL COMMITMENT

To be approved for federal CIG funding, FTA must determine that the project has an acceptable degree of local financial commitment. Federal law requires that the project have financing that is stable, reliable, and timely; sufficient resources to maintain and operate both the existing public transportation system and the new addition; and contingency money to support cost overruns or funding shortfalls.

IMPLEMENTATION CONCERNS

CIG PROGRAM FUNDING

The CIG program was reauthorized from FY2016 through FY2020 as part of the Fixing America's Surface Transportation (FAST) Act (P.L. 114–94) at $2.3 billion per year. Unlike FTA's other major programs, funding for the CIG program comes from the general fund of the U.S. Treasury, rather than the mass transit account of the Highway Trust Fund and is therefore subject to appropriation each year. Table 1 shows the appropriated funding levels provided in FY 2016–FY2019. In addition, FTA allocates CIG program funding via discretionary grant, whereas FTA apportions formula funds for the other major transit grant programs.

Table 1: Enacted Capital Investment Grants Program Funding

FY 2016	$2.18 billion
FY 2017	$2.41 billion
FY 2018	$2.65 billion
FY 2019	$2.55 billion

The President's Budget for FY 2018 proposed $1.23 billion (a reduction of $1.18 billion from FY 2017 enacted) and for FY 2019 proposed $1 billion (a reduction of $1.65 billion from FY 2018 enacted) to only fund CIG projects with existing FFGAs. The Administration did not request funding to allow FTA to advance any new New Starts, Core Capacity, or Small Starts projects,[3] thereby proposing to phase-out the CIG program.

However, Congress, on a bipartisan basis, appropriated $2.65 billion for the CIG program in FY 2018 and directed FTA to obligate $2.25 billion, or 85 percent, of this funding by December 31, 2019. Congress also directed that FTA, "continue to administer the capital investment grant program in accordance with the procedural and substantive requirements of section 5309 [title 49]."[4]

In FY 2019, Congress appropriated $2.55 billion for the CIG Program and again directed FTA to obligate $2.17 billion, 85 percent, of this funding by December 31, 2020. The Act contained language that repeated its direction from the FY 2018 Act that FTA, "continue to administer the capital investment grant program in accordance with the procedural and substantive requirements of section 5309 [title 49]."[5]

In a general, the FY 2020 President's Budget proposed $1.5 billion (a reduction of $1.05 billion from FY 2019 enacted) for the CIG program, including a $500 million set aside for new CIG projects.[6] The House-passed FY 2020 THUD appropriations bill provides $2.3 billion for the CIG program and continues the direction contained in the FY 2018 and FY 2019 THUD Appropriations Acts to FTA.

FTA DEAR COLLEAGUE

On June 29, 2018, FTA Acting Administrator K. Jane Williams sent a Dear Colleague letter to public transit agencies highlighting the Trump Administration's policies regarding the CIG program.[7] Many transit agencies have raised concerns with the policies addressed in the Dear Colleague: the treatment of federal loans, inclusion of a geographic diversity factor in grant awards, and encouraging a low federal cost share. Separately, FTA also changed the CIG Risk Assessment process, which has also concerned many in the stakeholder community. As a result, many transit agencies fear higher project costs and more bureaucratic challenges.

In response, Congress included a provision in the FY 2019 Omnibus Appropriations Act that prohibited FTA from using funds to implement or further new policies detailed in FTA's Dear Colleague letter to CIG project sponsors,[8] and addressed some of these issues within the CIG appropriating paragraph and FTA administrative provisions in the House-passed FY 2020 THUD Appropriations Bill.[9]

TREATMENT OF FEDERAL LOANS

Some CIG projects include federal loans from the Transportation Infrastructure Finance and Innovation Act (TIFIA) program as part of their overall project financing package. Since these loans are typically repaid using non-federal funding sources, project sponsors believe the loans should count toward their local financial commitment.

FTA's Dear Colleague letter states that it "considers U.S. Department of Transportation loans in the context of all Federal funding sources requested by the project sponsor when completing the CIG evaluation process, and not separate from the Federal funding sources."[10]

Current law states that TIFIA loans may be used for any non-federal share of project costs required under title 23, United State Code (USC) or Chapter 53 of title 49 USC, if the loan is repayable from non-federal funds.[11] Prior to the Dear Col-

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[3] Federal Transit Administration, Annual Report on Funding Recommendations, Fiscal Year 2019 Capital Investment Grants Program, Report of the Secretary of Transportation to the United States Congress; Federal Transit Administration, Annual Report on Funding Recommendations, Fiscal Year 2018 Capital Investment Grants Program, Report of the Secretary of Transportation to the United States Congress

[4] P.L. 115–141, Consolidated Appropriations Act, 2018.

[5] P.L. 116–6, Consolidated Appropriations Act, 2019.

[6] FY 2020 Budget Highlights of the U.S. Department of Transportation (DOT).

[7] U.S. Dep't of Transportation, Federal Transit Administration, Dear Colleague letter, June 29, 2018 [https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/regulations-and-guidance/policy-letters/117056/fta-dear-colleague-letter-capital-investment-grants-june2018__0.pdf].

[8] P.L. 116–6, Consolidated Appropriations Act, 2019.

[9] House-passed FY 2020 THUD Appropriations Bill

[10] U.S. Dep't of Transportation, Federal Transit Administration, Dear Colleague letter, June 29, 2018 [https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/regulations-and-guidance/policy-letters/117056/fta-dear-colleague-letter-capital-investment-grants-june2018__0.pdf].

[11] 23 U.S.C. § 603(b)(8) states: "The proceeds of a secured loan under the TIFIA program may be used for any non-Federal share of project costs required under this title [title 23] or chapter 53 of title 49, if the loan is repayable from non-Federal funds."

league letter, FTA allowed project sponsors to decide whether the TIFIA loan would count as local or federal funding. FTA's new policy provides less flexibility for project sponsors of transit projects than for highway and other projects that receive a TIFIA loan.

Section 193 of the FY 2020 House-passed THUD bill amends federal law to ensure that TIFIA loans repaid with non-federal sources are treated as local dollars when assessing cost share requirements.

GEOGRAPHIC DIVERSITY

In its Dear Colleague letter, FTA states that it will consider geographic diversity as a factor in FTA funding allocation decisions. In its July 2018 Fact Sheet on the Dear Colleague letter, FTA states, "[i]t is longstanding FTA practice to consider geographic diversity in discretionary funding decisions."[12]

However, neither current law nor FTA's current Policy Guidance for the CIG program (2016) include geographic diversity as a factor.[13] When prioritizing projects among those that have met all the necessary requirements and ratings, official FTA policy guidance emphasizes local financial commitments (including private contributions) and project readiness, but not geographic distribution.[14] In fact, current law allows FTA to expedite certain reviews for projects whose sponsors have recently successfully completed another CIG project.

FEDERAL AND CIG COST SHARE

Under the FAST Act, a CIG project cannot exceed a maximum federal share of 80 percent; however, a New Starts project may not receive more than 60 percent of its total cost from the CIG program. Core Capacity and Small Starts projects may receive up to 80 percent of total cost from the CIG program.[15] The FY 2019 Omnibus Appropriations Act reduces the amount a New Starts project can receive in CIG funding to not more than 51 percent.

FTA's Dear Colleague letter states that "Federal law requires FTA to evaluate all projects seeking CIG funding on local financial commitment, and it has the authority to consider the extent to which the project has a local financial commitment that exceeds the required non-government share of the cost of the project." Transit agencies have informed the Committee that FTA staff are encouraging project sponsors to "overmatch" the federal share by committing additional local funds to the project beyond the required share.

Further, FTA staff are indicating that New Starts projects are unlikely to get approval unless they are under a 40 percent federal cost share, despite the fact the FY 2019 Omnibus Appropriations Act allows a federal match of up to 51 percent. Although Federal law allows FTA to encourage overmatch, it does not authorize FTA to require a project sponsor to overmatch in order to receive a New Starts grant.[16]

Section 164 of the FY 2020 House-passed THUD bill addressed FTA's new policy by prohibiting the use of funds to request or require any project to have a maximum CIG contribution lower than 50 percent of the total project cost.

CHANGES TO RISK ASSESSMENT PROCESS

In addition to the Dear Colleague letter, FTA also announced two changes to the CIG Risk Assessment process. The risk assessment is a third party assessment of the project risks and their effects on the project's timeline and cost estimate. It also calculates the amount of contingency funding that FTA will require the project sponsor to have in order to cover potential cost overruns. The required contingency fund comes from local dollars.

First, FTA moved the Risk Assessment of New Starts and Core Capacity projects from the Engineering phase to the Project Development phase. In addition, FTA may perform updates to the Risk Assessment and conduct scope, cost, and schedule reviews of the project prior to awarding an FFGA. FTA stated that it believes this policy change would allow projects to identify and address issues earlier in the process and improve the estimate for final costs. In turn, it would ensure that the CIG

[12] U.S. Dep't of Transportation, Federal Transit Administration, FACT SHEET: Capital Investment Grants Program Dear Colleague Letter, July 2018.

[13] U.S. Dep't of Transportation, Federal Transit Administration, Final Interim Policy Guidance, Capital Investment Grant Program, June 2016.

[14] See id.

[15] 49 U.S.C. 5309(l)(1)

[16] 49 U.S.C. 5309(l)(5) establishes that FTA is not authorized to require a local match for a project that is more than the federal cap. FY 2019 Omnibus Appropriations Act set the federal cap at 51 percent of the project cost.

contribution that FTA locks in is sufficient as a project moves from Project Development into Engineering. However, current law limits the Project Development phase of New Start and Core Capacity projects to a two-year period (although FTA may extend the time-period).[17] Transit agencies are concerned that requiring the Risk Assessment during the Project Development phase provides an additional hurdle to completing Project Development within the two-year time period.

Second, when assessing the appropriateness of the New Starts project's budget, FTA increased its probability threshold from 50 percent to 65 percent in determining the reasonableness of the cost and schedule estimates. This policy change means is that project sponsors whose contingencies do not meet the 65 percent threshold will experience project costs increases. However, FTA establishes the project's Federal share upon entry into Engineering, and any cost overruns are the responsibility of the project sponsor. Many transit agencies believe this new policy is unnecessarily increases costs for project sponsors, since they are already responsible for project overruns.

Section 164 of the FY 2020 House-passed THUD bill provides an additional six months within the Engineering Phase to determine the project's CIG grant amount, and prohibits FTA from requiring a probability threshold higher than 50 percent in the risk assessment.

WITNESS LIST

PANEL I

- The Honorable K. Jane Williams, Acting Administrator, Federal Transit Administration

PANEL II

- Mr. Bob Alger, President and Chief Executive Officer, The Lane Construction Corporation, *on behalf of the American Road & Transportation Builders Association*
- Mr. Tom Gerend, Executive Director, The Kansas City Streetcar Authority
- Mr. Paul P. Skoutelas, President and CEO, American Public Transportation Association

[17] 49 U.S.C. § 5309(d)(1)(C) and (e)(1)(c).

OVERSIGHT OF THE FEDERAL TRANSIT ADMINISTRATION'S IMPLEMENTATION OF THE CAPITAL INVESTMENT GRANT PROGRAM

TUESDAY, JULY 16, 2019

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:06 a.m., in room 2167 Rayburn House Office Building, Hon. Eleanor Holmes Norton (Chairwoman of the subcommittee) presiding.

Ms. NORTON. The subcommittee will come to order and good morning.

I want to welcome everyone to today's hearing. This is a hearing on a matter that needs oversight. It is the Federal Transit Administration's implementation of the Capital Investment Grant—the CIG—program.

This hearing is necessary not only because it is timely, but because we are now hearing from many transit agencies, from mayors, from local officials, questions that we simply must answer.

They say to us that they are frustrated by the slow pace and the needless bureaucracy. Now here is a program that has money. So you can imagine the frustration, that money is not getting to where it is needed. They say they can't get communication so that they can understand how to proceed and what is slowing up this program. And they say they are especially delayed in project approvals.

What is happening here? Surely this isn't deliberate. But then we are left to believe that the administration doesn't know how to handle this program. So we need to come to grips with the problems today, particularly since transit is associated with the backbone of our urban areas. This committee has a long tradition that is bipartisan of paying attention to matters that are important to rural areas such as bridges and barges that farmers need to get their products to market. In the same way we expect attention to transit we are aware of course that that is mostly an issue for urban America but increasingly we are talking about the metropolitan areas as well. We are not simply talking about big cities. America is clustered around these metropolitan areas.

The CIG program has long enjoyed strong bipartisan support. We authorized it in the FAST Act at $2.3 billion per year. In the same way, the House Appropriations Committee has strongly supported the CIG program, appropriating funding. And they have appropriated funding generally well above the authorized level because of the high demand for the project. That is pretty unusual. Therefore, any slowup in this project has got to be explained by the administration. Why hasn't the administration moved this program more rapidly? The budget requests for the CIG program from the administration have been, to say the least, anemic, and the administration of the CIG program has created many challenges. So it looks like a program that should be going along well, is failing at both ends.

The FTA sent a Dear Colleague letter to transit agencies that created a lot of confusion. They expressed fears of higher project costs and more bureaucratic challenges. For example, until this Dear Colleague, the FTA had allowed project sponsors to decide whether a TIFIA loan, paid back with local dollars, would count as local or Federal funding. FTA now demands that all TIFIA funds be counted as Federal share, no matter who actually pays for the loan. And that is ridiculous. So we have got to have some answers on matters like that.

In its Dear Colleague letter, FTA states that it will consider geographic diversity as a factor in FTA funding. The FTA seems intent on spreading a very little amount of money very quickly over the entire Nation. That does not reflect the reality of how cities and, again I stress, metropolitan areas grow. They are expanding at a rapid pace and should not be penalized because of multiple projects in the CIG pipeline.

If we are going to keep up with this growth, this very rapid growth, we are going to have to make big investments in transit. Is this deliberate slowing of the CIG program, or is it rank inefficiency?

The House-passed transportation appropriations bill addressed many of the issues, and others, I expect, will be raised at this hearing. When this committee reauthorizes the FAST Act, you can be sure we will also carefully review the CIG program and if necessary, we will amend section 5309.

[Ms. Norton's prepared statement follows:]

Prepared Statement of Hon. Eleanor Holmes Norton, a Delegate in Congress from the District of Columbia, and Chairwoman, Subcommittee on Highways and Transit

Welcome to today's hearing on the Federal Transit Administration's implementation of the Capital Investment Grant (CIG) program. We have heard from many transit agencies, mayors and other local officials about the challenges of getting a transit project funded by the CIG program.

- They are frustrated by the slow pace of needless bureaucracy.
- They are frustrated by the lack of communication.
- They are frustrated by delays in project approvals.

Today we are going to examine these problems and see if we cannot find a solution.

Transit is the backbone of our urban cities. Rural Republicans may believe transit is of no use to them, but that does not mean they need to attack it. We are all in this together. Transit costs money as do the bridges and barges America's farmers need to get their products to market. But I do not oppose your bridges and barges in rural America. I know you need them, just like urban America needs bridges and transit. You have my support for your infrastructure needs. All I ask is for your support for urban American infrastructure needs too. And that brings us to the implementation of the Capital Investment Grant program.

The CIG program enjoys strong bipartisan support and was reauthorized as part of the FAST Act at $2.3 billion per year. The House Appropriations Committee has also been a strong supporter of the CIG program, appropriating funding levels generally well above the authorized level because of the high demand for projects.

Today we just need to push the Administration to become a strong supporter of the Capital Investment Grant program. Their budget requests for the CIG program have been anemic and their administration of the CIG program has created many challenges for transit agencies.

In June 2018, FTA sent a Dear Colleague letter to transit agencies that created considerable confusion and consternation. Transit agencies expressed fears of higher project costs and more bureaucratic challenges.

For example, until this Dear Colleague, FTA allowed project sponsors to decide whether a TIFIA loan, paid back with local dollars, would count as local or federal funding. FTA now demands that all TIFIA funds be counted as federal share no matter who actually pays for the loan. That is ridiculous.

In its Dear Colleague letter, FTA states that it will consider geographic diversity as a factor in FTA funding allocation decisions. FTA seems intent on spreading the peanut butter thin over the entire nation. My concern with this is it does not reflect the reality of how cities grow. Cities that are expanding at a rapid pace should not be penalized for multiple projects in the CIG pipeline. To keep up with rapid growth requires big investments in transit.

The House-passed Transportation Appropriations bill addresses many of these issues and others I expect will be raised at this hearing. When this committee reauthorizes the FAST Act, we will also carefully review the CIG program and amend Section 5309 as necessary.

Ms. NORTON. I am going to ask the ranking member for his comments.

Mr. DAVIS. Well, thank you. I just really appreciate the opportunity, Madam Chair, to be here.

You know, districts like mine that are not in urban areas, you still have transit needs too. The district I represent in central Illinois is one that brings in a lot of transit issues in and around the public universities in Champaign-Urbana, Bloomington-Normal. Even in Springfield, Illinois, and down into Metro East around Southern Illinois University at Edwardsville. Transit is necessary.

My concern today is how do we effectively bring in some of what I consider the mini-urban areas into the transit programs like the Capital Investment Grant program and what we do to ensure that there is capability to provide those services in nonmajor urban areas, but also the ability to serve those customers and be able to market that product.

So thank you for having the opportunity to be here. This is our fourth hearing as we continue to work to reauthorize the Federal surface transportation policies. And I want to thank the chair of this subcommittee and also Chairman DeFazio, for their leadership and their bipartisanship on this issue.

[Mr. Davis' prepared statement follows:]

Prepared Statement of Hon. Rodney Davis, a Representative in Congress from the State of Illinois, and Ranking Member, Subcommittee on Highways and Transit

The Subcommittee is holding its fourth hearing as we continue our work to reauthorize federal surface transportation programs and policies. Today, the Subcommittee will focus on the Federal Transit Administration's (FTA) Capital Investment Grants program, commonly known as "New Starts" or "the CIG program."

Historically, federal public transportation programs have provided financial support, primarily for capital costs, to local transit agencies around the country. Although the benefits of federal investments in public transit systems appear to be limited to the community they serve, these investments are, in fact, important to the Nation.

Federal transit programs, including the CIG program, complement our investments in other transportation modes in order to support an integrated national surface transportation network. They provide an additional and affordable mobility option that people can use to travel to work or school.

The CIG program differs from other discretionary grant programs. The grant process, laid out in statute and regulations, is a complex multi-year and multi-step process. FTA evaluates and rates all projects at various points during the process. Projects that are selected for funding must have a strong local financial commitment and achieve a sufficient overall rating.

There are currently 54 projects moving through the CIG pipeline. These include large projects, such as the Red and Purple Line Modernization Project in Chicago, and smaller projects, such as the Streetcar project in the City of Baton Rouge.

The FAST Act authorized $2.3 billion for the CIG program in each fiscal year 2016 through 2020, and the House version of the FY 2020 Appropriations bill would provide $2.3 billion for the CIG program.

I recently had the opportunity to speak with Acting Administrator Williams; I believe she is doing everything in her power to ensure that the FTA executes the CIG program consistent with federal law. We must have a responsible program that makes sound investments in public transit to ensure the public and stakeholders continue to support the program. This will allow us to make the necessary investments to modernize our surface transportation system.

I understand, however, that some stakeholders have concerns with changes that FTA announced last year, and the effect those changes are having on projects in the pipeline. I look forward to our discussion on this important program.

Mr. DAVIS. And with that, Madam Chair, I yield back.

Ms. NORTON. Thank you very much, Ranking Member Davis.

I would like to ask Mr. DeFazio, the chair of the full committee, if he has any opening statement.

Mr. DEFAZIO. Thank you, Madam Chair. Yes, I do.

I had some optimism that we would be looking at a major infrastructure package in partnership with the President and the White House, and the first blow to those hopes was back actually in the 2018 budget request when the President's budget proposed essentially to eliminate the CIG program. The Congress responded and we said no, on a bipartisan basis and appropriated a record amount of funds, $2.6 billion, to run the program as the law requires. And similarly in 2019, yet another Mick Mulvaney proposal to essentially eliminate the program and yet another bipartisan response from Congress to appropriate $2.5 billion into the program.

Back in 2017, it was tremendously disruptive and basically all of the pending projects were canceled. Now this is a bit odd, because the assertion by DOT was that this was administration policy. Now everybody knows that Presidents' budgets are not policy, they are merely a suggestion to the United States Congress. And Congress holds the power of the purse. So a suggestion by the President or an ideologue running the President's office or OMB or whatever Mr. Mulvaney is running these days—both, everything—is not a law and cannot supersede the law. Ideology does not supersede the law.

Now I have read the testimony here from the Acting Administrator and it paints a very rosy picture for CIG but I don't think things are quite as rosy as purported there.

Earlier this year, we sent a letter to FTA and transit agencies looking for data that allows us to look at the CIG program operation under the FAST Act. That is another one of our duties here, is to oversee the laws that have been implemented and see that they are being properly followed.

Now if we use that data, despite what I keep hearing and heard from the President's previous infrastructure advisor, DJ Gribbin, that the only problem was the environmental review process and that is what was slowing everything down and this administration was going to streamline things. Actually if we look at the first slide, CIG projects have nearly doubled in the delays for approval. Entry into engineering, 135 to 289 days; full funding grant agreements, 172 to 391 days; SSGA, 112 to 243 days—everything is more than double.

[Slide.]

So now to get a New Start project through to the final phase is 391 days, more than a year, Small Starts, 243 days. And this covers the entire period of the FAST Act and certainly, I think, reflects that things are not as rosy as is purported.

Secondly, staff found that FTA actions since 2017 have resulted in $845 million—almost $1 billion in extra costs. The risk assessment process added $650 million and the delays caused about another $200 million.

Then third, the staff found that the CIG cost share for New Starts has shrunk dramatically. It is clear that transit agencies are feeling pressured by the administration. Again, the ideological proposals of Mr. Mulvaney and DJ Gribbin, now gone, was that we were going to shrink the share that would be paid by the Federal Government and increase the burden on the local governments. And if you look here, it was nearly 50 percent CIG cost share pre-2017. Now it is below 36.6 percent and that is because the administration has basically sent a message that if you ask for more than 40 percent, you are not going to get approved or you are going to get a very low rating. This unofficial policy or whatever this is directly is contrary to 49 U.S.C. section 5309(l)(5) and the fiscal year 2019 Omnibus Appropriations Act which said the FTA is not authorized to require a local match that is more than 49 percent of the project cost.

Fourth, staff found that FTA has delayed the use of streamlining tools. Now that is just extraordinary for an administration that was going to get all these barriers out of the way. If we want to repeal an environmental law, we can streamline that. If we want to get transit grants out, no, no, we really can't do that.

Approvals for a Letter of No Prejudice took 44 percent longer than under the previous administration, and these letters allow work to begin on a project earlier, which as we all know, the sooner you can initiate a project, the greater the cost savings as long as it is well-planned. We have heard from multiple transit agencies that are absolutely desperate to get a Letter of No Prejudice because of the potential cost savings. So it is vexing and interesting, and hopefully it can be corrected that these things are taking so long.

So I am hoping that given the testimony submitted by the Acting Administrator, given the past record, that we can do better in the future. And that is why we are here today.

[Mr. DeFazio's prepared statement follows:]

Prepared Statement of Hon. Peter A. DeFazio, a Representative in Congress from the State of Oregon, and Chairman, Committee on Transportation and Infrastructure

Since the election in 2016, I have been cautiously optimistic that the President and Congress could really work together and invest in the rebuilding of America. President Trump was clear in his public statements that he wanted to be the "Infrastructure President." I remain hopeful that this is still possible. I stand ready to work with anyone who is serious about investing in our infrastructure.

But my optimism took a blow with the President's first budget request to Congress. The Administration's FY 2018 request slashed infrastructure investment, most notably the effective elimination of new transit investments under the Capital Investment Grant (CIG) program. The President proposed to slash over a billion dollars from the program and fund only projects that were already under construction. Dozens of projects in the planning phase were on the chopping block.

Congress responded by appropriating a record amount of CIG funds, over $2.6 billion, and directing the Federal Transit Administration (FTA) to run the CIG program as current law requires. This was repeated in 2019—another budget request slashing investment in transit projects by the administration and Congress responding by appropriating $2.5 billion to the CIG program.

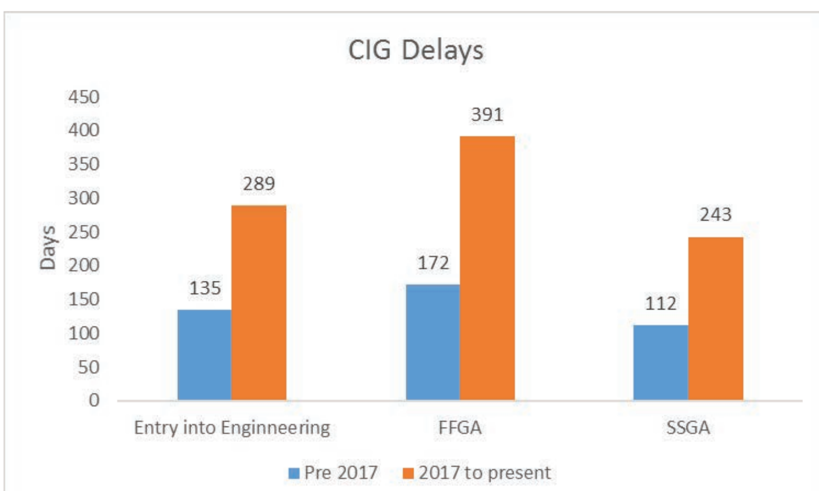
Despite clear direction from Congress, FTA asserted that the President's Budget Request was administration policy, and they refused to approve CIG projects that had been moving through the approval process for years. This unlawful action carried on for most of 2017, save for a few projects that were too far along to refuse.

A President's annual budget request is nothing more than a request for Congress to consider. It cannot supersede the law or the congressional power of the purse. FTA began violating the law the first day they decided to ignore the CIG program.

I have read your testimony, Acting Administrator Williams. You are clearly trying to paint the picture that the administration's refusal to initially run the CIG program had no impact. This testimony cherry picks a few project comparisons to argue everything is fine. Unfortunately, that is not true.

Earlier this year, Ranking Member Graves and I sent a bipartisan letter to the FTA and dozens of transit agencies seeking "data that will allow us to conduct a quantitative analysis of the CIG program and its operations under the FAST Act." I am releasing the results of that analysis today.

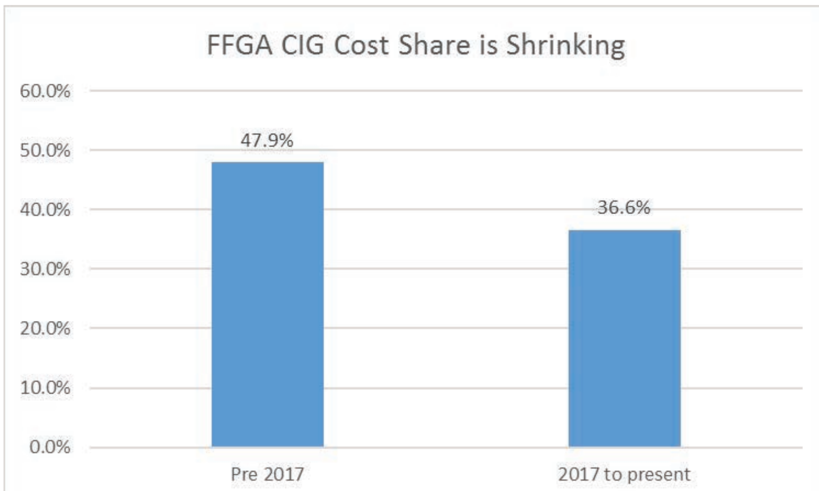
First, using data supplied by FTA, staff found that the number of days needed for project approval more than doubled under this administration. These delays affected projects regardless of their size, indicating that the delays had nothing to do with the complexity of projects.



As you can see on the screen, the average number of days to get a New Start project through the final phase grew to 391 days. Small Start projects averaged 243 days. This data covers the entire period of the FAST Act and represents a fair and accurate look at the impact the Trump Administration has had on transit projects.

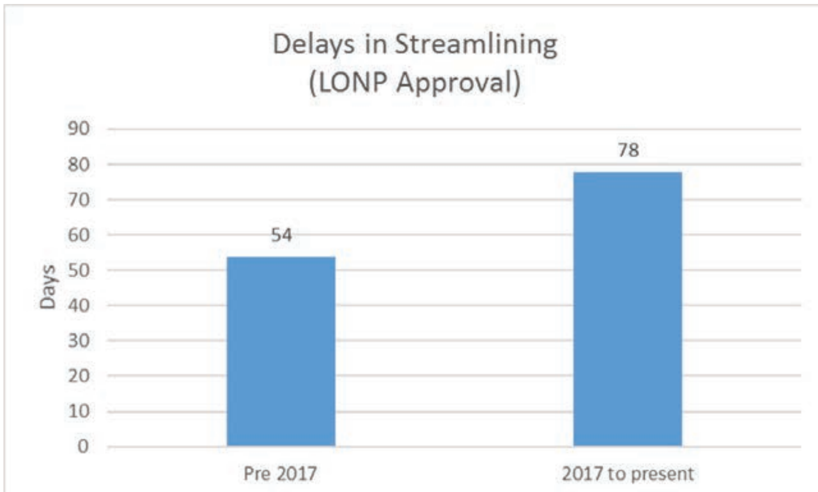
Second, staff found that FTA actions since 2017 have resulted in at least $845 million in extra costs for transit agencies. FTA's changes to the Risk Assessment process added $650 million to total project costs, and FTA's delays inflicted on the approval process caused $195 million in additional project costs. These additional costs were generally covered by local governments, forcing them to scramble to pay for federal inaction. These unnecessary costs could have instead funded several more transit projects.

Third, staff found the CIG cost share for New Starts projects has shrunk dramatically. It is clear that transit agencies have felt pressured by FTA staff to seek lower CIG shares in order to be approved for a CIG grant, in contravention of the statute.



On the screen, you can see the data demonstrates the effect of this pressure; the CIG cost share for New Start projects has dropped over 10 percent in the last two years to below 40 percent. This is below the arbitrary 40 percent cost share cap that FTA has unofficially communicated to transit agencies. This unofficial policy is directly contrary to 49 U.S.C. Section 5309(l)(5) and the FY 2019 Omnibus Appropriations Act, which combined essentially say FTA is not authorized to require a local match for a project that is more than 49 percent of the project cost.

Fourth, staff found that FTA has delayed the use of streamlining tools for CIG transit projects. Approvals for a Letter of No Prejudice (LONP) took 44 percent longer than under the previous administration.



These letters allow work to begin before final approval on the most time sensitive components of the project. LONPs can lead to significant cost savings and may reduce the potential for schedule delays later in the project. In fact, the Committee has heard from multiple transit agencies desperate for a LONP because of the cost savings they afford. Given the importance this administration has placed on streamlining project approvals, expediting LONPs should have been a priority.

I hope these findings, and the discussion today, mark the beginning of a new page, where FTA, the Department of Transportation, and the White House drop their hostility towards transit and follow the law. We should be working together to improve transportation options for all Americans, not making it more difficult.

Mr. DEFAZIO. Thank you, Madam Chair.

Ms. NORTON. I thank Chairman DeFazio.

I would like to welcome Acting Administrator K. Jane Williams, Federal Transit Administration, and ask for her testimony at this time.

TESTIMONY OF HON. K. JANE WILLIAMS, ACTING ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION

Ms. WILLIAMS. Good morning. Thank you, Chairman Norton, Ranking Member Davis and members of the subcommittee. I would also like to recognize Chairman DeFazio and Ranking Member Graves; thank you for inviting me here to appear before you today to talk about the Federal Transit Administration's Capital Investment Grants Program.

FTA's mission is to improve public transportation for America's communities. And last year, we invested more than $15 billion to support public transportation consistent with the law. In all of our work, FTA continues to focus on implementing Secretary Chao's three major priorities—safety, innovation and infrastructure investment.

Last April, FTA certified the Washington Metrorail Safety Commission as a State safety oversight agency. The certification allowed FTA to transfer direct safety authority of the Washington Metropolitan Area Transit Authority's Metrorail system to the WMSC, after nearly 4 years of direct safety oversight.

When I began my tenure at FTA in August of 2017, there was not one single State safety oversight program certified by FTA. Now 18 months later, well before the April 15th deadline, all 31 State safety oversight programs were certified, allowing billions of dollars of transit funding to continue to support agencies across our Nation.

FTA has also achieved significant success in advancing innovation in public transportation. FTA's Mobility on Demand Program, which I know is a subject of interest to you, Madam Chair, has supported new forms of mobility such as car-sharing services and automation. Our MOD Program has helped meet the expectations of the traveling public for modernized service through on-demand options, integrated fare payments and ride-sharing.

My testimony today focuses on the Trump administration's track record in advancing CIG projects. The CIG program plays a significant role in modernizing and expanding public transportation in communities across our Nation. Authorized at $2.3 billion annually, it is FTA's largest discretionary investment program. And under President Trump and Secretary Chao's leadership, FTA has advanced 25 projects totaling approximately $7.6 billion in funding. In fact, in just the first 2 years of the Trump administration, FTA signed 13 CIG grant agreements totaling $3.3 billion. And yet in the same first 2 years of the previous administration only 10 construction grant agreements were signed totaling only a little over $1 billion in investment.

In 2018 alone, FTA was able to execute 10 construction grant agreements including one of our largest to date, $1.17 billion to Lynnwood Link Light Rail System in Seattle.

The President's fiscal year 2020 budget request also supports the CIG program with $1.5 billion in funding, including, for the first time, $500 million for potential new Capital Investment Grant projects funded through the general fund.

FTA is moving projects through the CIG program in accordance with the law. It is a priority of the administration to streamline the process as much as possible, and we are making progress. Just last month, we took a major step in implementing the expedited project delivery program. However, it is important to note that CIG projects are often delayed by local challenges that impact the timing of construction grant awards. FTA does not sign construction grant agreements committing millions and many times billions of dollars until we have assurance from the project sponsors that they have met the multiple steps outlined in law, that all non-CIG funding is committed, and the project's cost, scope and schedule are firm and final.

FTA has also emphasized the need for a firm local financial commitment, recommending a balanced approach for the local, State and private-sector funding through value capture alongside Federal grants and loans. Simply put, that's just good governance.

Over many years, across multiple administrations, FTA has encouraged project sponsors to leverage Federal dollars to capture the value we all recognize transit brings to communities across the Nation. And like you, we want to ensure that projects funded with taxpayer dollars are sound investments.

In closing, let me assure you that FTA will continue to press its projects through the program consistent with the law and will review projects based on its merits. During my tenure as FTA's Acting Administrator, I have met with hundreds of stakeholders and Members of Congress and staff.

I look forward to continuing to work with this committee and each of you and I am happy to answer any of your questions.

Ms. NORTON. Thank you for that testimony. Without objection, the witness' full statement will be included in the record.

[Ms. Williams' prepared statement follows:]

Prepared Statement of Hon. K. Jane Williams, Acting Administrator, Federal Transit Administration

Good morning Chairman Norton, Ranking Member Davis, and Members of the Subcommittee. I would also like to recognize Chairman DeFazio and Ranking Member Sam Graves. Thank you for inviting me to appear before you today to report on the Federal Transit Administration's Capital Investment Grants (CIG) program.

FTA's mission is to improve public transportation for America's communities. Since 1964, FTA has partnered with state and local governments to create and enhance public transportation systems. Today, FTA invests more than *$13 billion* annually to support and enhance rail, bus, ferry, and other transit services. This investment has helped modernize public transportation and extend service into large and small urban areas as well as rural communities across our nation.

The CIG program began as a loan program for transit projects in the 1960s. Today, the CIG program, authorized at $2.3 billion a year, is the Department's largest discretionary grant program.

Today's CIG program funds capital investments in heavy rail, commuter rail, light rail, streetcars, and bus rapid transit. These are high-impact, capital-intensive projects that receive substantial local and national attention. In fact, the CIG program accounts for approximately 20 percent of FTA's annual appropriation but generates more scrutiny than all of our other programs combined.

My testimony today focuses on the Department's track record in advancing CIG projects and dispelling misinformation about DOT's current management of the program. First, let me summarize some of the important work FTA has accomplished under this Administration.

DEPARTMENTAL PRIORITIES

In addition to funding projects through the CIG program, we have focused our attention on Secretary Chao's three major priorities: safety, innovation and infrastructure investment.

As Chairman Norton and other Members are aware, FTA certified the Washington Metrorail Safety Commission (WMSC) as one of the 31 State Safety Oversight Agencies for states with rail transit last spring, ahead of the April 2019 statutory deadline. The WMSC certification allowed FTA to transfer direct safety oversight of the Washington Metropolitan Area Transit Authority's (WMATA) Metrorail system to the WMSC after nearly four years of direct safety oversight authority by FTA. You will recall that the Department assumed direct safety oversight of WMATA in 2015 following serious safety lapses, including a smoke incident in which one passenger was killed and several injured.

FTA issued eight directives with 289 corrective actions; conducted four safety investigations focused on track integrity, stop signal overruns, traction power electrification, and vehicle securement; and completed more than 1,200 inspections. FTA partnered with WMATA General Manager Paul Wiedefeld to bring about significant systemic safety improvements across the WMATA system before transferring oversight to the WMSC. FTA continues to provide annual funding and technical assistance to the WMSC.

When I began my tenure at FTA in August of 2017, there was not one single State Safety Oversight Program certified by FTA. Thanks to the hard work of our team at FTA and action by our state partners, all 31 SSO programs are now certified.

FTA has continued to support transit across the nation, awarding more than $15 billion dollars in grants, including funding for bus fleet modernization, state of good repair needs, and planning for Transit-Oriented Development.

For example, last fall FTA awarded $12 million in Bus and Bus Facilities grants to Central Illinois. As Ranking Member Davis is aware, the grants enabled Illinois transit agencies to modernize bus fleets, improve service and enhance safety for riders.

Transit riders in Texas also benefited from an FTA Bus and Bus Facilities grant last year. A $7 million grant to the Texas Department of Transportation replaced older buses that exceeded their useful life in rural areas throughout the state. The grant, combined with matching funds, will replace more than 250 buses and bring the rural fleet in line with standards for state of good repair.

FTA supports Secretary Chao's priority to advance innovation in transportation through a $15 million Integrated Mobility Innovation (IMI) discretionary grant program, which will fund some of the most promising new technologies. We expect the IMI program will help deliver new forms of mobility such as car-sharing services and automation to help meet transit rider expectations and increase ridership.

About the CIG Program

The CIG program funds the construction of transit projects that have completed a statutorily defined multi-step, multi-year process. As required by law, a proposed project must be evaluated and receive an overall rating by FTA based on both the project justification and the local financial commitment criteria at several points during the process. A project must receive a "Medium" or better overall rating to advance to the next step in the process, including before it can be considered for a construction grant agreement.

The CIG program is one of the government's most complex and rigorous grant programs. Depending on the size and complexity of the project and the degree of local consensus, the process to reach a grant award can take on average two to four years, with the pace primarily depending on actions by the local project sponsor. Adding to the challenge, since 2013 the number of projects seeking funding has increased 112 percent, from 25 to 53. These projects have also increased in cost as well, with 31 percent of New Starts and Core Capacity projects currently in the program requesting more than $1 billion in CIG funding.

Successes

I have heard concerns expressed about FTA's current approach toward the CIG program. Some say FTA has slowed the number of signed construction grant agreements compared to previous Administrations.

That, however, is not true. During the first two years of this Administration FTA advanced more CIG projects than the previous Administration's first two years in office—an apt comparison given that every new Administration faces a transition period.

During the first two years of this Administration—beginning January 21, 2017 through the end of 2018—FTA signed 13 CIG construction grant agreements totaling $3.3 billion in funding. In the same period during the previous Administration—January 21, 2009 through the end of 2010—10 construction grant agreements were signed totaling $1.08 billion in funding.

We are continuing to process projects through the CIG program in accordance with the law and Congressional intent.

In 2017, the FTA executed three construction grant agreements: the Caltrain commuter rail electrification project in San Francisco, the Maryland Purple Line light rail project and the Ft. Lauderdale Wave Streetcar (although, ultimately, the Wave Streetcar project was cancelled by the local sponsor and withdrawn from the CIG program).

In 2018, FTA executed ten construction grant agreements, including eight Small Start agreements: for the Laker Line bus rapid transit (BRT) system in Grand Rapids; the Jacksonville First Coast Flyer BRT; the SMART Regional Rail in San Rafael, California; the Prospect MAX BRT in Kansas City; the Everett Swift BRT line and the Tacoma Link light rail extension in Washington State; the IndyGo Red Line BRT in Indianapolis; and the Albuquerque Rapid Transit BRT in New Mexico.

We ended the year by signing two Full Funding Grant Agreements: for the Santa Ana Streetcar in Orange County, California, and the Lynnwood Link light rail in Seattle. The Lynnwood Link Full Funding Grant Agreement was one of the agency's largest in recent history, and included the most funding during my FTA tenure, providing $1.17 billion dollars to Sound Transit to help expand its light rail system. In addition, the project received a $658 million USDOT Build America Bureau Transportation Infrastructure Finance and Innovation Act (TIFIA) loan.

Lynnwood Link provides a good comparison to the previous Administration as well. From the time FTA received a complete information package from the project sponsor, it took FTA 133 days to complete the statutorily required evaluations and reviews to execute the Lynnwood Link grant award. That is the same amount of time the previous Administration took to complete the Los Angeles Westside Section 2 subway grant award. Both were large, complicated projects submitted by experienced project sponsors seeking CIG funding and TIFIA loans concurrently.

In 2019, we executed a construction grant agreement for the Minneapolis Orange Line BRT project, and a Full Funding Grant Agreement for Dallas Area Rapid Transit's Core Capacity project.

Overall, since this Administration began through the end of June, FTA has executed 15 CIG grant agreements—for five New Starts and Core Capacity projects and 10 Small Starts projects throughout the nation totaling approximately $3.5 billion dollars in transit infrastructure investment.

That investment has continued this year, and FTA now has committed approximately $7.6 billion toward 25 new projects. To detail just this year's investment, in 2019, FTA has allocated funding for the following new projects:

- Phoenix, AZ South Central light rail extension ($100 million)
- Jacksonville, FL Southwest Corridor BRT ($16.6 million)
- Reno, NV Virginia Street BRT Extension ($40.4 million)
- Albany, NY River Corridor BRT ($26.9 million)
- Portland, OR Division Transit BRT ($87.4 million)
- Seattle, WA Federal Way light rail extension ($100 million)
- Spokane, WA Central City Line BRT ($53.4 million)
- San Francisco, CA Transbay Corridor ($300 million)
- Los Angeles County, CA Westside Subway Section 3 ($100 million)

In addition to providing funding, FTA continues to work with project sponsors through the CIG process. For example, FTA has moved 18 projects into the first phase of the CIG program, the Project Development phase, during this Administration (1/21/17 through 6/30/2019); and advanced seven projects into the Engineering phase, including New York's Canarsie power improvements project, Durham, NC light rail, Los Angeles Westside Subway Section 3, Phoenix South Central light rail, Seattle's Lynnwood Link light rail, San Francisco Bay Area's Transbay Corridor subway project and the Dallas platform extensions project that we advanced to a Full Funding Grant Agreement. FTA also approved 22 letters of no prejudice, which allow projects to proceed with initial construction activities using non-federal funds while retaining eligibility for future reimbursement should a CIG grant be awarded.

It is important to note that the President's FY 2020 budget request supports the CIG Program. The FY 2020 budget proposal contains $1.5 billion dollars in funding for the CIG Program, including $500 million for potential new Capital Investment Grant projects that may become ready for funding during FY 2020, including Expedited Project Delivery (EPD) projects. In addition, the FY 2020 request includes $500 million in Transit Infrastructure Grants that would reinvest in existing transit assets, including fixed-guideway and buses and related equipment. This new funding would come from the General Fund, which competes across the entire government for funding. It also balances the need to expand with the importance of maintaining current systems in a state of good repair and modernizing bus fleets and facilities.

FTA also made significant progress in implementing the EPD pilot program. The program encourages collaboration between public and private entities to leverage federal expenditures on major transit infrastructure projects. The law limits the total federal contribution to 25 percent or less of the total project cost. With the federal government contribution maxed at 25 percent, the law indicates FTA must perform expedited reviews of project justification and local financial commitment and accelerate grant award decisions.

The law allows the award of up to eight grant agreements, and FTA received expressions of interest from four agencies representing seven projects. We are moving forward with discussions with the Santa Clara Valley Transportation Authority in San José for the BART Silicon Valley Phase II subway project. We are also continuing to work with the other project sponsors as their projects may become ready for an agreement under the program.

A total of $125 million dollars has been appropriated for the EPD Program in fiscal years 2019 and prior.

Challenges

FTA is moving projects through the CIG program in accordance with the statutory requirements. The timing of construction grant awards depends heavily on project sponsors completing necessary work to meet those statutory requirements. The anticipated schedule for signing construction grant agreements can, and often does, change as project sponsors work to complete the myriad of requirements in law, regulation, and guidance for receipt of CIG funds.

In short, FTA does not sign construction grant agreements committing millions or billions of federal dollars until we have assurance from the project sponsor that all non-CIG funding is committed, all critical third-party agreements are complete, and the project's cost, scope, and schedule are considered firm and final.

Frequently, we see proposed CIG projects delayed by challenges at the local level. Those challenges might include a lack of local consensus on project scope such as disputes over the location of proposed stations or alignments, or whether lines will run above or below ground—decisions that have huge budget implications and can often lead to litigation. For example, the Fort Lauderdale Wave Streetcar and the Durham, NC light rail projects were withdrawn due to challenges at the local level. The Maryland Purple Line construction grant award was delayed for a year by a series of court actions taken by local project opponents.

Another complicating factor is whether the project sponsor can secure all needed non-CIG funding, whether from other federal, state, local, or private sources.

Delays can also occur as part of the project sponsor's procurement process or when a project sponsor changes its approach to construction.

This is a complicated process that relies on a number of actions and approvals at the local level and, as such, it is important to note that schedules for large capital projects can—and do—shift.

Program Policies

The CIG program fosters highly successful federal-local partnerships that positively impact millions of Americans across the country.

Last summer, in an effort to be transparent, FTA issued a Dear Colleague letter to remind project sponsors about the policies underpinning the CIG program and the rationale behind funding decisions. The letter emphasized the need for a firm local financial commitment and project readiness before a construction grant agreement could be awarded and recommended a balanced approach of local and state funding alongside federal grants and loans. We also reminded project sponsors that innovative approaches, including value capture, private contributions and public-private partnerships, could help them meet the matching funds requirements.

Although FTA has never required project sponsors to seek a lower CIG share, we have over the years, across multiple administrations, encouraged project sponsors to consider a more balanced local share to better leverage federal dollars to invest in additional projects throughout the nation. The statute requires that FTA consider the extent to which the project has a local financial commitment that exceeds the required non-government share of the cost of the project.

In short, we want to ensure projects that are funded with taxpayer dollars are sound investments completed on time and within budget.

Also last summer, FTA updated the procedures it uses to review capital cost estimates. The law requires FTA to consider both project readiness and associated risk in evaluating projects for funding through the CIG program. The agency's diligence in administering the program helps ensure that federal funds allocated to projects will be protected from the risks of cost overruns and schedule delays that CIG projects have often experienced.

Undertaking an analysis of project risk earlier in the process permits FTA and project sponsors to identify strategies to mitigate and reduce potential cost increases, ensuring that cost projections are realistic, the public knows what they are supporting, and that taxpayer dollars are spent wisely. The public, our shared constituents, expects us to deliver projects on time and within budget. Effective analysis and the mitigation of risk earlier in the CIG process, before FTA locks in the CIG contribution, provides the best way, short of a guarantee, to meet our public obligation.

Simply put, it's good governance.

Identifying risk earlier in the process also benefits project sponsors because it requires them to develop more realistic financial plans to pay for a project or identify changes to the design or project management to save costs when there is still time to implement such changes.

FTA intends to continue to evaluate each CIG project on its individual merits, consistent with the discretion afforded by law. FTA regularly engages with stakeholders in local communities, across the transit industry, and with our Congressional colleagues on the CIG program.

Conclusion

In conclusion, FTA will continue to process projects through the Capital Investment Grants program in accordance with the law. We remain committed to our mission to improve public transportation for America's communities. I look forward to working with this Committee and each of you. I'm happy to answer any questions you may have.

Ms. NORTON. Acting Administrator Williams, I listened closely to your testimony. I am used to Congress slowing things up, we do it all the time. It takes three branches and even this branch, as we have recently seen, takes a long time with things that matter.

I noted that you seemed—in fact you did blame all the project delays on the local level and you didn't offer a single example of delays by the Department of Transportation. Now, the data shows that approved times, times at your levels, have doubled.

Why should we conclude that the delays are solely the fault of transit agencies. And look, Administrator Williams, I am willing to accept for the agencies, for the localities, faults on their side. But we are not getting anywhere unless everybody accepts responsibility.

Now we have figures showing delays and I want to know why you won't take responsibility for those delays and then indicate what you think you can do about them.

Ms. WILLIAMS. Thank you, Madam Chair.

First of all, let me talk a little bit about the data. The data compares the last 2 years of the Obama administration with the first 2 years of the Trump administration and I would argue that the first 2 years of a first-term administration looks very different than the last 2 years of a second term.

Ms. NORTON. All right, given that, what are you going to do about it, Ms. Williams, even if one accepts that notion. That is the first time I have ever heard that kind of comparison made.

We are really interested on behalf of these local agencies in remedies. What are you going to do about them?

Ms. WILLIAMS. I think our record speaks for itself. We were able to bring 15 construction grant agreements across the finish line in just the first 2 years. When you compare that to the first 2 years of the previous administration, that is two more and $2 billion more in investment. We have 10 more allocations that have been made. In our administration, when we make an allocation, it is our signal that we are looking to bring that over the finish line as well, that project.

Ms. NORTON. So you think you are going to be able to equal the last administration——

Ms. WILLIAMS. Part of it is dictated——

Ms. NORTON. Yeah, but you are comparing yourself to that administration.

Ms. WILLIAMS. Part of it, I will tell you—and we have talked about this across administrations—we are also only allowed to deal with what comes to us. So I am constrained, just like all administrations have been, with what is in the pipeline and what is ready and——

Ms. NORTON. Well, let's talk about that. CIG projects seeking funding have increased. The figures I have been given is 112 percent from 25 to 53 projects. So people are coming in——

Ms. WILLIAMS. Uh-huh.

Ms. NORTON [continuing]. Fast and furious, massive demand for new transit projects. And that is across the Nation.

Now your testimony is that for the fiscal year 2020 budget, the administration is seeking $1.5 billion for CIG projects, which is a 40-percent cut. Sadly, of course, that is better than the draconian Trump administration request.

If the need for CIG projects is increasing, why is the administration proposing cuts in the program?

Ms. WILLIAMS. We believe the $1.5 billion figure is what we will need for fiscal year 2020. We believe that is what will be ready, the $500 million will cover projects that we believe now will be ready for funding in fiscal year 2020. And that is an estimate because some things are borne out at the local level that are unanticipated. If you look at the Durham project in North Carolina, no one anticipated that project having a third party——

Ms. NORTON. Well, if some project falls out, given the demand, there would be other projects ready to step up.

Administrator Williams, our concern is that we are not even trying to meet the demand and I am afraid your testimony doesn't help us to believe that you will be able to accelerate that demand.

I am going to ask the ranking member if he would offer his questions.

Mr. DAVIS. Thank you, Madam Chair. And again, Acting Administrator Williams, thanks for being here.

You and I have had opportunity to speak on numerous occasions and I believe you are doing everything in your power to ensure that the FTA executes the CIG program that is consistent with the laws that we make here, and sometimes may bind you with.

That may be a question you might want to answer, you know, what are we doing here in this institution, this branch, that makes it more difficult for you to implement programs like CIG?

Ms. WILLIAMS. I think it is a blend of doing things fast and doing things right. You are talking about billions of dollars of Federal investment and so, as much as we absolutely want to streamline projects, we have to make sure that they are done correctly as well. And so it is a topic that I am sure we will work with the committee as we look at reauthorizing the FAST Act of ways that maybe we could streamline the CIG program. I would be happy to work with you, Congressman.

Mr. DAVIS. We appreciate that, Acting Administrator. And, you know, we want that. That is why you are here today. We want to come together and have a bipartisan highway reauthorization and transit reauthorization, and we are going to need your help.

You know, as I mentioned earlier, my district is less urban. And we have seen ridership even in some of the most urban areas in the country, it seems to go down. I think our goal should be how do we put policies in place here at this committee that are going to encourage more public transportation ridership, not just in those urban areas where it is even falling, but in the smaller communities that I serve. And with that being said, you mentioned it is pretty complex to deal with billions of dollars in a program, and I get that, I understand that.

What can I do and what can we do at this committee to help communities in smaller rural areas that I have mentioned, how can they take advantage of programs like the CIG? You visited my district before, you have seen the small rural transit districts I serve. I reached out to them. None of them have participated in this program, but they are interested. They may have opportunities in the future. How do we give them those opportunities?

Ms. WILLIAMS. I think, Congressman, it is an interesting question, because really the CIG program, we have no rural projects. I think there has been one done in the entire history, out in Colorado, a bus rapid transit project. It really doesn't allow for a rural project to enter, even small urban projects have a difficulty really being able to compete and being able to meet all the requirements in law.

So I would be happy to look at that with you more and see how we could make it more amenable to smaller rural areas in our country.

Mr. DAVIS. That would be great. I am certainly hoping that with Colorado being the lone project, that maybe Illinois' 13th Congressional District a couple of years from now might be another one. Let's work together to ensure that we address these issues.

You know, you are going to talk about some of the issues with CIG and you mentioned in your response to Chairman DeFazio's PowerPoint, you know, about what this administration has done over the last 2 years.

I do want to make a point that you made earlier. It is imperative that we look at the last 2 years of the last administration and look at what we project the next 2 years to be. You know, the goal of this committee has and always will be to put good policies in place without letting partisanship get in the way. And that is why I commend Chairman DeFazio and also Chairlady Norton for allowing us this opportunity to come together.

Is there anything, with the time that I have left, that you haven't had a chance to mention in your short time up there, that you may want to get across to the committee and to the folks that are watching today, that may be helpful as to why the CIG program is so important and also why it is important to your administration?

Ms. WILLIAMS. I think clearly we put $15 billion into transit this year. Clearly that shows our willingness to support transit and the Capital Investment Grant program. Although we may disagree on the amount of money in the fiscal year 2020 budget, it is a change, in that it is not a zero there, it is $500 million. I think that speaks to the fact that we believe that is what the number is.

We are constrained by what comes to us and what is ready to be funded. And we believe that is the correct number. So I am happy to talk more with Members and have those conversations and we are happy to work with the committee as we have been.

Mr. DAVIS. Thank you again, Administrator. And just so you know, I am thankful as a resident of Illinois for the investment CIG has made in the Chicagoland area, because Chicagoland transit has a tremendous impact on downstate transit and the rest of our State too. So thank you for that investment there too.

And with that, I will yield back, Madam Chair.

Ms. WILLIAMS. I had an opportunity to visit Chicago and they have a great system. Thank you.

Ms. NORTON. I appreciate your response, the response to the ranking member, that you would be willing to work with the committee and you compared the last 2 years of one administration with the first 2 years of another.

So if we see any improvement, I think we would be very pleased. So if you would give us on a quarterly basis the number of projects that have been approved, that would be very helpful.

Ms. WILLIAMS. Absolutely. We would be happy to, Chairwoman Norton.

Ms. NORTON. Thank you very much.

Chairman DeFazio.

Mr. DEFAZIO. Thanks, Madam Chair.

I have got to say I find it nonsensical to say well, it is the first 2 years of this administration and of course things—first off, the first budget proposed killing the program altogether. I don't think we have recovered from that and I believe that Mr. Mulvaney and his new hench person over at OMB are still hostile to transit. And I assume that that pressure and that attitude filters down.

And it was a very broad bipartisan consensus of the Congress that said no, hell no, and pushed back. But now we have got other issues.

One would be the changes in the risk assessment process that are incurring additional costs. Where did that idea originate?

Ms. WILLIAMS. Actually, the risk assessment process from 2006 until 2016 was at the probability 65 level. It was changed—I am sorry, at the probability 65 level and it was changed to probability 50 at that time by FTA. And neither time was it sent out for notice and comment.

And I want to clear up. I think there is some confusion as to what we use that for. It is an internal tool that FTA uses to measure the risk in the project. So it is not adding cost to the project. So, you know, it's your budget and your cost. So if the budget says the project is going to cost $100 million and yet, you know, you cost it out at only $75 million, you need to add $25 million to the project or you need to make the budget and the cost meet.

So it is not about adding additional cost to projects or increasing those——

Mr. DEFAZIO. But it requires them to maintain a larger contingency fund, irregardless of the merits of the project or the viability of the agency or anything else. It is an arbitrary thing and it does require them to set aside more contingency funds; correct?

Ms. WILLIAMS. It requires them to predict more accurately the actual cost of their project and we believe that that is good governance and that that is what the taxpayer deserves to know, that they have a better than 50/50 chance of the project coming in on time and on budget.

And like I said, this was a tool used for many years internally by FTA and was just changed for the last 2 years from 2016 to 2018 when we reverted back, seeing project costs is coming in much higher than what was predicted. And we felt that it was necessary to go back to that probability 65.

Mr. DEFAZIO. OK. Then have you or any member of your staff ever strongly implied—and we have heard this repeatedly, repeatedly, repeatedly from transit agencies—they won't say that we have to come in under 40 percent, they just say we have never approved a project that wasn't below 40 percent. And so, I mean, if that is not the case, I would like you to say it now, that you are willing to look at and approve projects at above 40 percent. Because we have just heard this so many times that that is the word in the transit community, even though the law prohibits that, even though the law sets a much higher threshold, that the agency is saying no, this is policy, as set informally by the administration.

Ms. WILLIAMS. So this is an approach used by both the Bush administration and the Obama administration and we believe that the best chance of success for a project is when it is a blend of local, State and private——

Mr. DEFAZIO. I have got that, but Congress says 51 and your agency is telling people you have to be under 40. Will you say here that there is no informal policy, that you will be totally open to looking at projects that come in over 40 percent and they would have as good a chance of approval as anything else, given their merits. Yes or no?

Ms. WILLIAMS. In fact, Chairman——

Mr. DEFAZIO. Yes or no.

Ms. WILLIAMS [continuing]. We just moved the BART project in San Francisco into engineering at a 43-percent share. And so yes, many of our mega projects——

Mr. DEFAZIO. Not a New Start.

Ms. WILLIAMS. It is a Core Capacity project, but it is a large contribution on——

Mr. DEFAZIO. Why do the agencies across the country have this impression and why are they all coming in under 40 percent?

Ms. WILLIAMS. Historically, most of our large projects have come in under 40 percent but that is no different than many of the large projects in past administrations. When you——

Mr. DEFAZIO. But I never heard before from the transit agencies that they were being bullied to come in under 40 percent.

Ms. WILLIAMS. I am not aware of anybody bullying——

Mr. DEFAZIO. OK, so you are willing to look at projects and approve projects over 40 percent.

Ms. WILLIAMS. We always look at every project and——

Mr. DEFAZIO. Are you willing to look at and approve projects over 40 percent——

Ms. WILLIAMS. Yes, Chairman——

Mr. DEFAZIO [continuing]. Up to the statutory cap?

Ms. WILLIAMS. Yes, Chairman, absolutely.

Mr. DEFAZIO. Would you answer the question?

Ms. WILLIAMS. Yes.

Ms. NORTON. She says yes.

Mr. DEFAZIO. Thank you.

Ms. NORTON. Thank you.

Mr. Webster.

Mr. WEBSTER. Madam Chair.

How can automated vehicles improve efficiency and cost?

Ms. WILLIAMS. So automation in transit, I think where we will see it first is in maintenance cost improvements for transit agencies, such as parking buses closer together in the urban centers, being able to automate buses through bus washes and the like. I think we are still a ways off before we see automation in actual buses itself.

Mr. WEBSTER. So what percentage do you think it is right now?

Ms. WILLIAMS. That is difficult to predict, sir. It is still a fair amount of years off I believe.

Mr. WEBSTER. I have kind of a personal question.

Ms. WILLIAMS. Yes.

Mr. WEBSTER. In 2014, the silver line began in DC transit and they had new cars, 7000 series. I just wondered if you could do anything about the improper message that has been on there for 5 years. When the doors open to allow people on, it says "doors open." When the doors close, it says "stand back, doors opening." And I think this is a safety issue. It is just you are the first person to come along that I have been able to say anything to about it.

Ms. WILLIAMS. Let me understand. So when the doors are closing, it says the doors are opening?

Mr. WEBSTER. Yes.

Ms. WILLIAMS. I will take care of that today, sir. I was not aware. In fact, I rode a 7000 series car here on the green line, switched at L'Enfant, and I didn't notice that recording.

Mr. WEBSTER. I don't think anybody else has either, but it is there.

Ms. WILLIAMS. I have a great relationship with the general manager Paul Wiedefeld. I will give him a call this afternoon after our hearing.

Mr. WEBSTER. Awesome.

Ms. WILLIAMS. Thank you, sir.

Mr. WEBSTER. I yield back.

Ms. NORTON. I thank the Member for that keen observation.

Mr. Johnson of Georgia.

Mr. JOHNSON OF GEORGIA. Thank you, Madam Chair, for hosting this hearing today and thank you, Madam Williams for appearing today.

It is a fact that the Trump administration has taken steps to roll back the environmental review process for Federal infrastructure projects.

Can you explain whether or not you have any concern that your agency may be approving projects improperly vetted for their potential environmental threat to new bioeco systems in communities?

Ms. WILLIAMS. No, sir, I don't have a concern about that. In the CIG program in particular——

Mr. JOHNSON OF GEORGIA. And you do admit that the environmental review process has been rolled back; correct?

Ms. WILLIAMS. I am here to speak as the Acting Administrator of FTA. All I can speak to is what we do in the CIG program. And I can tell you that NEPA, we follow NEPA very closely. And that is done early on in the CIG process. And so we take that very seriously, sir.

Mr. JOHNSON OF GEORGIA. Uh-huh. You are not really concerned about the environmental impacts that may have been improperly assessed due to the cutback in the review process.

Ms. WILLIAMS. In fact, in the CIG program, we base our decisions on project justification and finance ratings. And in the project justification is environmental benefits and that is one of the categories we look very—you know, we look at to make sure that when we rate a project, it is properly rated. So it is definitely a consideration in our CIG program.

Mr. JOHNSON OF GEORGIA. Can you explain how the rollbacks in the environmental review process are compatible with the FTA's requirements for the project development phase of their grant approval process?

Ms. WILLIAMS. I am not sure I understand the question, sir. We haven't rolled back any environmental review processes for CIG projects in FTA.

Mr. JOHNSON OF GEORGIA. All right, fair enough. Thank you.

I yield back.

Ms. WILLIAMS. You are welcome.

Ms. NORTON. Thank you very much.

Mr. Woodall.

Mr. WOODALL. Thank you, Madam Chair. Thank you, Madam Administrator for being here.

Could we put the slides back up that the chairman had up to begin with? I wanted to look at the cost share shrinking in particular. My friend, Mr. Mulvaney, was invoked there. We worked on a lot of budget cutting that is going on while he was on Capitol Hill.

[Slide.]

Madam Administrator, when we see the cost share shrink from the pre-2017 to the post-2017 levels, so that is just over 10 percent, how much of that money is going back to the taxpayer for deficit reduction?

Ms. WILLIAMS. None.

Mr. WOODALL. None? You are saying that we are reducing the amount of money we are sending to an individual project and the taxpayer is not benefitting from that at all? Where in the world is that money going?

Ms. WILLIAMS. Well, that is actually staying in the CIG program to make sure that we have other projects that we can fund. So actually, it is allowing us to fund additional projects across the country.

Mr. WOODALL. You are saying that when the chairwoman noted that applications to this fund had more than doubled, you have been able to fund more projects than you would have otherwise been able to fund, by reducing the Federal cost share?

Ms. WILLIAMS. Right. So they have doubled in number and also in size. We have more projects coming in asking for more funding, so they are larger projects as well.

Mr. WOODALL. Well, I am going to have to talk to my friend, Mr. Mulvaney, about why the taxpayer isn't getting—it sounds like what you are doing is you are trying to take a program that has been oversubscribed and underfunded and participate with as many different projects across the country as you can. Am I understanding the goal correctly?

Ms. WILLIAMS. Yes, you are.

Mr. WOODALL. Well, I hope you won't let that goal disappear. We do have to find ways, and coming from a community that does a lot of self-starting—we just passed $1 billion locally in new transportation taxes—I don't want to see all the giant projects in the country suck up all the funding stream. I don't want to see the big guys who are used to accessing a program like this suck up all the funding stream. I appreciate that effort to try to move more money to more projects.

Let me go back to something else the chairman said about the risk assessment, because my constituents don't mind investing money in transformational projects. They mind throwing money down a rat hole towards failures. When we moved from a probability 65 standard down to a probability 50 standard, meaning the odds of success of coming in on budget or under budget diminished dramatically, what did we see? Did it not make a material difference to the success of projects across the country when the standard fell from P–65 to P–50?

Ms. WILLIAMS. It absolutely did. And actually the reason we then considered it is it came to me from our career professional staff who said, you know, we are seeing project bids come in much higher. Given the really booming economy we are having, the tightening of the labor market, we are seeing, you know, project bids come in much higher and projects like the Wave streetcar was the very first project I approved as the Acting Administrator, in Florida, was not actually able to absorb that cost increase and was not able to move forward. It really caused us to take a step back and really look at all the projects. And that was one of the earlier delays. I felt that it was really important to understand what happened in that project, so that we didn't have another project that we approved that that happened to.

Mr. WOODALL. I know we fund CIG out of the general fund. I hope this committee will have a conversation about finding a permanent funding stream for mass transit generally. It is an interest we all share, and to have to pick up the crumbs off the table is not the right way to fund a major national infrastructure program like this.

But for you to make those changes, again returning to what had a better success rate during the Obama administration and the Bush administration in terms of a P–65 standard, for you to try to squeeze more projects into your limited budget stream, even though it produces charts like this one, to give more communities an opportunity to benefit, I just want you to know how much I appreciate that. I think our job is not to tell you what a great job you are doing, it is to hold you accountable when you are not doing a great job.

But on these two fronts in particular, I am grateful for your efforts. I know it has not been easy and know how much it is valued.

Madam Chair, I yield back.

Ms. WILLIAMS. Thank you, sir.

Mr. WOODALL. Oh, Madam Chair, could I—if there is any other information on these charts that you didn't get a chance to talk about, feel free to submit that in writing. I know charts can sometimes be misleading and I want to make sure we have the very best information.

Ms. WILLIAMS. We will do so. Thank you, sir.

Mr. WOODALL. Thank you for your indulgence, Madam Chair.

Ms. NORTON. Certainly.

There doesn't seem to be any problem with more projects being funded. That really has not been the problem. The problem is that there are funds not being used and jurisdictions waiting to be funded.

Mr. Malinowski, please.

Mr. MALINOWSKI. Thank you, Madam Chair.

Madam Williams, I wanted to ask you about a specific project that is existentially important to my State and frankly the economy of the Northeast, the Portal North Bridge project.

For those who don't know, this is a 110-year-old railroad bridge, it is a swing bridge that swings open when boats pass and when it swings back, it is so rickety that sometimes a guy needs to go out there with a sledge hammer to lock it back into place. This is not a partisan issue in my part of the country, everyone understands this needs to be replaced.

Congress has provided the funding to fund the Federal part of the project and yet you have given it a medium-low rating because you have decided that local funds were not committed. Would you briefly define for us what you consider to be committed funding from the local partner?

Ms. WILLIAMS. Absolutely, sir.

Committed means nothing else has to occur to have access to that funding. And so in New Jersey, I think there has been somewhat of a miscommunication in that many people feel that we are saying they have to sell the bonds. That is not what we are asking. What we are asking is that the funds need to be committed, which means New Jersey Transit has to have access to those funds today. Today, they do not. And in fact, they brought this to our attention through the CIG process, that there were requirements in New Jersey State law that they needed to meet in order to have access to those funds. And they are making progress, I believe there was a New York DOT signoff that they had to receive by the end of June, which I understand they have received. New Jersey Transit has to have it approved by their board, and this is to be funded in their State transportation plan.

And so, once they have that done, I believe it comes to FTA and FHWA, our Federal Highway Administration. And once they have those steps completed, then that way, I believe they will be considered committed. And then they can resubmit an application for an additional rating, which I am sure they will do in the fall.

Mr. MALINOWSKI. OK, well, that is helpful. I just want to hone in on this precisely.

As you know, the State of New Jersey has agreed to fund up to $600 million of this project through a bond issue that will be securely backed by our gas tax, there is another $200 million that has been committed. So you are not saying the bond has to actually have been issued?

Ms. WILLIAMS. No, I am not.

Mr. MALINOWSKI. OK.

So this definition of having access to funds, because there are a number of other projects, as I think you know, around the country, that have received the medium rating where bonds have not been issued.

Ms. WILLIAMS. Right.

Mr. MALINOWSKI. The Durham Light Rail project, the Phoenix South Central Light Rail extension which is supposed to be backed by a sales tax that has to be approved by the voters and a referendum hasn't been held.

Why is that receiving a medium rating, given how secure the commitment in New Jersey is, and here you have a project that needs to be approved by the voters and has not yet been?

Ms. WILLIAMS. What I can tell you is that everybody has to comply with the same requirements. So, my technical team, which are career professionals that have worked with these project sponsors for years many times, have looked at each of those projects and it doesn't mean that they have to sell the bonds, it means that they have to comply with their own laws. And so in individual cases, I am happy to get back to you for the record, but my understanding is that they were able to meet the requirement to have access to the funding in the project. And so it must be something that is inconsequential to the State income tax that hasn't been passed.

Mr. MALINOWSKI. OK, that is helpful and we would appreciate following up with you——

Ms. WILLIAMS. Absolutely, happy to do that.

Mr. MALINOWSKI [continuing]. On differences and similarities, because we need to understand there is a common standard.

Ms. WILLIAMS. Yes.

Mr. MALINOWSKI. Let me ask you about another project which I am sure you have heard about, and that is the Hudson River Tunnel. Right now, one of the major holdups there is a lack of a record of decision for the environmental impact statement. That statement was completed and submitted to you in frankly a record period of time, 14 months, given to the Department in June of 2017 with an estimated completion of March 30th, 2018. This was what the Department told us. It has been more than 15 months since that original completion, predicted completion date.

FRA Administrator Batory testified before us last year that the EIS would be completed in the first or second quarter this year. This hasn't happened.

Madam Williams, where is the environmental impact statement and why has it taken so long?

Ms. WILLIAMS. Well, what I can tell you is the Federal Railroad Administration is the lead on the EIS for the Hudson Tunnel, we are a cooperating agency. And we are working diligently to complete that. I know Mr. Batory was up on the Hill just a few weeks ago and stated that there were still some steps that needed to be completed. It is a very complex project and so it is taking a bit longer to get finished.

And so I would say to you that that is really in FRA's court and we are working very closely with them to get that done.

Ms. NORTON. Thank you very much. Your time has expired.

Mr. Katko.

Mr. KATKO. Thank you, Madam Chair, and thank you for being here today, Ms. Williams.

Before I ask a couple of questions about cybersecurity amongst others, I do want to make an observation. We are Members of Congress, we control the powers of the purse and we control what legislation goes to any President. So to the extent that there has been observations here that somehow the administration may be an impediment to getting something done, I would only challenge both sides to think in a bipartisan manner. If we produce a good enough highway bill and it is bipartisan, it will be veto-proof and we can get what we want. We will not get it by partisanship, we will get it by working together, all of us of all stripes, to get this done. And there is not anything in this country that I can see that needs more addressing than infrastructure. And if we don't work together, we are going to continue to be in the malaise we are in now. So I encourage all of us to put down our swords and work together to get infrastructure done once and for all, on the highway side at least.

Now, with respect to cyber, I am ranking member on the Committee on Homeland Security's Cybersecurity, Infrastructure Protection, and Innovation Subcommittee and have been briefed many times about the threat of the Chinese influence in our transportation systems, in our cybersecurity systems nationwide.

Congresswoman Rice, my friend from the New York area, and I wrote a letter to New York City subway authorities about their plan to purchase Chinese-made subway systems. It is a very big concern and I think we have established in other hearings before this committee and others the influence of Chinese in this area and their desire to infect the products that they put into the United States, like 5G technology, as well as train technology, with spyware, for example, embedded into the systems.

So in that letter to New York City we were trying to note the fact that, first of all, the Chinese are trying to do that. And second of all, they are undercutting the markets and putting a lot of other train manufacturers out of business, therefore, by default being the only train supplier around. It is a huge problem and something that cannot be ignored and I know the Washington metropolitan system is bringing the same thing.

So I would like to know what your office is doing in that regard and whether or not providing money for funding of like a subway system in San Francisco with additional trains there, what are you doing to make sure that we don't have these Chinese products coming into the system, and therefore creating a greater vulnerability. Because if you think about it, even if they provide Wi-Fi, everything that people are using on a Wi-Fi system is getting back to them. And the invasion of privacy and the national security implications are pretty serious.

So with that, I would just like to have you talk about that.

Ms. WILLIAMS. We, of course, support your concern when it comes to cybersecurity in the railcar manufacturing. Unfortunately, we have no direct role at FTA to require transit agencies to buy a certain product from a certain manufacturer. We do make sure, if they use Federal funding, they have to be Buy America compliant. But unfortunately, there is no way for us to preclude them from purchasing railcars from any manufacturer they want, if they are considered Buy America compliant, at this time.

Mr. KATKO. So even if they present a potential threat that has been established in Congress, has been established in the national security agencies, that is the case?

Ms. WILLIAMS. I know that there is language on the Hill now to prevent that from occurring and we would certainly be very supportive of that.

Mr. KATKO. And what are you referring to?

Ms. WILLIAMS. I believe it was something that Madam Chair put into the defense bill, the defense appropriations bill, that would preclude those purchases.

Mr. KATKO. So what would you need, that type of language, or is there other language that you think would be helpful as well?

Ms. WILLIAMS. We can certainly work with the committee if you think there is additional language. Maybe there is something to look at more longer term in the reauthorization bill, but certainly shorter term appropriation bills would be appropriate. We are happy to work with you.

Mr. KATKO. Madam Chair, I am happy to work with on on that as well. I think it is a very important issue and that we need to be mindful of it.

Also, you talked about ways we could possibly streamline the FAST Act and improve what we have been doing. And if we really are going to work together to get this done, I would very much appreciate any input, and frank input, that you could have on what the next generation of the highway bill would look like. And if you have any general suggestions right now, I would like to hear them.

Ms. WILLIAMS. We would be happy to work with you on that. Today, I am really prepared to talk about the Capital Investment Grant program, but we are certainly happy to work with the committee on reauthorization proposals as we get closer to reauthorization.

Mr. KATKO. Thank you very much.

I yield back.

Ms. WILLIAMS. Thank you.

Ms. NORTON. Thank you very much.

Mr. Stanton.

Mr. STANTON. Thank you very much, Madam Chair.

By the way, I thank you for putting that suggestion in the national defense authorization bill as it relates to what the gentleman was just speaking about.

Acting Administrator Williams, I want to thank the FTA for its recent commitment of $100 million for the South Central Light Rail extension in the city that I used to lead as mayor, Phoenix, Arizona. This Federal investment is critical to the future of light rail in south Phoenix. It is a project that we have long fought for and when completed will connect the community to new economic opportunities, jobs, education, healthcare, social services, and more. That project has been ranked as one of the top projects in the United States of America in terms of using public infrastructure to help lift people out of poverty.

Over the past year, the local transit agency in Maricopa County, Valley Metro, has been working with the FTA to advance a number of critical transit projects—Tempe Streetcar, Northwest extension phase 2, and of course South Central that I just mentioned.

The Tempe Streetcar in particular is at a critical stage and the pending grant agreement must be approved soon. The deadline for this to be finalized by the FTA is September 1st, prior to the shutdown of the transit award management system, which could occur anywhere from September 20th to October 11th. My understanding is the grant needs to be sent to the Hill for circulation by September 6th at the very latest. Although Valley Metro can complete construction of this project under the current Letter of No Prejudice, and while they may be able to enter a grant agreement as late as December 15, Valley Metro will experience serious cash flow issues as soon as September.

I understand that all required documentation for approval has been submitted by Valley Metro. Can you provide me with assurances that this project will receive the necessary approvals in time to meet these deadlines?

Ms. WILLIAMS. Absolutely, sir. We have a great working relationship with Scott Smith, the GM there. He has done a terrific job of bringing that project across the finish line. There have been some hiccups with Tempe Streetcar and he has managed that very well. As you noted in your earlier remarks, we just did a $100 million allocation to a second project in our program, the South Central Light Rail project, and we have a great working relationship. You have my commitment to get that done for him.

Mr. STANTON. That is great. Phoenix does have a dedicated funding source. When I was mayor, we did that dedicated funding source, the people of Phoenix overwhelmingly supported a transportation infrastructure investment in the local community, 35 years, $32 billion. And the first program under that election and that source of revenue was the South Central Line.

As some of the witnesses on the second panel have noted in their written testimony, there have been concerns about revised Federal cost share for CIG projects. It is my understanding you have been working with Valley Metro to resolve those concerns over a proposed Federal share for several projects in our region. I appreciate your continued effort on this front and I want to add my support to maintaining the level of Federal participation that was anticipated when these projects were initially planned. Of course, we don't want to move the goal post in the middle of the game.

Can you provide your thoughts on how FTA will resolve the cost sharing issues in keeping with those expectations of the local sponsors of these projects?

Ms. WILLIAMS. I think as I mentioned earlier, you know, being able to look at value capture—I think the industry as a whole tends to think of that as only tax increment financing, and we want to broaden that definition to include things like land deals, operation and maintenance. We all recognize that transit brings value to our Nation's communities but sometimes we don't capture that value for transit.

We sit, at U.S. DOT, at the Navy Yard, it looks a whole lot different than it did 30 some years ago when I was first in DC. And a lot of that is due to the green line coming in, that Metro line coming into that area. And yet, none of that revenue was really, and that increase in value, was really borne out to the transit agency. And so our commitment is to help the transit agency really capture that value that they bring to a community because we know communities value transit and we want to make sure that they capture that value and invite those private investors to the table so that we can have additional funding to be able to fund more projects across the entire country.

Mr. STANTON. We need to do more to make the case for transit, not just as a way to move people to jobs and education and healthcare, but as an economic development tool. In my city, in my community, our initial 20-plus-mile line of the light rail, did result in $11 billion in public and private investment. I would argue that public transportation investment is as strong of an economic development tool as almost anything else that we can do at the local level and in partnership with the Federal Government.

I yield back. Thank you.

Ms. WILLIAMS. I would agree.

Ms. NORTON. Amen, Mr. Stanton.

Mr. Babin.

Dr. BABIN. Yes, ma'am, thank you, I appreciate it, Madam Chair. And thank you, Administrator Williams, for being here. You have a very important job, so thank you for being here with us today to discuss the Capital Investment Grant program.

On one hand, you have a certain group of people concerned that the FTA is unable to, or it has even been suggested unwilling, to approve grant applications in an appropriate manner or timeframe, given the number of factors under your administrative authority. And on the other hand, we know that there are dozens of bureaucratic hoops that you have to jump through in order to approve a grant application, which is slowing this already arduous process down.

So, how can we help you along in this process and how can this committee untie your hands in order to lessen the onerous regulations and expedite a CIG grant approval process in a timely manner?

Ms. WILLIAMS. You know, I think that the CIG program has evolved over many years. I am proud of the progress that we have made under the Trump administration and Secretary Chao's leadership to advance 25 projects through the program. That totals $7.6 billion in funding. I know some have talked about the concern of geographic diversity of the 15 that we have signed construction grant agreements with. Six of them have been in just two States.

So let me assure you though that geographic diversity is a consideration, but it is certainly not a barrier. You know, I think we are making progress. I know that when the administration did not request additional funding early on in the first two budgets, it was alluded to that projects were canceled. Let me assure you, there was not one project canceled in the CIG program. We actually funded 3 projects in 2017, 10 in 2018 and we have funded 2 in 2019. So I want to make sure that there is no impression of when we actually requested zero funding for the CIG program in the first 2 years of the administration, that no projects, no new projects, were done. That is simply not the case. And so we are making progress.

And we would love to talk to you more as we get closer on the reauthorization topic on how we could maybe streamline the CIG process a little further.

Dr. BABIN. Excellent, thank you.

And then to follow up here, there has been a good deal of conversation surrounding your Dear Colleague letter from last year regarding the FTA's advancement of projects through the CIG program.

Do you believe that any of the policies in that letter actually violate Federal law?

Ms. WILLIAMS. I do not. In fact, many of those policies are longheld policies across multiple administrations. Both the Bush administration and Obama administration held those policies as internal decisionmaking tools.

Dr. BABIN. OK. And any claims to the contrary to that seem to be incorrect, in my opinion, because I cannot see that.

But what was your reason behind sending the Dear Colleague letter in the first place?

Ms. WILLIAMS. Actually, it was our attempt to be transparent as we were making discretionary decisions about grants. And so it was our way of communicating that to the industry of what we were looking for. We thought it was just a recharacterization of what was used for a long time and it would not be surprising to anyone. We saw differently, that that was not the impact we had really expected.

Dr. BABIN. Thank you, Administrator.

I yield back, Madam Chair.

Ms. NORTON. Thank you very much.

And I want to reinforce Mr. Babin's notion that this committee stands ready to help. While I have been critical of you, anything the committee can do to hasten these projects with this huge backlog desiring funding, please let us know. And thank you for that suggestion, Mr. Babin.

Mr. Allred.

Mr. ALLRED. Thank you, Madam Chair. And I want to welcome you, Administrator Williams, thank you for being here today.

Last month, I was very pleased to hear of your agency's announcement of a $60 million grant agreement with the Dallas Area Rapid Transit, or DART, which serves my district in the Dallas-Fort Worth area. The grant will help the project to lengthen platforms at 28 stations along the existing red and blue light rail lines, many of which are in my district.

I would also like to thank you for your recent visit to north Texas, which I am sure highlighted how important transit is for our region. We are one of the most rapidly growing places in the country and our economic growth and population growth is dependent on Federal investment as well. So, thank you for that commitment and for coming to north Texas.

I do want to mention another project that DART has applied for CIG funding, it is the second rail line in downtown Dallas, called the D2 Subway. This is a project that will greatly improve mobility and add capacity for our system. Right now, if anything happens in downtown to block our existing line, the entire line is shut down. So adding a second station will be very important for us.

And to kind of add on to what some of my colleagues have said, I am concerned of course about some of the delays we have seen. But I trust that your agency is going to be working with DART to make sure that gets full consideration. I think it is something that is certainly worthy of being considered.

Ms. WILLIAMS. Yes.

Mr. ALLRED. Thank you.

I want to turn to TIFIA loans because this is an important thing for Texas. As you know, we combine different funding mechanisms for a lot of things.

Ms. WILLIAMS. Yes.

Mr. ALLRED. And in your Dear Colleague letter, you said that TIFIA will be considered, quote, "In the context of Federal funding sources," end quote, and, quote, "not separate from the Federal funding sources."

Can you explain how FTA is applying that standard?

Ms. WILLIAMS. OK, so let me begin by saying that loans are treated by the Build America Bureau, so RRIF and TIFIA loans are actually handled through them. We have done multiple projects that have included TIFIA loans, including Seattle being probably the most recent one, and one of the largest actual CIG projects we have done at $1.17 billion for Seattle.

What I think the Dear Colleague was trying to get at is that it looks at—so in CIG, we only look at the funding based on CIG or non-CIG funding. The repayment sources really don't factor in to that. But it is a discretionary grant program, so when the Department looks at funding, they look at the totality of the Federal investment. And so they look at everything that is being asked for from the Federal Government. And I think that is what it was getting at. And so I know that has been somewhat confusing, but let me assure you that we have used TIFIA—Maryland purple line is another example of where we have used a TIFIA loan.

Mr. ALLRED. Well, I am glad to hear you say that because, as you know, this is not being repaid with Federal funds, and so my concern is that we are providing less flexibility to transit projects than we are to highway projects, which I think are treated differently. Is that the case?

Ms. WILLIAMS. I am not as familiar with the highway side, I couldn't really answer that.

Mr. ALLRED. OK.

Ms. WILLIAMS. I would be happy to get back to you on the record for that.

Mr. ALLRED. Sure, sure.

Well, as I said, transit is very important for us. I want to make sure that as many funding sources are available as possible. I want to work with your agency and the administration to try and do everything we can to help our area continue to grow. And for us TIFIA and other funding sources are very important. So we will certainly be following up with you about that.

But I also, as I said, want to thank you for coming to north Texas and for the grant that DART received. It is a great program, DART is making great advancements, we have very good leadership there, as I am sure you have seen.

Ms. WILLIAMS. Yes. We have a great working relationship with Gary there. He is very forward-thinking in the industry, so you are very lucky to have him there.

Mr. ALLRED. Thank you so much.

I yield back, Madam Chair.

Ms. WILLIAMS. Thank you, sir.

Ms. NORTON. Thank you.

Mr. LaMalfa.

Mr. LAMALFA. Thank you, Madam Chair, for today's hearing.

Now some colleagues have been saying that the administration has not been very supportive of the Capital Improvement Grant Program, CIG. But through its first 2 years in office, the administration has approved 30 percent more projects and 300 percent more funding than the previous administration had done at the same time. About 10 projects at $1 billion versus 13 projects at $3.3 billion. So, I don't know where that stat comes from, it doesn't seem very fair.

But as a Californian, I have noted that one thing the previous administration did do is put out money to a disastrous project like the California High-Speed Rail, which is going to be at least triple the price of what was originally sold to voters in 2008 when they approved about a $10 billion bond. And then following that, $3.5 billion of stimulus money to stimulate the economy back in 2009 came forth from the Federal Government. One billion dollars of that, almost $1 billion, has not been spent and I appreciate the administration trying to acquire that back. We are working on legislation known as H.R. 1515 to acquire back the rest of the $2½ billion. Since it has not performed, it is a breach of contract and it is not even going to be a high-speed rail system from S.F. to L.A. It is going to start in Merced and end in an orchard somewhere Bakersfield. It is not high-speed rail, it is not S.F. or L.A., I think by their standards. So those dollars need to come back and go into true transit projects that can help everybody. That is what we will seek to do if they do not meet their marks, which I think they have not already met.

So, what we bring up today is the capital investment for rural communities and my colleague, Mr. Davis, mentioned that as well. It is mostly grants for passenger rail, light rail or buses. So that means all taxpayers are paying for a program that only benefits, mostly only benefits, cities and suburbs, without any practical rural application.

So we had a roundtable about this last month, it was about Mobility on Demand, and some of the things being talked about were some kind of public-private transit system to help the rural elderly get to their doctors' appointments, et cetera, to help the rural disabled to get to their jobs or even help rural veterans seek their VA facilities, at least until community care kicks in more effectively to give veterans more choices, more locally.

So we have these things, we can be delivering groceries or prescriptions instead of them having to get in their car and go. We had one hospital brought up that they could increase their success of appointments not being met by being able to integrate this into it. So we need a more rural component on that, I think, in order to have some kind of fairness.

So do you think FTA would be willing to work with Congress to adapt the CIG program for these Mobility on Demand projects I am speaking of? And what kind of applications can you see for that, Administrator Williams?

And thank you for being here.

Ms. WILLIAMS. Absolutely. We would love to work with this committee and Congress on how CIG could apply to the rural side of the country. I would have to tell you that you are correct in that many of these projects lie in the very large urban centers of the country where mass transit is most viable. For instance, in New York alone, there are five projects, two of which are in the Gateway suite of nine projects that total $10 billion in investment. And so if we were to fund all of those projects, including the two we spoke of—the Portal North Bridge and Hudson Tunnel—you are talking about the entire appropriation for this program, all of it would be consumed by what projects would be requested from just New York alone.

And so when you look at a nationwide program, you need to be cognizant of that. And so we would be happy to work with the committee and look at how we can help rural America as well on the Mobility on Demand side.

Mr. LAMALFA. Thank you for that.

Let's go back to a couple of stats that were thrown out at the beginning of the hearing here on CIG projects and the Letter of No Prejudice timeframe. It was stated that since 2017, this administration has taken about 78 days to get to the LONP whereas credit was given to the previous administration of it being 54 days. Well, was that a cherry-picked number, the 54 days? Was that in the first 2 years of that previous administration when they didn't have their staff hired out or confirmation of key people in the Department and all that? What was the number of days that it took for the first 2 years of the previous administration to get the letter out versus the number of days here?

Ms. WILLIAMS. I would argue, Congressman, that the first 2 years of a brandnew administration is very different when you compare it to the last 2 years of a second term Presidency. You know, when you look at a Letter of No Prejudice, we are very cognizant that although that letter says we are not committing Federal resources to this project, many grant sponsors do just that, they communicate that to their locality that we have the Federal investment now on the line, that we will get Federal dollars. Because we are allowing them to proceed on their own without any commitment from us, they still message that at the local level as our commitment.

And so we are very careful when we sign those letters of no prejudice that we look at the project to make sure that it is a good project on its merits and that we believe it will be able to meet the scrutiny of the CIG program before we sign that. So, it is important to do things fast and streamline things, but it is also important to balance those with doing things right.

Mr. LAMALFA. Yeah. Certainly it is more difficult with change of administration, especially when there is change of party involved to an administration. I know things look different around here right now too.

I yield back, Madam Chair, thank you.

Ms. WILLIAMS. Thank you, Congressman.

Ms. NORTON. I thank you as well.

I want to assure the gentleman that we will work with him on rural projects. The CIG project is confined to high-density areas. Mr. Davis, the ranking member of course, is interested in rural projects as well. So we would be pleased to work with him.

On this matter of the data, I asked the staff to look at that and I am informed that the data captured all projects in the pipeline during the FAST Act. That includes projects begun long before the last 2 years of the prior administration. So I am not sure how we can assign these projects to one administration or another. We talk about projects that overlap by their very nature.

Mr. Payne.

Mr. PAYNE. Thank you, Madam Chair. And I would like to thank the Acting Administrator for being here today.

How long have you been in that position of Acting Administrator?

Ms. WILLIAMS. Since August of 2017.

Mr. PAYNE. And is there a reason why you are still "Acting"?

Ms. WILLIAMS. The nominee has not been confirmed at this point.

Mr. PAYNE. Seems like a pattern in this administration.

Based on your testimony here, ma'am, you seem very qualified for the position, so I am just wondering why this administration can never go the entire distance in confirming people. But I guess it is an ideology.

Ms. WILLIAMS. Let me be clear. My name is not before the Senate for confirmation.

Mr. PAYNE. I would nominate you.

[Laughter.]

Mr. PAYNE. Let me just say, Mr. Malinowski raised the issue that I have raised that we are all very concerned about the Gateway suite of projects. During your testimony, I had my staff check to follow up on some of the points that you made and thanks to technology, I have a response already back from the State of New Jersey on comments you made.

Ms. WILLIAMS. Wonderful.

Mr. PAYNE. And basically the ball is actually in your court and the board approved $600 million last year for NJ Transit projects that we are discussing. And the State approved the budget in June. So the FTA has been sent a draft that you can basically approve in October, so hopefully you can take a look at that. Maybe you didn't have that information up to before June, but the budget has passed and the money is there. There is no other threshold that the State of New Jersey has to meet other than you acting on it.

Ms. WILLIAMS. Our understanding is that New Jersey Transit still needs to have their board sign off on it before it comes back to FTA. So maybe that has transpired since I last talked to my technical team, but we would be happy to take a look at it, for sure.

Mr. PAYNE. Thank you.

Last month, there were media reports indicating that Secretary Chao influenced the award of a Department of Transportation grant to projects in Kentucky. The reports indicated that she went so far as to designate one of her aides as a liaison between the Department and Senator McConnell's office.

Does the FTA employ similar practices in implementing the CIG program? And how can the public be certain that money meant for infrastructure investments is not swayed by political whims or relationships?

Ms. WILLIAMS. No, sir. I am happy to tell you that there is not one CIG project in Kentucky, that that is not something that the Department does under Secretary Chao's leadership.

Mr. PAYNE. But under that same Secretary, these other projects have been approved in Kentucky. How convenient.

Ms. WILLIAMS. Many projects were not though, sir. I am not familiar with that. I am really here to talk about, as the Acting Administrator, the CIG program. I can assure you that every grant program is dealt with by the career personnel in the Department, just like they have been across multiple administrations. They are highly professional, very committed personnel within our Department.

Mr. PAYNE. Well, I will leave it at that. I had something else to say, but I better not. Thank you. I yield back.

Ms. NORTON. Well, thank you, Mr. Payne.

Mr. Pence.

Mr. PENCE. Thank you, Madam Chair, and Ranking Member. As the crossroads of America, it is critical to have reliable freight and public transportation options in Indiana. We must prioritize investments in our infrastructure system, and the FTA's Capital Investment Grant program is a crucial way States like Indiana work with the Federal Government to promote economic growth and improve rail safety.

These projects help our communities thrive by attracting business to the project corridor, connecting workers to their employers and relieving freight congestion chokepoints. Nearly 73 percent of the funds from CIG program flow directly to the private sector via manufacturers and suppliers and are located in nearly every congressional district.

Administrator Williams, as you are aware, there are two projects in my home State of Indiana currently advancing through the program. When Secretary Chao visited northwest Indiana, she saw firsthand how the West Lake corridor and Double Track projects serve as a key economic driver for the Hoosier State.

Currently, both projects are awaiting movement from the project development phase into the engineering phase, and I know that your office is working hard on these and we thank you.

My good friend and fellow Hoosier, Congressman Visclosky, has been working for several years on the improvement and expansion of the South Shore Rail Line, another great example of how CIG is keeping our economy moving.

Administrator Williams, I thank you for keeping me informed as this project moves forward. I recognize the valuable partnership between our State and the Department of Transportation, and I have the upmost faith in your leadership.

Madam Chair, I yield.

Ms. WILLIAMS. Thank you, Congressman.

Ms. NORTON. Thank you very much, Mr. Pence.

Mr. Lowenthal.

Mr. LOWENTHAL. Thank you, Madam Chair. Also, thank you, Administrator Williams, for coming to our committee. I want to discuss with you something that we have already been talking about, and I think is critical to all of our communities, and that is that partnership between the Federal Government, our local transit agencies, that really is designed to improve and expand public transportation across the country.

A personal example. When Secretary Chao last appeared before us in March of last year, I asked the Secretary about the Orange County Streetcar, which is a transit project that is going to connect, as you know, Garden Grove, which is in my congressional district, with Santa Ana, which is the county seat.

The point I am making is I emphasized that our local agency was counting on a full funding grant agreement from FTA because our local agency had now bids out that were set to expire, and that costs would now begin—once that happened would rise.

What was nice was that, yes, FTA did sign the agreement in November of last year, of 2018, which had been in the New Starts program since 2015. So my question is: are other communities experiencing the same delays in the New Starts process and have seen their costs increased as a result of delays? And is FTA tracking those cost increases?

Ms. WILLIAMS. So I was happy to go out to Orange County and sign that FFGA with Darrell. It was a significant tool, I think, for the local economy there. What I would tell you is that I am not sure that it included project cost increases. So when we went through the risk assessment process, if the risk assessment says the actual project cost is higher than what the agency is predicting it to be, we require them to meet that cost. And I think that was the issue with Orange County.

Mr. LOWENTHAL. Right. I understand that. But I am just wondering, in other counties, are you tracking data that you could provide us about those—the cost increases that were due to whatever—not blaming you, but this process taking longer than people expected.

Ms. WILLIAMS. I am not sure that we are tracking that specifically. I would have to ask my technical team. We would be happy to get back to you on that.

Mr. LOWENTHAL. I would appreciate that. And maybe you can explain to me. I may have missed some of this. When there are delays, and what are you doing and how is the agency streamlining the New Starts process to avoid these kinds of cost increases?

Ms. WILLIAMS. So let me assure you that there is not one FFGA or SSGA or LONP on my desk, my leadership's desk, or OMB's desk. So there are no delays happening——

Mr. LOWENTHAL. There are no delays.

Ms. WILLIAMS. There is not one single project waiting for my action as I sit here today. And so many of the actions that cause delays, sometimes there are third party agreements that are difficult to work out. There are local financial commitments that need to be made.

A lot of sponsors—we worked a lot with Indiana on how you define "committed" in our program means you have access, immediate access to those funds, and many sponsors confuse that with if they have a board action saying they are going to give the funding, if that board action is required to be approved by anyone else, it is not considered actual committed funding.

And so we try to make sure—we work very closely with the sponsors. My technical team is one of the best in Government. They work with our grantees all the time to make sure they really understand what needs to happen.

Mr. LOWENTHAL. I appreciate that, and I think it is very important what you are saying, so that the applicants do understand. But I am also talking about another issue. What about when that is all taken care of, the applicants have done what they have to do, they have applied, you know, and they have bids out.

They are expecting to have that full funding, a grant agreement. And it takes longer, and then now it is going to cost—not because they have done anything wrong—the applicant more money.

Ms. WILLIAMS. We obviously never want to cost a project sponsor additional costs on their project. And so we work really hard to make sure that doesn't happen.

Mr. LOWENTHAL. Well, I appreciate that. Thank you, and I yield back.

Ms. WILLIAMS. You are welcome. Thank you, Congressman.

Ms. NORTON. Well, I appreciate the gentleman's questions because, obviously, the local jurisdictions can't know what—when there are several of them working together, that have to work together, the leadership has to come from the agency. So anything we can do to facilitate that? But you have the expertise. They are simply applying—if a number of them have to get together, they still are going to have to look to you for leadership on what to do and how to do it quicker.

Mrs. Miller.

Mrs. MILLER. Thank you, Madam Chairwoman, and thank you for being here today.

I think we all know that America's transportation system plays a significant role in our economic development globalization and industrial development. We need to continue together, work together, on improving our public transportation innovation, especially in our rural areas, which you have heard from several people.

I want to thank you for your work on FTA, and I am particularly interested in how we can modernize public transportation and extend service into our rural communities across the Nation.

Can you elaborate on the Department's goals and priorities to advance innovation in transportation?

Ms. WILLIAMS. Yes. So we are doing a lot in our MOD sandbox we call it, our Mobility On Demand, and we are looking at different things with paratransit services, which are critical in rural America. We are looking at, you know, younger generation expects things much quicker than many of us are used to in the public transportation field, and so developing applications where they can look online and be able to integrate their fare payments. Gary in Dallas is doing a lot of work on that.

So we are doing a lot of innovative things in transit. Microtransit is big right now. Right-sizing the transit system to what the ridership is is very important. Rural America has already sort of done that. Small urban and large urban are coming to that. We are doing partnerships with Uber and Lyft for first mile/last mile. So there is a lot of interesting innovations happening in public transportation.

Mrs. MILLER. Well, along those lines, can you discuss the new technologies that are included in the Integrated Mobility Innovation discretionary grant program?

Ms. WILLIAMS. Yes. So it is a $50 million grant program that is out right now. The notice of funding opportunity is out now for people to apply. It will include fare integration payments. Most people want to be able to go to their phone, hit an app, and be able to pay for their entire ride, whether it be starting with Uber and Lyft to the rail system, getting off at the rail system, and having a bike or a scooter there to take them for the last 2 miles.

They want to do it all at one time. They want to pay for it all at once. And they want to know what that cost will be and how long it will take. And so many of the MOD sandbox that we are doing will do that.

So it also will look for ideas in automation. I talked earlier about in the automation field we are looking at being able to automate parking buses in the urban core closer together, more efficiently, so that you use less land space. Being able to automate, taking them through car washes. I think you will see that fairly soon. And so there is a lot of interesting things going on, but that notice of funding opportunity is right now out for applications, and we are very excited about it.

Mrs. MILLER. That sounds good. I think about, in my particular rural area where people are more elderly, the visualization of the scooters might be an interesting thing.

The CIG program is one of the Government's most complex and rigorous grant programs. I understand that the number of projects seeking funding have increased. How are you and your Department working to streamline the grant application process to ensure that the needed funding is delivered efficiently and cost effectively?

Ms. WILLIAMS. It is difficult, I will be honest, to streamline this program because there are so many requirements in law for these projects to meet. It is quite rigorous, and so it is difficult to do things. You know, you are talking about billions of dollars of Federal investment. So you need to balance streamlining and doing things fast with doing things right, and so we are trying to strike that balance to make sure that we do that and protect the Federal investment as the stewards of taxpayer dollars.

Mrs. MILLER. OK. Thank you. I yield back my time.

Ms. WILLIAMS. You are welcome. Thank you, Congresswoman.

Ms. NORTON. Thank you very much, Ms. Miller.

Mr. Espaillat.

Mr. ESPAILLAT. Thank you, Madam Chair, and thank you, Acting Administrator Williams, for being here today. I am particularly happy that our subcommittee is discussing the Capital Improvement Grants Program today. This program made the MTA's 2nd Avenue subway phase 1 a reality, which carries nearly 200,000 people each day, more than some cities and entire systems across the United States.

By now, everyone knows I am a passionate advocate for the MTA's 2nd Avenue subway phase 2 extension project, which will finally bring subway services to a transit desert in East Harlem in my district. The project will also connect the subway to the Metro-North commuter rail system, to counties outside of New York City, and the express bus to LaGuardia Airport from 125th Street.

Federal investment in the New York subway is a good value, so I was glad to bring Chairman DeFazio to see the project, both the current completed phase and the existing tunnels that will make a large portion of the second phase.

The MTA, in an effort to reduce project costs and make strategy design choices, recently changed the project to take advantage of existing tunnels under 2nd Avenue in this portion of my district. These tunnels were constructed back in the 1970s, so a lot of the work has already been done. There was Federal funding available back then. The city got into fiscal trouble, and the project was left sort of like halfway through.

However, I am concerned that by new FTA policies, that could make it harder for this and similar projects to get off the ground, not only in New York City but around the country. The Federal Transit Administration last June informed local transportation agencies via letter that they will now need to meet a threshold of 65 percent certainty in the cost estimates rather than the previous 50 percent certainty.

While we all want to help projects have better and more accurate cost estimates, what this change functionally means is that the agencies will likely have to increase the amount of funds they hold in contingency. So this new formula will sort of like alter the fiscal aspects of these major and important transportation projects in my district.

We need to be careful about placing a burden on bigger investments. A bump of 15 percent on estimates for a large project takes a project that has great value for the volume of riders it serves and muddies it up with an artificially high price that will cause sticker shock, an unprecedented shock.

And for projects whose projected costs have already been publicized, this minor policy change could result in a major roadblock if the new estimate creates negative attention, especially if much of that money may not actually be used.

In the case of the 2nd Avenue subway second phase extension, the current estimated cost is between $5.7 billion to $6 billion. But with this change from P–50 to P–65, the project could appear to cost as much as $7.5 billion on paper. I am afraid that this artificial move will make it harder for CIG projects to get off the ground and may harm the viability of projects already in the pipeline, while doing nothing to promote accurate cost estimates.

My question is: does the FTA still plan to hold projects to the 65-percent threshold?

Ms. WILLIAMS. So let me unpack that a little bit. Phase 1 had a difficult opening but has had great ridership. And I actually met with Representative Maloney, Carolyn Maloney, several months ago on the phase 2 project. And it is under review in our program for rating. It has never been rated, so this is the beginning stages for this project in our process.

Let me tell you that P–65, that probability value of 65, does not increase the cost of the project. What it is trying to do is give us a 65-percent chance of the project cost being correct, and allowing that project to come in on budget and on time. And so the concern is that, you know, MTA has a project that is underway now. It is East Side Access. It is 10 years behind schedule and $5 billion over budget, and they will be the same sponsor for the second phase project.

Mr. ESPAILLAT. The MTA seems to feel that it does impact this bump of 15 percent. And just to finalize, because I am running out of time, since the second phase is in my district, I will look forward to speaking to you about it.

Ms. WILLIAMS. Absolutely. I would be happy to talk to you further.

Mr. ESPAILLAT. Thank you so much.

Ms. WILLIAMS. You are welcome.

Ms. NORTON. Thank you very much, Mr. Espaillat.

Mr. Westerman.

Mr. WESTERMAN. Thank you, Madam Chair. Thank you, Administrator Williams, for your testimony and for being here today.

If you look at my rural district in Arkansas, the Fourth Congressional District, there are zero projects going on, and so you may think, what do I care about CIG and the projects that are out there? But, actually, it affects my district because there is only a limited number of transportation dollars to go around, so I want to make sure that where these projects are going on that they are done very efficiently and in the most economical way possible.

And I know that part of that is innovation. There are some interesting things going on in mass transit. I have had the opportunity to visit the Hyperloop facility. And my question to you is—and getting back to the gentleman's question about P–50 versus P–65, you know, I see that as a way to be more efficient and effective at the agency to make sure that we are not getting cost overruns, and those taxpayer dollars are handled more—or better, in the taxpayer's interest.

So what do you see as far as innovation in the future and ways to lower cost, ways to get systems maybe like Hyperloop that take much less right-of-way to build? They can go at ground level, they can be elevated, under the ground, through the water. You know, it looks like there would be a lot less cost and potentially a much safer way to do mass transit. Where do you see us heading there?

Ms. WILLIAMS. So that technology is still in its very infant stages, and so it is impossible to predict what that would look like. What I would say is that there is a lot of other technology that is happening, for instance, with bus rapid transit, where you can do transit signal priority and have a dedicated lane, where a lot of people would rather take the bus than sit in their car in traffic when you have a dedicated lane that doesn't stop for a signal and that bus just goes right on by. So there are easier things to do that cost less money.

It also provides a way that if and when automation actually comes into the market, those types of projects can be a little bit easier converted to automation. And so because they already have a dedicated lane, they already have transit signal priority. So when automation comes into the market, it would actually be a lot easier to do. It is also a lot less that you would have to pay back on a Federal investment.

When you talk about light rail, those investments are a lot more expensive. And so buses have a shorter shelf life and a much smaller price tag. And so there is a lot of innovation that is happening just in the bus market itself.

Mr. WESTERMAN. Thank you for your answer, and I yield back.

Ms. NORTON. The gentleman's question brings to mind the fact that, because he is interested in rural areas, that rapid bus—to deal with your answer—would help rural and urban areas, since many of those who are coming from rural areas are coming into the city. So that is an important question.

Ms. Craig.

Ms. CRAIG. Thank you so much, Madam Chairwoman.

Administrator Williams, the FTA has been a very strong Federal partner for the State and local efforts in Minnesota to develop safe, efficient mass transit, including in my district.

Just 2 weeks ago, the FTA announced the release of the last remaining tranche of funds—I believe it was $74 million for the Orange Line BRT—that provides 7-day-a-week service to residents of Minneapolis, Richfield, Bloomington, and in my district, Burnsville.

This is our region's first such Small Starts grant and the latest grant agreement that our State and local partners have reached with the FTA since 2011. Getting to this point took years of cooperation and communication between one Federal agency, three State agencies, two counties, five cities, and one regional transit provider. So I am sure that was incredibly complex and complicated.

I am a strong supporter of these types of Federal/State/local partnerships. What can FTA do to ensure that the application approval and grant-making process is as simple and efficient as possible for State and local partners who apply for these funds?

Ms. WILLIAMS. I think, you know, our team, our professional career staff that work with our grant sponsors, are terrific. I have worked for two other Presidents in four other Departments, and I have never seen a more committed staff, a more professional staff. They worked tirelessly to make sure that the grantees understand what is expected and what information they need.

We have a great working relationship with the Metropolitan Council. They are great about bringing all of their project partners in to see us. They are great about value capture. And so we have an excellent working relationship, and I think that is why you see that they have had success in our program.

Ms. CRAIG. That is fantastic. Ms. Williams, there are other BRT projects that I am incredibly supportive of in the region. I am particularly optimistic about the Red Rock corridor, which would connect the Twin Cities to Hastings and Cottage Grove, two other cities in my congressional district.

However, the President's full-year 2020 budget request called for cuts to vital mass transit programs, including sharp cuts to the Capital Investment Grants Program. This comes on the heels of previous budget requests that would have eliminated the CIG program entirely.

Fortunately, the House passed a transportation appropriations bill that would fund the CIG program at necessary levels. How can Congress continue to work with the FTA to ensure that the FTA continues to fund critical projects, as metro regions continue to expand? How can we best advocate to the White House and OMB for the CIG program that is so vital to communities around the country?

Ms. WILLIAMS. I think, you know, in the beginning of the administration, there was no allocation for CIG in the President's budget, and I think you see a difference in the fiscal year 2020 budget of an allocation of $500 million in our budget request by the President. I think that is what we believe we need for new projects.

The total is $1.5 billion, so it funds all of the full funding grant agreements currently in place, as well as what we believe we will need for projects that will be ready.

Let me assure you also that during the 2017 and 2018 timeframe, that even though the President's request was not for any new funding, the Department did follow the intent of Congress and fund projects. I believe it was 3 in 2017 and 10 in 2018.

So I want to make sure that we are on the record that even though the request was zero, none of those projects were canceled or not funded or set aside.

Ms. CRAIG. I appreciate that very much. And with that, Ms. Williams, Madam Chairwoman, I yield back.

Ms. WILLIAMS. Thank you, Congresswoman.

Ms. NORTON. Thank you, Ms. Craig.

Mr. Balderson.

Mr. BALDERSON. Thank you, Madam Chair.

Good morning, Ms. Williams.

Ms. WILLIAMS. Good morning.

Mr. BALDERSON. Good afternoon almost. Thank you for being here this morning. You are here as the Acting Administrator of the FTA, but you are also the Deputy Administrator of the FTA. You have the task of doing two jobs, which I think you are doing very well.

I think it would help speed up projects in the CIG program if we had an Administrator confirmed by the U.S. Senate. So when did the Trump administration submit to Congress its nominee to head the FTA?

Ms. WILLIAMS. I believe it was in January of 2018.

Mr. BALDERSON. OK. Thank you.

Ms. WILLIAMS. And was resubmitted again in the new Congress, I believe.

Mr. BALDERSON. OK. Thank you. I knew my colleague from New Jersey raised the issue earlier, but to clarify, what is the status of the nomination?

Ms. WILLIAMS. As far as I know, it is still pending before the Senate.

Mr. BALDERSON. OK. I hope my colleagues in the Senate move quickly with your nomination. I agree with my colleague from New Jersey. I would support you.

My next question is, as you know, Columbus, Ohio, was selected as the winner of the Department of Transportation's first-ever Smart City Challenge in 2016. The program's acceleration fund has since leveraged hundreds of millions of dollars in private-sector contributions and investments. It is a national model for how public-private partnerships should operate.

According to the list of current CIG projects, nearly all of the projects are in large or medium-sized cities. In your experience, how are these areas better equipped to receive outside funding and resources than rural areas, which we have touched on a lot here this morning?

Ms. WILLIAMS. I think, you know, in large urban cities, we are still working with grant sponsors to remind them the value that transit brings and to capture that value. I think to your point, there is a lot of value that your project has captured.

And so knowing that we work with developers to develop around transit, you just need to look outside my window at the U.S. DOT and see the massive amounts of development in Southeast that was completely different 30 years ago when I was here before.

And so there is a value that it brings, and sometimes you merely have to ask the question. But we are not always—you know, we are not used to having to ask that question. And so we are trying to make sure that grantees understand that and bring more private participation to the table.

Mr. BALDERSON. My followup question to that, you have kind of touched on it there with that answer, but why should the Department of Transportation encourage leverage of such funds in the future?

Ms. WILLIAMS. We have also seen that when projects are funded with local, State, and private contributions, they have a better chance of success, because you have the community involvement and support. And so we like to see that blend of funding, in addition to the Federal grants and loan support as well. We have found that those projects are the most successful in our program.

Mr. BALDERSON. Thank you very much. Thank you very much for that answer.

And, Madam Chair, I yield back my remaining time.

Ms. WILLIAMS. Thank you, Congressman.

Ms. NORTON. Thank you, Mr. Balderson.

Mr. Carbajal.

Mr. CARBAJAL. Thank you, Madam Chair.

And, Administrator Williams, improving our Nation's roads, bridges, and overall surface infrastructure is of the utmost importance to both maintaining our economic competitiveness and advancing safety.

I must say, I was disappointed when the administration's fiscal year 2020 budget request only included $500 million in funding for new transit projects under the Capital Investment Grant program. This is significantly less than both the authorized level and recent appropriations.

While this budget for the first time in this administration proposes funding for new transit projects, the funding level for the program and for new projects is substantially lower than what our current needs are. Can you help me understand how the administration arrived at this number of $500 million? And, two, what projects would receive funding should Congress provide the requested amount?

Ms. WILLIAMS. So let me unpack that a bit. The first question you asked is how we arrived at the $500 million. That is something our technical team looks at as we craft our budget, and that is the number we thought was appropriate for what we believe may be ready in fiscal year 2020.

It is difficult to gauge because many of the issues that need to be resolved are local issues like third party agreements, having all of their non-CIG funding secured. So those are things that are outside of our purview, so we try to estimate what will be ready, and we believe that that is the right number.

The $500 million is also paired in our budget with another $500 million out of the general fund that is above the FAST Act level; $250 million of that is for buses and bus facilities, in recognition that our bus fleets are aging across the country and that it is important to look at that in the overall infrastructure program, not just looking at rail but also in our bus fleets.

And, secondly, another $250 million for our state of good repair needs, which is a formula program, because we have a $90 billion backlog in the industry of state of good repair. So it was a balance of we need to perhaps build and expand transit, but we also need to take care of what we have, of our existing projects and transit systems. And so it was a way to balance those both.

Mr. CARBAJAL. Thank you. I couldn't help but to heed the observation or the comment you made earlier about a good healthy mix of revenue for various projects actually lends itself to making them better candidates.

So by that logic, I am pretty sure that California is going to get its fair share. And my district in particular, who has voted with almost an 80-percent vote to approve self-help tax measures, is actually going to be at the front of the line now.

So I look forward to scoring as high as possible with all these grant programs, so that we could get our fair share to the 24th Congressional District in California.

Thank you very much.

Ms. WILLIAMS. Congressman, let me assure you, of the 15 construction grants, 6 of them are in only 2 States, 1 of which is California. So——

Mr. CARBAJAL. Thank you very much.

Madam Chair, I yield back.

Ms. NORTON. Well, I am very envious of that answer. You said that before. I don't know if it is the size of California, but I know when people hear that, they want to know why there aren't more in their States. Either California is doing something right or there must be some other response.

I understand that there are no more questions. I want to thank you, Ms. Williams, for your testimony. Your comments have been very helpful. You have indicated that you would be back to us, as we asked for more information. So I appreciate your very knowledgeable testimony. And you are dismissed, and I am going to call the next and last panel.

Ms. WILLIAMS. Thank you, Madam Chair.

Ms. NORTON. Could I ask Mr. Bob Alger, the president and CEO of Lane Construction Corporation, to come forward. He is testifying on behalf of the American Road & Transportation Builders Association; Mr. Tom Gerend, the executive director, Kansas City Streetcar Authority; and Paul Skoutelas, the president and CEO of the American Public Transportation Association.

I want to thank all of you for being here today, and I look forward to your testimony.

Without objection, our witnesses' full statements will be included in the record. Since your written testimony has been made a part of the record, the subcommittee requests that you limit your oral testimony to 5 minutes.

Mr. Alger, you may proceed.

TESTIMONY OF ROBERT E. ALGER, CHAIRMAN OF THE BOARD, THE LANE CONSTRUCTION CORPORATION, ON BEHALF OF THE AMERICAN ROAD & TRANSPORTATION BUILDERS ASSOCIATION; TOM GEREND, EXECUTIVE DIRECTOR, KANSAS CITY STREETCAR AUTHORITY; AND PAUL P. SKOUTELAS, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

Mr. ALGER. Chairman Norton and Ranking Member Davis, thank you for convening today's hearing. I am Bob Alger, chairman of The Lane Construction Corporation, and I am here today in my role as chairman of the American Road & Transportation Builders Association, or ARTBA.

Our association's members design, build, manage, and operate all modes of transportation infrastructure projects. My company has direct experience with projects supported by the transit Capital Investment Grant program.

Madam Chairman, there has been a lot of talk about a Federal infrastructure initiative since the 2016 Presidential campaign. If you take anything away from my remarks, it is this: now is the time to act on our Nation's infrastructure needs, and this process begins with fixing the Highway Trust Fund.

I am pleased to talk about the Federal Transit Administration's Capital Investment Grant program, but I am also here to tell you that Congress' chronic failure to fix the Highway Trust Fund Program threatens all Federal surface transportation programs, including transit projects.

The next Highway Trust Fund crisis looms shortly after the FAST Act expires in less than 15 months. Rather than repeat the past dysfunctions that led to $140 billion in general fund transfers and budget gimmicks, President Trump, congressional leaders, and members of this committee, must seize the initiative and fix the Highway Trust Fund shortfall once and for all.

Here are three approaches for your consideration: raise the Federal gasoline and diesel user fee rates, apply a freight-based user fee to heavy trucks, and institute a fee to ensure electric vehicle users also help pay for the system from which they benefit.

While ARTBA believes these options are the most viable in the short term, we are open to any user-based recurring revenue solutions that would support increased Federal highway and public transportation investment.

Many of the same complications we face when delivering a highway project are also prevalent on public transportation projects as well, and these obstacles cost American taxpayers time and money.

According to FTA's capital cost database, which compiles as-built cost for 54 federally funded transit projects, average cost for delivering these projects increases an average of 5 percent annually. As such, a project that costs $100 million in 2019 would cost $163 million to build in 2029.

This annual increase is more than twice the rate of general inflation, which is estimated to increase at an annual rate of 2.4 percent over the next 10 years, according to the Congressional Budget Office. Users of the system will also have to wait longer for the economic benefit from the increased access to services, job creation, and other activities. And depending on the project, delays can far exceed the 5-percent annual increase projection.

My company recently completed work on a project that went from under 3 years projected completion to nearly 4 years. The increase in costs for that single year amounted to nearly 20 percent cost increase.

My written testimony includes a host of recommendations for meaningful improvements to the regulatory and project delivery process. I would like to highlight a few of them. Public transportation projects have previously been allowed to use Federal loan programs such as TIFIA as local match.

Recent denial of such flexibility has delayed some critically important projects, which only increases their eventual cost and schedule. Since the loans are repaid with local dollars, they should be allowed to be counted as local match.

Another key factor in keeping transportation construction projects on schedule are the use of dispute resolution boards. These entities should include members recommended by the project owner, contractor, or industry, and should set up quick and efficient timelines, so that members can carefully follow its progress.

Previous Federal surface transportation laws included provisions to expedite the project approval process. Due to lack of application and awareness of these reforms by project sponsors, the permitting process time horizon has not substantially improved. It is time to take the next step to ensure these tools are utilized to deliver the transportation benefits Americans need.

Thank you again for the opportunity to be here today. ARTBA and its members look forward to working with you and your colleagues on these ideas and others to make the Capital Investment Grant program more effective and preserve its important contributions to the mobility of all Americans. I look forward to your questions.

[Mr. Alger's prepared statement follows:]

Prepared Statement of Robert E. Alger, Chairman of the Board, The Lane Construction Corporation, on behalf of the American Road & Transportation Builders Association

Subcommittee Chairman Norton and Ranking Member Davis, thank you for convening today's hearing. I am Bob Alger, Chairman of the Board of The Lane Construction Corporation. I have spent 40 years in the construction industry—all with Lane. I am also proud to serve as the chairman of the American Road & Transportation Builders Association (ARTBA). I am pleased to provide this statement on the importance of the federal role in transit capital investment and the Capital Investment Grant (CIG) Program.

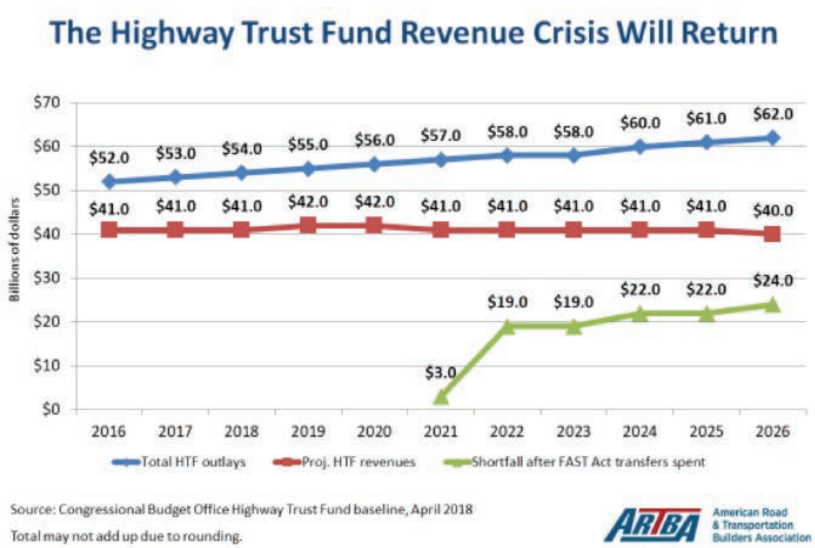
Established in 1902, ARTBA is the oldest national transportation construction-related association. ARTBA's more than 8,000 members include public agencies and private firms and organizations that own, plan, design, supply and construct transportation projects throughout the country and world. The industry we represent generates more than $500 billion annually in U.S. economic activity and sustains more than 4 million American jobs.

In 1977, ARTBA added "Transportation" to its name to more accurately reflect that our members build, operate and maintain more than highways and bridges. Ever since, ARTBA has continued to support federal investment in all modes of transportation construction, including light rail and bus rapid transit lanes.

HIGHWAY TRUST FUND

In 1956, Congress created the Highway Trust Fund (HTF) to ensure that taxes levied on highway users, not general taxpayers, would be the source of funding for federal investments in highways. This includes the Interstate Highway System and other highways of importance to the national economy. In 1982, Congress and President Reagan expanded the HTF revenue stream and dedicated a portion of the resulting proceeds to support investment in mass transit improvements. Overall, for more than 50 years, revenues from highway user taxes—including the tax on gasoline and diesel fuels and taxes on heavy trucks—supported most federal spending on highways and public transportation without burdening the general fund. Due to a revenue base that has not kept pace with growing needs, however, the HTF has been plagued by repeated revenue shortfall crises since 2008. Over the last 11 years, Congress has utilized $140 billion in General Fund transfers and budget gimmicks to supplement federal gas and diesel tax revenue streams that have not been adjusted in 25 years.

The Fixing America's Surface Transportation (FAST) Act surface transportation authorization law enacted in December 2015 expires on September 30, 2020, less than 15 months from today. Projections from the Congressional Budget Office (CBO) show the HTF's Highway and Transit Accounts remaining stable into FY 2021. However, the Mass Transit Account is forecast to be near zero by the end of that year. The Highway Account will be approaching zero as well. As the chart below shows, without additional user fee revenues or more General Fund transfers, HTF supported programs will face draconian cuts in funding beginning in 2021. To pay for another five-year surface transportation law at current spending levels with modest inflationary adjustments and the $5 billion liquidity cushion the accounts require for cash management purposes, the HTF will need $79 billion, according to CBO projections.



While the CIG program is traditionally supported with general revenue dollars through the annual appropriations process, continued uncertainty or disruption to

HTF program funding will adversely impact all federal surface transportation programs, including CIG. As an example, during the lead up to the FAST Act, such uncertainty about future federal investment and HTF solvency caused seven states in 2015 to delay roughly $1.6 billion in planned transportation projects.

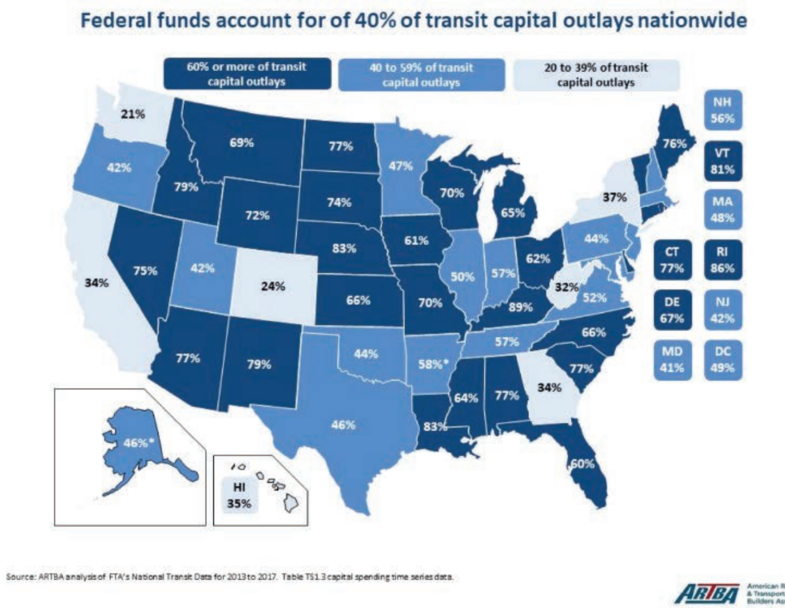
Rather than repeat these past dysfunctions, the call from bipartisan congressional leaders and President Trump for a robust infrastructure initiative must be seized upon to fix the HTF revenue shortfall once and for all. There are a host of traditional and innovative user-based revenue solutions—it is time for one (or more) to move forward. Among the approaches ARTBA urges you to consider are:

- *Raise the federal gasoline and diesel tax rates*. The fuels tax remains the most transparent, efficient and effective mechanism to generate revenue for surface transportation improvements. The experience of 30 states that have increased their motor fuels tax rates since 2013 confirms these user fee increases have broad public support and minimal political consequences.
- *Capture value from supply chain movements*. The movement of freight throughout the nation is the embodiment of the federal government's constitutional responsibility to regulate and promote interstate commerce. To support the nation's aviation infrastructure system, a 6.25 percent Air Cargo Tax has been imposed since 1972 as a cost for moving goods via air transportation. This same concept could be applied to surface transportation infrastructure through either a commercial truck air cargo tax companion or a mileage tax.
- *Initiate a one-time federal excise tax on electric vehicle batteries*, or some other comparable mechanism that would be exclusively applied to alternative fuel vehicles. Fully electric motor vehicles exact the same wear and tear on the nation's roads as those powered by gas, without contributing one penny to the HTF. This provision would create parity in the financial support all roadway users provide for the infrastructure system on which their vehicles rely—regardless of what powers their vehicles.

While ARTBA believes these options are the most viable in the short-term, we are open to any user-based, recurring revenue solutions that would support increased federal highway and public transportation investment.

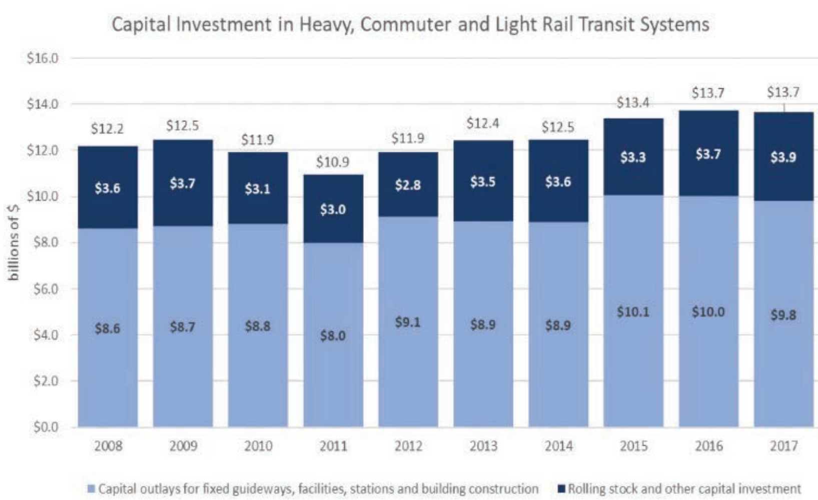
Federal Investment and Transit Capital Outlays

Federal investment accounts for an average of 40 percent of all transit agency capital outlays, according to data from the Federal Transit Administration's National Transit Database. This includes spending on guideways, stations, maintenance facilities, passenger vehicles and other fare collection and communication equipment and systems.



Over the last five years, more than 2,630 transit agencies serving residents in every state and in Washington, D.C. have used federal funds to support capital outlays and purchases. This includes major heavy and commuter rail systems in New York, Boston, Los Angeles, San Francisco, Chicago and Washington, D.C., as well as local agencies such as the Transit Authority of Omaha and the Thunder Bay Transportation Authority in Michigan.

These transit agencies are operated by cities, counties, local governments, Native American tribes and state authorities. They include independent public agencies and even private groups, like universities. The services they provide connect people and communities.



Source: FTA National Transit Database

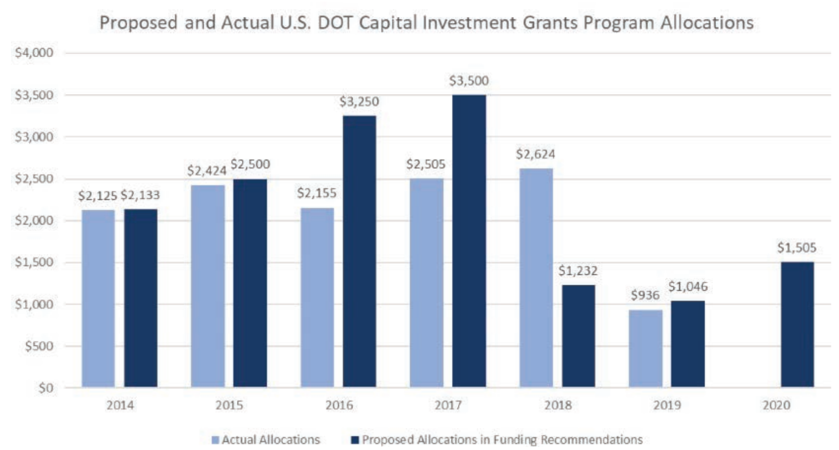
Federal investment accounts for over 80 percent of transit capital outlays in Kentucky, Rhode Island, Louisiana, Nebraska and Vermont. It represents over 40 percent of transit capital spending in 43 states and Washington, D.C.

The federal role in public transportation is a vital contributor to the capital outlays made by the transit agencies that provide rail services in major metropolitan areas. Nearly 50 transit agencies invested a total of $13.7 billion in 2017 on capital outlays related to heavy rail, commuter and light rail services. Nearly half of that total—$6.8 billion—was to improve and expand guideway systems. Another $3 billion (22 percent) was invested in other construction activities—station upgrades and expansions, administrative buildings and maintenance facilities.

Transit capital investments for heavy, commuter and light rail services are supported through several different FTA programs, including Urbanized Area Formula Grants, State of Good Repair Grants and Capital Investment Grants.

The FTA discretionary Capital Investment Grants program includes support for the New Starts, Core Capacity and Small Starts programs. U.S. DOT awarded an average of $2.4 billion in annual Capital Investment Grants between FY 2014 and 2018, supporting an average of 28 projects each year.

As part of the FY 2019 and FY 2020 budgets, U.S. DOT has requested funds to support 10 projects each year. The funding request for FY 2019 was just over $1 billion, of which $936 million has already been allocated. The U.S. DOT funding request for FY 2020 is $795 million.



Source: Data compiled from U.S. DOT Annual Report on Funding Recommendations and U.S. DOT reports on grant allocations. Proposed funding recommendations include funds for accelerated project delivery and development as well as one percent for oversight activities.

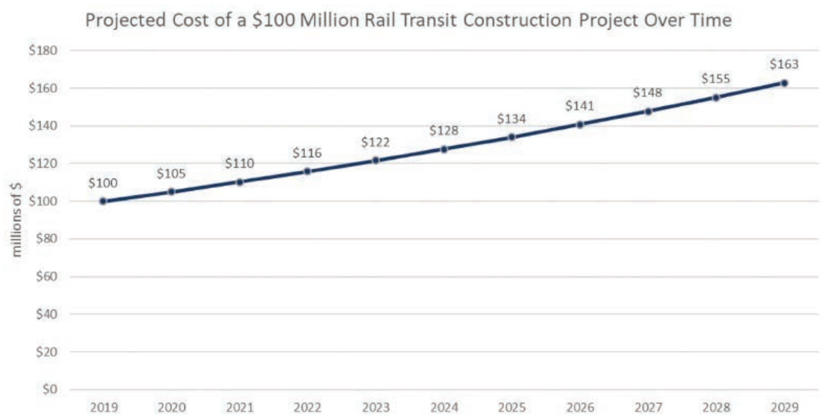
The Cost of Delay

The cost of delaying heavy, commuter and light rail transit projects can be significant and add up over time. Put simply: the longer improvements wait, the more they cost.

Projects will cost more in the future as the price of materials, services and labor increases over time. According to FTA's Capital Cost Database, which compiles as-built costs for 54 federally funded transit projects, average costs for delivering these projects increases an average of five percent annually.

This means projects that cost $100 million in 2019 would cost $163 million to build in 2029. This annual increase is more than twice the rate of general inflation, which is estimated to increase at an annual rate of 2.4 percent over the next ten years, according to the CBO.

Users of the system will also have to wait longer for the economic benefits from the increased access to services, job creation and other activities.



Source: Average annual increase of 5% a year in project costs based on FTA's 2016 version of the Capital Cost Database.

CASE STUDY: LYNX BLUE LINE PROJECT IN CHARLOTTE, NC

This project, constructed by The Lane Construction Corporation, involved the civil work for construction of the Blue Line Extension (BLE) Segment B/C in Charlotte, North Carolina. The Project extends from north of the Old Concord Road Station to Wallis Hall on the University of North Carolina–Charlotte campus. The work included grading, drainage, erosion control, bridges, arterial roadways, retaining walls, traffic control, traffic signal, water main and sanitary sewer installation and related works. The track work for Segment B/C was performed by a different contractor under a separate contract with the owner.

Anticipated Start Date:	4/15/14
Anticipated Substantial Completion Date:	1/19/17
Original Duration:	1,010 CD
Actual Start (NTP):	5/14/14
Actual Substantial Completion:	4/18/18
Actual Duration:	1,435 CD
Projected Cost:	$119,051,742.33 (*Includes Contingency Amount of $8,236,68.07*)
Actual Cost:	$147,311,459.90

The major obstacle this project faced was utility relocation delays that delayed the work. This resulted in a contract amendment for acceleration costs in the amount of $21,750,000.00 and adjustments to the Contract Times and Intermediate Contract Times. Another obstacle on this project was the dispute resolution process drafted by the owner. The process adopted was a hybrid between the owner's own claim/dispute resolution process and the North Carolina Department of Transportation's claim/dispute resolution process. The two processes did not completely align causing confusion and issues with timely resolution of disputes.

This example demonstrates that the cost of project delays extends beyond time value of money to include unforeseen issues. In essence, the market prices delay regardless of their cause.

REMOVE UNNECESSARY REGULATORY BURDENS FROM TRANSIT PROJECT DELIVERY

The transportation construction industry must directly navigate the regulatory process to deliver transportation improvements. As such, they have first-hand knowledge of the specific federal burdens that can and must be alleviated.

ARTBA recognizes regulations play a vital role in protecting the public interest in the transportation project review and approval process. They provide a sense of predictability and ensure a balance between meeting our nation's transportation needs and protecting vital natural resources. These goals, however, do not have to be in conflict. The most successful transportation streamlining provisions have been process-oriented and find a way to fulfill regulatory requirements in a smart and more efficient manner.

However, in recent years the rulemaking process has morphed in certain instances from something intended solely to protect the public interest into a tool for achieving diverse policy and political objectives, many of which are largely unrelated to improving our transportation infrastructure. Furthermore, this process has routinely ignored the affected interests, while often dismissing or undervaluing the project cost increases, delays and compromises in safety which can result.

According to a report by the U.S. Government Accountability Office prior to enactment of the Moving Ahead for American Progress in the 21st Century (MAP–21) surface transportation law, as many as 200 major steps were involved in developing a transportation project, from the identification of the project need to the start of construction. This process involves dozens of overlapping state and federal laws, including: the National Environmental Policy Act (NEPA); state NEPA equivalents; wetland permits; endangered species implementation; clean air conformity; and additional regulatory hurdles not related to the environmental review and approval process.

Project delays carry severe financial consequences. According to a 2016 report by the Texas A&M Transportation Institute, project delay is estimated to cost $87,000 per month for small projects (e.g., reconstruction), $420,000 per month for medium-sized projects (e.g., widening) and $1.3 million per month for large projects. Both political parties recognized that the current system was simply too long and too expensive for delivering transportation projects that improve mobility and safety. As such, finding meaningful ways to expedite this process has been a congressional priority for more than 15 years.

Regulatory reform is an essential part of any effort to ensure the federal government, through the CIG program, utilizes resources in the most efficient manner possible. Reducing unnecessary delays in the project delivery process will allow allocated funds to have the maximum possible impact in delivering projects. With that in mind, ARTBA recommends the following enhancements to the project delivery process be considered by this committee as the FAST Act reauthorization process moves forward.

Emphasize Utilization of Existing Project Delivery Tools

The past four federal surface transportation reauthorization laws have included significant provisions to expedite the review and approval process for transportation improvement projects. While these efforts have intended to cut red tape while preserving environmental protections, the permitting process time horizon has not substantially improved. There are several reasons for this outcome, but one major cause is the lack of utilization and/or awareness of these reforms by project sponsors.

Examples of these tools include:

- The option for a state Department of Transportation (DOT) to request the U.S. DOT to impose a two-year time limit on completion of an Environmental Impact Statement (EIS) if the process has already taken at least two years (from the MAP–21 reauthorization law);
- Establishment of U.S. DOT as the lead agency for coordinated project reviews, although the department may not set a mandatory schedule for other agencies to follow (from MAP–21 and the FAST Act reauthorization laws); and
- A provision calling for planning documents to be used in the NEPA process "to the maximum extent practicable and appropriate," rather than generating the same or similar material all over again (from the FAST Act reauthorization law).

Existing process reforms should be the new standard. Rather than the discretionary approach taken over the past 20 years, Congress should require their use. However, to preserve flexibility, states should be able to opt out of using reforms on a project if they provide U.S. DOT with a written explanation of their determination.

The more state and federal agencies use these reforms, the greater their impact will be. The default use of these reforms will better achieve Congress' original intent in enacting them, provide a more accurate measure of their effectiveness, and help identify areas for further improvements in project delivery.

Require Shorter, More Concise NEPA Documents

The EIS is a resource for affected members of local communities to gain information about proposed projects. However, current EIS documents can be so long and complex that even many lawyers have difficulty understanding them, much less community members without any prior training in environmental law or consulting.

Congress should direct U.S. DOT to survey current initiatives at improving clarity in NEPA documents (including NEPA "plain language" efforts within the current administration and a similar department-wide initiative within U.S. DOT dating back more than 20 years) and set standards to reduce unnecessary length and complexity. Improved EIS documents would reduce delays in the NEPA process by clearly communicating the impacts of a proposed project and how to mitigate them.

Establish Clear Timelines for NEPA Reviews

Past reauthorization bills have set enforceable deadlines for permitting decisions. However, there remains no set legislative time limit for the completion of NEPA documents. When initiating a NEPA review, project planners have no sense of when the process is going to be completed. Statutorily requiring timelines would add predictability to the NEPA process and allow project planners to more accurately plan schedules for environmental review. The lead agency and project sponsor should determine a realistic time frame for the project early in the planning process, allowing for project-specific flexibility and external agencies to fulfill the obligations with a clear deadline for all involved parties.

Educate Project Participants on the Use of Dispute Resolution Boards

Timely decision-making and claims resolution are key factors in keeping transportation construction projects on schedule. Some states have used dispute resolution boards (DRBs) as part of their contract administration strategies. While procedures vary from state to state, generally these entities include expert members recommended by the project owner and contractor or industry. A DRB can be specific to a project, with the members carefully following its progress, meeting regularly and resolving issues as needed. To cite one example, the transportation department and industry in Florida highly recommend this approach.

Congress should direct U.S. DOT to educate state transportation agencies and the industry on the use of dispute resolution boards for appropriate projects.

Allow for a De Minimis Waiver of "Buy America" Requirements

The Buy America law, dating to the early 1980's, requires that steel or iron components "permanently incorporated" in federal-aid highway and transit projects be manufactured in the United States, subject to possible waivers and exemptions. Some interpretations of Buy America have required that contractors provide extensive documentation and certification for the smallest and least expensive project components. In these cases, the administrative costs and potential related delays can easily outweigh the slight economic benefits of employing domestic manufacturers. Codifying a waiver for these products would save on these compliance costs, while preserving and reaffirming the law's coverage of core project materials and components, which ARTBA supports.

Congress should waive Buy America requirements for "commercially available off-the-shelf" (COTS) items permanently incorporated in federal-aid highway and transit projects. A COTS item has been defined as any item manufactured product incorporating steel or iron components (with some exceptions) that is:

1. Available and sold to the public in the retail and wholesale market;
2. Offered to a contracting agency, under a contract or subcontract at any tier, without modification, and in the same form in which it is sold in the retail or wholesale market; and
3. Broadly used in the construction industry.

This waiver should not be intended to preempt or compromise project specifications or quality standards relating to these items. Exempting COTS items from Buy America requirements will ensure the law protects domestic manufacturing interests while not causing project cost increases and delays relating to small, inexpensive components.

Additional Recommendations

In addition to regulatory reforms, we ask you to consider numerous programmatic changes to the CIG program, including:

- Transit capital grants programs should be limited to true capital investments—i.e. ones that have an amortized useful life. They should not be used to offset more routine transit system operating expenditures under the catch all of preventive maintenance. (For example, rolling stock has a 12–15-year life for a bus and a 30+ year life for a rail car. A bricks and mortar capital project should have a useful life of 25–40 years. Anything that does not meet such requirements should not be funded with federal capital grant dollars.)

- States and localities should be required to maintain a minimum level of effort to qualify for federal transit grants. Many transit systems depend solely on a combination of fare box revenue and federal assistance to operate their systems, with little or no state/local contribution. States and localities must do their fair share of funding their operating, maintenance, and capital needs before they turn to the federal government for funding.
- FTA must ensure that projects are completely scoped out and the involved state/locality has fully approved the project to reduce mid-project re-scopings and costly change orders which can add cost and extend schedules.
- FTA project approvals and milestones are handled differently in different parts of the country by FTA Regional Offices. Uniform, consistent and transparent approval processes must be applied across FTA regions—and across DOT modes.
- FTA should be granted the same flexibility as FHWA by being allowed to extend "contract authority" to projects so they can proceed while routine approvals move forward.
- Capital funding comes from a variety of state and local sources in addition to the federal contribution. Unlike most highway projects that have an 80–90 percent federal share, in many cases, the CIG funding is a minority stake of the total project costs. Nonetheless, federal oversight is applied to the entire project, limiting flexibility in the construction of parts of a project not financed with federal funds. Only those phases of the project that are federally funded should be subject to federal oversight.
- Historically, transit projects have been allowed to use Federal Loan Programs such as TIFIA and RRIF as local match. Recent denial of such flexibility has delayed some critically important projects, which only increases their eventual cost and schedule. Since the loans are repaid with local dollars, they should be allowed to be counted as local match.

These program changes would help ensure a consistent national focus for CIG projects and maximize limited federal resources through improved efficiency and better leverage these dollars with state, local and private funds.

Conclusion

America's transportation infrastructure, including its public transportation and roadway system, is in dire need of repair. It is clear that we must invest more capital in our transportation systems and that goal cannot be achieved without a permanent revenue solution to ensure the HTF can support this needed investment growth.

There has been a lot of talk about a federal infrastructure initiative since the 2016 presidential campaign. While this discussion is long overdue and much needed, there are two key things you need to know:

- An HTF solution must be the cornerstone of any such initiative. Otherwise we risk taking one step forward and two steps back.
- It is time to stop talking and start acting.

Thank you for the opportunity to be here today Chairman Norton and Ranking Member Davis. ARTBA and its members look forward to working with you and the rest of your colleagues on these ideas as the subcommittee develops and enacts a long-term Highway Trust Fund fix and implements policy changes that enable much-needed Capital Investment Programs as well as other highway, bridge and public transportation improvements to move forward on time and at budget.

The travelling American public deserves no less.

Ms. NORTON. Thank you, Mr. Alger, for that very important testimony. I just want to say, before I move on to Mr. Gerend, that it is interesting and important to note that the first part of your testimony was on fixing the Highway Trust Fund, and I think a well-placed critique of Congress for not doing so, even though this is about the CIG program.

Nevertheless, it seems to me that that is an admonition you were well-placed to give Congress, and I appreciate your suggestions on the user fee raise. That is where there has been disagreement between my colleagues on the other side and on this side. I couldn't agree more on electric vehicles. You had a third one.

They seemed all very helpful. I just had to note that because the fact that you detoured from your testimony to discuss the Highway Trust Fund I think sends a message to this committee how important it is to get something done on raising the gas tax and moving along. Hasn't been done in more than 20 years.

I am going to ask Mr. Tom Gerend if he would now offer his testimony.

Mr. GEREND. Good morning. Madam Chairman, members of the committee, and members of our Kansas City regional delegation, good morning. Thank you for having me. My name is Tom Gerend, and I have the honor of serving as the executive director of the Kansas City Streetcar Authority in Kansas City, Missouri.

Today I come before you on behalf of our regional partnership to share a bit about our local history, our experience, and our aspirations and suggestions related to the Capital Investment Grant program, in the hopes that these comments prove insightful in your committee deliberations and support our collective efforts to make these programs, and more importantly the resulting projects, the best they can possibly be.

Our Kansas City story is not unique. It is one built on a history of regional collaboration and strong and productive local and Federal partnerships. Thanks to great work by our friends of the city of Kansas City, Missouri, Mayor Sly James, the city council, our Streetcar Authority board of directors, and the Kansas City Area Transportation Authority, and my good friend Robbie Makinen, we have now ignited a transit renaissance that is reshaping and reconnecting our city like never before.

So why is this important to Kansas City and other cities across the country? It is incredibly important to us because we believe there is no more impactful way of connecting people to opportunity and building livable, sustainable, and prosperous cities for the next 50 years than through coordinated and well-executed public transportation investment.

Our Kansas City Streetcar starter line is an example of this success, which opened in 2016 thanks to a Federal partnership outside of the CIG program with surface transportation, and then TIGER funds.

In 3 short years of operations, the $100 million investment has produced more than $3 billion in economic activity, a 30-to-1 return on our collective investments, has attracted more than 30 percent of our residents now to public transportation than previously existed, and now over 6 million trips to date have redefined how residents, visitors, and employees experience and move around our city.

But as strong as our regional partnerships have been, they have only been successful in delivering projects due to the ability and opportunity to leverage well-placed and adequately funded Federal Transportation Administration programs that have made these projects a reality.

Without programs like the Capital Investment Grant program, these projects would simply not be possible. Since 2005, we have successfully funded and advanced three small bus rapid transit projects through the CIG program, and we have one streetcar extension that is now moving through the New Starts pipeline.

Our most recent grant award was for Prospect MAX BRT, which Acting Administrator Jane Williams was kind enough to come to for the groundbreaking in October of this past year, and that project is now under construction and moving towards opening.

This is all to say we have some experience in Kansas City navigating the CIG program. So I am pleased to be here today to share a few points.

The first point, the importance of the program itself. as I previously mentioned, the existence of a well-supported and adequately funded CIG program is critical to the advancement and modernization of our transit system in Kansas City and systems across the country.

Without CIG and other Federal programs, an active and engaged Federal partnership, these most prominent and impactful transportation projects constructed really in our city's history would not have been possible, and the economic opportunity, the investment in the community revitalization, and the benefits would have been lost.

Secondly, the CIG program is rigorous, but we have received strong support from the FTA, and specifically our region 7 office, at every step. We thank the current Acting Administrator Williams and the region 7 administrator, Mokhtee Ahmad, for the great support. Without their efforts, we would not have the success that we have had over the course of the years.

And not surprisingly, moving through complicated programs like CIG, which are ever-evolving, provide some revelations and some learnings at every step.

So a few points in closing that I would touch on as we think about how to improve the program together as we move forward. We would support the administration's efforts on process streamlining. We have advanced successfully projects outside of CIG that we think would have cost significantly more resources and money and time if they would have been advanced through the CIG program. There are opportunities, there are successful projects, that we think serve as an example for how we can in fact do this.

We think the CIG thresholds and categories, frankly, could be reevaluated. There is an opportunity to reintroduce the Very Small Starts Program, specifically targeting and allowing small projects the ability to move quickly through the process.

And then, lastly, project due diligence. There is an incredible burden placed on local government to advance due diligence on the front end of these processes, with local funding at risk prior to acknowledgment of a Federal grant. So opportunities to formalize a Federal partnership earlier in their process would no doubt make it easier on local governments to bring good projects, as well as to fund the local contribution that is necessary to see their projects to the end.

In closing, I want to thank you for your interest and support of the CIG program, and I want to lift up those on the committee and FTA that are doing the hard work to make this program the best it can be. These programs and these projects benefit communities like Kansas City greatly.

We thank you immensely for your support, and I look forward to answering any questions you may have. Thank you.

[Mr. Gerend's prepared statement follows:]

Prepared Statement of Tom Gerend, Executive Director, Kansas City Streetcar Authority

Honorable Chairman DeFazio, Ranking Member Graves, members of the committee, and members of our Kansas City regional delegation, good morning.

My name is Tom Gerend and I have the honor of serving as the Executive Director of the Kansas City Streetcar Authority, in Kansas City, Missouri. Today I come before you on behalf of our regional partnership to share a bit about our local history, our experience, and our aspirations and suggestions related to the Capital Investment Grant Program, in the hope these comments prove insightful in your committee deliberations and support our collective efforts to make these programs, and more importantly, the resulting projects, the best they can possibly be.

Our Kanas City story is likely not unique, it is one built on a history of regional collaboration and strong and productive local and federal partnerships. Thanks to great work by our friends at the City of Kansas City Missouri, Mayor James and City Council, our Streetcar Authority Board of Directors, and the Kansas City Area Transportation Authority, we have ignited a transit renaissance that is now reshaping and reconnecting our city and our region like never before.

Why is this important to Kansas City? This is incredibly important to us because we believe there is no more impactful way of connecting people to opportunity and building a livable, sustainable, and prosperous city for the next 50 years than through coordinated and well executed public transit investments. Our KC Streetcar starter line which opened in 2016 is an example of this impact. In three short years of operation, the $100m investment has produced more than $3B in economic activity, a 30 to 1 return on our investment, has attracted 30% more of our city residents to public transportation, and with over 6 million trips to-date has redefined how residents, visitors and employees experience and move around our City. Perhaps most significantly, the unique model was built upon a revenue capture district, and this district surrounding our streetcar route has seen sales tax revenue grow by over 60% since the start of operations, benefiting downtown business while supporting a sustainable revenue stream for operations and maintenance of the system in the years to come.

As strong as our regional partnership is however, it has only been successful in delivering projects due to the ability and opportunity to leverage well-placed and adequately funded Federal Transit Administration programs that have made these projects a reality. *Without programs like CIG these projects would not be possible*.

Some indicate the Capital Investment Grant Program simply is not accessible to small and mid-sized regions. Yes, it can be challenging, costly, and a long road but I am here today as evidence that this claim isn't entirely true.

Kansas City, Missouri is currently home to 488,000 residents and our Kansas City region is home to 2.1 million people. Since 2005 we have successfully funded and advanced three bus rapid transit projects through the CIG program, one streetcar project thanks to federal TIGER and Surface Transportation Program support, and a streetcar extension project currently in the New Starts pipeline, with the most recent grant award for Prospect MAX BRT, which acting administrator Jane Williams was kind enough to come to for the groundbreaking in October of last year. This project is now under construction and moving towards opening later this year.

Kansas City's major capital transit project list includes:

2005	KCATA Main Street MAX BRT	CIG, New Starts	$21m
2009	KCATA Troost Ave. MAX BRT	CIG, Very Small Starts	$30.6m
2016	KC Streetcar Starter-Line	TIGER, STP, CMAQ	$102m
2018	KCATA Prospect Ave MAX BRT	CIG, Small Starts	$55.8m
2024	KC Streetcar Main Street Extension	CIG, New Starts	$330m (PD Phase)

This is all to say we have had some experience and have learned a great deal navigating the CIG program so I am pleased to be here today to share our collective learnings and I will start with two overarching facts.

Importance of Federal CIG Program—The existence of a well-supported and adequately funded CIG program is absolutely critical to the advancement and modernization of our transit systems in Kansas City in addition to systems across the country. Without CIG, other federal programs, and an active and engaged federal partnership the most prominent and impactful transit projects constructed in Kansas City's history would not have happened, and the economic opportunity, investment, community revitalization, and benefits that have been realized from these projects would have been lost.

Strong support from FTA and Region VII at every step—Yes, the CIG program is rigorous, demanding, and complicated but at every step our Federal Transit Administration partners and staff in Region VII have been helpful and doing their very best to guide our region through the process. We thank current acting administrator Williams and Region VII Administrator Mokhtee Ahmad for your great support.

Not surprisingly, complicated programs like CIG are ever-evolving and each pass at the program reveals a slightly different experience and learning. The four take aways that I will touch on and share with you in more detail relate to the areas we feel most strongly about helping to improve, and they include; 1) process streamlining, 2) program thresholds and categories, 3) project due-diligence demands, and 4) incenting innovation in project finance and delivery.

1. *Opportunity for Process Stream-lining*—We understand the need for a well thought-out due diligence process to ensure the CIG process yields strong projects that can be delivered as promised but our belief is work can be done to make this process less burdensome, less time consuming, and less costly, particularly for projects on the lower end of the cost spectrum. As an example our Streetcar starter-line, successfully implemented outside of the CIG program with support from TIGER and Surface Transportation Funding, was completed from planning to operations in record time, in just five years, and is a demonstration that this is possible. We estimate that had we proceeded through CIG this would have added 2 years and 20% in additional cost to this project potentially making it unfeasible.

   Our concern here is one size does not fit all. As an additional example the current structure of the program holds our proposed streetcar project, a relatively straight forward extension to an existing system, to the same standards and expectations as multi-billion dollar projects that naturally bring with them more complexity and risk. In all cases the rigor of the CIG process is unlike any other federal transportation program we have experienced and an order of magnitude more complicated than a similarly funded roadway or interchange projects that are routinely advanced across our region.

2. *CIG Program Thresholds and Categories*—There is a need and opportunity to better align the program categories, and their related requirements, with the complexity and risk of respective projects.

   I. We would suggest and propose a reintroduction of a Very Small Starts Program (Under $75m) to allow low cost projects with high benefits, located primarily within existing right-of-way, to advance rapidly through the process with reduced reporting and documentation requirements. This model has been proven successful with our region's Troost BRT project and would no doubt be advantageous and appropriately scaled for other projects in the pipeline.

   II. We would suggest expanding the Small Starts project category ($75–$500m), and propose eliminating the $100m federal allocation cap on Small Starts Projects. The existing $300m project cost threshold coupled with the $100m federal allocation cap creates a dynamic where projects costing between $250m and $300m are actually encouraged to get more expensive and move to New Starts in order to by-pass the $100m federal cap and pursue more advantageous cost-share commonly found in New Starts grant agreements.

Example of local project sponsor benefiting by increasing the cost of project

$275m Small Starts Project		$300m New Starts Project	
$100m Federal (max allowed)	36.4%	$150m Federal	50%
$175m Local	63.6%	**$150m Local**	**50%**

   III. Modify New Starts and raise threshold to only include projects over $500m. Very few New Starts projects actually fall between the $300m and $500m cost range and those that do more appear to more closely align with project characteristics and risks found in Small Starts Projects. Once again one size does not fit all and aligning the actual project characteristics to the related due diligence requirements should be an important objective to ensure fair and appropriately placed requirements.

3. *Project Due-Diligence is increasingly costly and time consuming.* Again, we recognize and appreciate the need for a sufficient due-diligence process for all CIG categories and applaud FTA for doing their very best to work within the rules of the program to move projects expeditiously, but as currently structured, the process places excessive financial burden on project sponsors, who are expected and required to spend millions of local dollars at risk prior to a federal grant commitment. For our pending streetcar application, it is possible we could be betting $20m or more in local funds on the hope of a federal grant award at the end of the process. This is a hard pill for strapped local governments to swallow and it impedes quality projects from advancing through the process. Two recommendations that we would raise for your consideration that would aid local sponsors in managing this burden include;

   I. Consideration of project development/engineering funding that would set aside a small percentage of program resources for awards to eligible project sponsors to support FTA required due-diligence. This would formalize a low-risk but meaningful local-federal partnership earlier in the process and make it easier for local governments and agencies to justify front end costs associated with the process when the anticipated award date of FFGA is unknown.

   II. Re-evaluation of requirements related to entry into Engineering. This approval stage within the New Starts program is peculiar as it currently stands because it includes detailed requirements related to organizational capacity, risk assessments, financial commitment and numerous other requirements prior to the completion of Project Development and prior to any federal commitment for project funding. Deferring some or all of these requirements beyond "engineering approval" to serve as prerequisites to a Full Funding Grant Agreement would allow projects sponsors time to fully leverage the "engineering phase" to inform project plans and strategies while still allowing FTA the ability to require satisfactory completion of these requirements prior to full funding grant agreement. Our pending streetcar expansion project is an example of this dynamic at play. We have secured a dedicated voter approved tax (with a 70–30 margin) and have secured local approvals and adopted ordinances committing to 100% of local match and bonding obligations. But even with these significant actions there are still some questions if these action are sufficient to demonstrate the local financial commitment required for entry into Engineering, again an approval to proceed to the next phase of the process that is still absent federal commitment and federal risk. Projects demonstrating meaningful progress and real local commitment should be promoted and advanced through the process.

4. *Incenting Innovative Finance and Project Delivery Models*—Projects like our pending streetcar extension that will bring newly committed and dedicated funding to public transit investment and support 100% of the local share of project costs, including operations and maintenance, through a revenue-capture district should receive special consideration. This is a one-time local-federal partnership, designed to launch an impactful project that otherwise would not happen, and after which will be supported 100% by newly captured and self-generated local revenues. This is the future for how, together, we can grow the impact of your federal investment and leverage the economic return these projects create.

In closing, I want to thank you for your interest and support for the CIG program and I want to lift up those on the Committee and at FTA that are doing the hard work to make this program the best it can be. These projects greatly benefit communities, like Kansas City, that they serve. We thank you immensely for your support and I look forward to answering any questions you may have. Thank you.

KC Streetcar—Starter-line, 2017

KC Streetcar—Main Street Extension Rendering, New Starts, Project Development

KC Streetcar—Starter-Line—new hotel under construction

KC Streetcar—Starter-Line—Crowd boarding at Kansas City Union Station Streetcar Stop

Ms. NORTON. Thank you, Mr. Gerend.

Mr. Paul Skoutelas, president and CEO of American Public Transportation Association.

Mr. SKOUTELAS. Good afternoon. Chairwoman Norton, Ranking Member Davis, and members of the Subcommittee on Highways and Transit, thanks for this opportunity to testify today on the Capital Investment Grants, which are critically important to help growing communities address their mobility needs and to expand public transit throughout our Nation.

My name is Paul Skoutelas. I am the president and chief executive officer of APTA, the American Public Transportation Association. We are the only association in North America that represents all modes of public transport. Our 1,500 public and private-sector member organizations speak with one voice in terms of making the case for public transit in the industry.

Capital investment grants are a vital source of capital funding to expand our public transit services. Over the past decade, more than one-half of all of the States have benefitted from CIG projects. The economic benefits of projects funded through CIG are very wide-ranging. In addition to the critical local economic benefits of CIG projects themselves, the vehicles, the equipment, the supplies that comprise these projects are made in America and States all across the Nation.

As an example, I point to the rail and bus manufacturing schematics that are appended to my written testimony. These schematics show how dozens of States contribute to each railcar that is manufactured in America and to each bus that is made as well. Capital investment grants are a critical tool to addressing the mobility needs of our communities and to helping them grow and grow the national economy.

Unfortunately, over the past two decades, we have seen both Congress and FTA have layered additional requirements on the CIG process that have resulted in a bureaucratic maze. As a result, CIG requirements are vastly more complex, more time-consuming, and more burdensome than they need to be. And there are more requirements of these projects than comparable large U.S. DOT transportation discretionary grant programs.

Moreover, these burdensome requirements cause significant delay in project approvals, which result in considerable increases in project costs. Today a CIG project sponsor—typically a transit agency—faces almost 60,000 words of Federal statutory law, regulations, and administrative guidance that is required under the program.

In comparison, a Federal-aid highway INFRA grant applicant faces less than one-quarter of the statutory language and no specific regulations. The bureaucratic maze is not only a burden for CIG project sponsors, but also affects local decisionmaking as communities must then weigh whether to proceed with a CIG transit project with all of its requirements or, alternatively, to build perhaps a highway project that has much more limited requirements.

Although we have got a great partnership with FTA, this is an area of great concern for us and some disagreement. And I want to say for the record that we have a terrific partnership with the FTA and with Administrator Williams. We work together hand in hand on a daily basis, as do our members, but this is an area of CIG that we have a striking difference of opinion.

With regard to funding, while we are encouraged that the administration expressed support this year for the CIG program and the President's budget, we strongly urge Congress to provide funding at or above the fiscal year 2019 enacted level of $2.6 billion. Additionally, we encourage Congress to continue to require FTA to obligate these funds. Of the $2.6 billion that Congress provided for Capital Investment Grants in fiscal 2019, more than one-half, some $1.3 billion, has not yet been even allocated, let alone obligated, to specific projects.

I can assure you there is no shortage of interest in these vital grants. There are 10 New Start and Core Capacity projects under full funding grant agreements today, and 53 additional projects in the CIG pipeline, in 20 different States seeking $27 billion of CIG funds.

We urge FTA to move forward as expeditiously as possible to use the available fiscal 2018 and 2019 funds to invest in these critical projects. Many APTA members have expressed concerns that FTA is strongly encouraging significant local overmatch of the Federal CIG share, particularly for New Start projects.

These project sponsors believe that DOT will not move forward with their New Start project unless the project sponsor accepts significantly less than a 50-percent CIG share. This significant overmatch can require projects in a pipeline to redo their budgets, causing delays, and could in fact discourage project sponsors from seeking the CIG grant at all.

CIG overmatch can also affect local community decisions, as I mentioned a moment ago, the decision between do I invest through the myriad of requirements for a CIG project, or do I look for another alternative?

APTA is also concerned with the policies outlined in FTA's 2018 Dear Colleague letter. Again, as we have a great partnership with FTA, this is an area that we regret the agency, FTA, did not consult with the public transit industry prior to making these significant policy changes.

Their Dear Colleague letter has created considerable confusion among project sponsors regarding certain policies. For instance, sponsors remain confused on DOT's new treatment of TIFIA. To eliminate that confusion, we urge Congress to clarify that TIFIA loans repaid with non-Federal funds are indeed local match. That shouldn't be an issue of contention.

At the time of the Dear Colleague letter, FTA also announced changes to its evaluation of CIG projects. Specifically, FTA now conducts risk assessments much earlier in the process.

Prior to joining APTA as president and CEO last year, 2018, I was directly involved in delivering capital investment projects on both the public side and the private-sector side. Conducting risk assessments too early in the process can be problematic because at that point project sponsors have not yet performed an adequate level of design and engineering to fully calculate the likely risks.

Similarly, increasing the probability threshold percentage requires project sponsors to have large amounts of local funding on hand as project contingencies. As many local elected officials know and transit governing members know, it is difficult to find the extra dollars oftentimes.

Moreover, given that the Federal share is established upon entry into engineering, significant costs of contingencies and the risk and responsibility are pushed to the project sponsor. Thus, we urge Congress to reverse the Dear Colleague and risk assessment changes.

Finally, APTA strongly urges the committee to conduct a zero-based review of the CIG program, to assess all statutory, regulatory, and administrative requirements through what I would describe as a two-part test. First, does the requirement strengthen the CIG program and ensure that beneficial projects across the country are delivered in a timely manner? Second, does the requirement protect the taxpayer's interest in funding good projects?

We strongly believe that dozens of current CIG requirements do not meet this test. In addition to a zero-based review, we recommend four additional policy reforms to strengthen the CIG program.

First, establish a CIG pipeline dashboard where FTA must report on the progress and status of its projects at each milestone, so that stakeholders, decisionmakers, elected officials, and the public understand how these projects are moving through the pipeline.

Second, codify a fixed Federal share to provide certainty for project sponsors for CIG projects.

Third, clarify the TIFIA loans, as I mentioned, are indeed local match.

Fourth, reverse the 2018 risk assessment changes, which really do not add to project certainty and create more delays.

On behalf of APTA, I thank you for giving us the opportunity to testify and to share our thoughts on Capital Investment Grants. We look forward to continuing to work with this committee, with the FTA, and the industry, to strengthen the CIG program and ensure that these critically needed public transportation improvements are delivered in a timely manner.

I look forward to answering any questions you may have. Thank you.

[Mr. Skoutelas' prepared statement follows:]

Prepared Statement of Paul P. Skoutelas, President and Chief Executive Officer, American Public Transportation Association

INTRODUCTION

Chairwoman Norton, Ranking Member Davis, and Members of the Subcommittee on Highways and Transit, on behalf of the American Public Transportation Association (APTA) and its more than 1,500 public- and private-sector member organizations, thank you for the opportunity to testify on "Oversight of the Federal Transit Administration's Implementation of the Capital Investment Grant Program".

My name is Paul Skoutelas, and I am the President and Chief Executive Officer (CEO) of APTA, an international association representing a $71 billion industry that employs 430,000 people and supports millions of private-sector jobs. We are the only association in North America that represents all modes of public transportation—bus, paratransit, light rail, commuter rail, subways, waterborne services, and intercity and high-performance passenger rail.[1] Public transportation not only spurs eco-

[1] APTA members include public transit systems; planning, design, construction, and finance firms; product and service providers; academic institutions; transit associations; and state departments of transportation.

nomic growth, but reduces congestion, improves air quality, saves time and money, and advances an equitable and better quality of life for our communities.

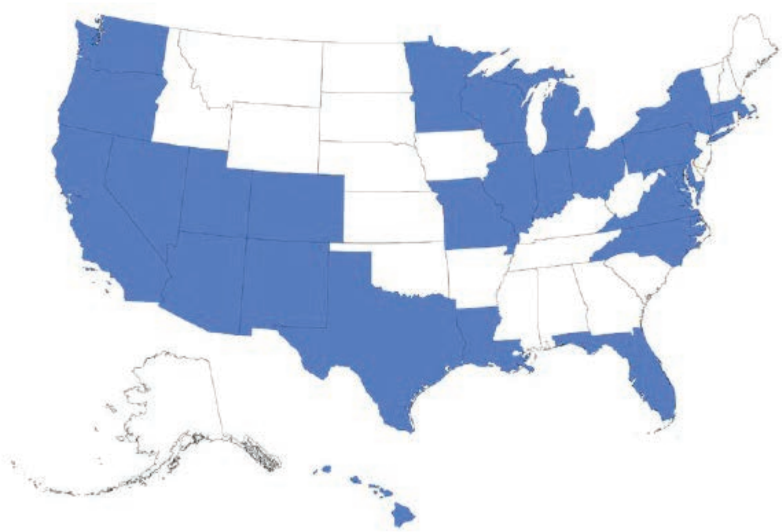
Prior to joining APTA in January 2018, I served as national director of WSP USA's Transit & Rail Technical Excellence Center where I provided strategic direction on public transit and rail projects. Earlier in my career, I was CEO at two major public transportation agencies: the Port Authority of Allegheny County in Pittsburgh, Pennsylvania, and the Central Florida Regional Transportation Authority (LYNX) in Orlando, Florida. At both WSP and the public transit agencies, I was directly involved in delivering Capital Investment Grant (CIG) projects.

Capital Investment Grants Addressing the Mobility Demands of Growing Communities

APTA strongly supports the CIG program. Capital Investment Grants provide critical investments for new and expanded subways, light rail, commuter rail, streetcars, and bus rapid transit (BRT), among others.

As illustrated on the following page, over the past decade, more than *one-half* of all states have benefited from the CIG program or are in the current pipeline. From BRT projects in Michigan and Oregon, to commuter rail projects in Texas, to heavy rail projects in Illinois, and light rail projects in Arizona, Utah, and California, public transportation projects that are funded through the CIG program are an essential component of addressing the mobility demands of growing communities.

CIG Projects Within the Last Decade



Growing the Economy

The economic benefits of these projects reach a far greater span than just the project location itself. A CIG project in California may be receiving vehicles, parts, or materials from a supplier in Alabama, Arkansas, Georgia, or Wisconsin. These projects also represent thousands of construction jobs, transit equipment manufacturing jobs, and wider multiplier effects on jobs associated with parts and materials suppliers and worker spending. Moreover, after a new transit line is constructed and operational, there are ongoing, permanent economic growth and development impacts enabled by the transportation improvements and associated economic productivity gains.[2]

[2] American Public Transportation Association, Economic Implications from Proposed Public Transportation Capital Funding Cuts, April 2017.

As a result, every $1 billion invested in public transportation creates or sustains 50,000 jobs.[3] The enclosed Appendix shows the jobs created across America in rail car and bus manufacturing.

For these reasons, Capital Investment Grants are a critical tool to addressing the mobility demands of our communities and growing the national economy. We greatly appreciate the Subcommittee's continued oversight of the CIG program. We have a great working relationship with the Committee and the Federal Transit Administration (FTA) and we look forward to continuing to work together to advance these critical public transportation capital projects.

THE CIG PROGRAM: A BUREAUCRATIC MAZE

Unfortunately, over the past two decades, both Congress and FTA have repeatedly layered additional requirements on the CIG program, resulting in a bureaucratic maze. If an individual project suffers schedule or budget issues, Congress and FTA have often responded with new statutory, regulatory, or administrative requirements imposed across-the-board on *every* project in the CIG pipeline. As a result, beginning with the enactment of the Transportation Equity Act for the 21st Century (TEA 21) in 1998, the CIG requirements have become vastly more complex, time-consuming, and burdensome than the requirements of other comparable, large U.S. Department of Transportation (DOT) discretionary grant programs.

Moreover, these burdensome requirements cause significant delay in project approvals, which result in considerable increases in project costs prior to construction. Today, a CIG project sponsor faces almost *60,000* words of federal statutory law, regulations, and administrative guidance under the program. Comparatively, a Federal-aid Highway INFRA Grant applicant faces less than one quarter of the statutory language of the CIG program and *no* specific regulations.

The bureaucratic maze is not only a burden on CIG project sponsors. It also affects local decision-making as communities weigh whether to proceed with a CIG transit project, together with the accompanying program requirements and multi-year process, or, alternatively, build a highway project with limited federal requirements and an expedited DOT discretionary grant review process.

FTA'S IMPLEMENTATION OF THE CIG PROGRAM

Funding

Funding Levels. In fiscal year (FY) 2018 and FY 2019, the President's Budgets proposed to eliminate funding for new CIG projects and limit funding to projects with existing Full Funding Grant Agreements (FFGAs). APTA strongly opposed these proposals and greatly appreciates that Congress continued significant funding for Capital Investment Grants, including new projects. This year, the President's Budget proposes $1.5 billion for the CIG program, including $500 million for new projects. Although we are encouraged that the Administration has expressed support for the program, *we strongly urge Congress to provide funding at or above the FY 2019 enacted level of $2.6 billion*.

In the past three fiscal years (FY 2017–FY 2019), Congress has repeatedly recognized the importance of CIG investments and provided funding that is greater than the $2.3 billion authorized in the Fixing America's Surface Transportation Act (FAST Act) (P.L. 114–94). Investment in public transportation yields significant economic and community benefits and we are grateful for this Committee's and Congress' support throughout the years.

Investing Available Funds. In addition, Congress has specifically directed FTA to obligate 85 percent of CIG funding by a specific date (e.g., obligating 85 percent of FY 2018 CIG funds by December 31, 2019). We strongly support this requirement because it requires FTA to help projects navigate the bureaucratic maze of the CIG program and obligate the available funds.

For instance, in FY 2019, Congress provided $2.6 billion for CIG investments. To date, more than one-half ($1.3 billion) of these funds remain unallocated (i.e., FTA has not assigned the funds to a specific project).[4] In fact, FTA has not completed allocating its FY 2018 funds—$41 million remains unallocated from last year.[5]

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[3] American Public Transportation Association, 2019 Public Transportation Fact Book, April 2019.

[4] Allocating funds is simply designating the funding for the project and is a step prior to the obligation of funds, which require project approval. Federal Transit Administration, FY 2019 Section 5309 Fixed Guideway Capital Investment Grants Allocations, Table 7, July 9, 2019.

[5] Federal Transit Administration, FY 2018 Section 5309 Fixed Guideway Capital Investment Grants Allocations, Table 7, June 20, 2019.

Communities across the nation have proposed CIG projects to address their growing mobility demands. FTA's current CIG pipeline includes 10 New Start and Core Capacity projects under FFGA and 53 additional projects seeking construction grants, including 14 New Start, 3 Core Capacity, and 36 Small Start projects in 20 different states.[6]

In total, communities are requesting approximately *$27 billion* of Capital Investment Grants to fund these projects in the pipeline.

We urge FTA to move forward as expeditiously as possible to use the available FY 2018 and FY 2019 funds to invest in critical CIG projects.

Local Overmatch. APTA is concerned that many New Start project sponsors believe that FTA is strongly encouraging significant "local overmatch" of the federal CIG share. Despite current law restrictions,[7] these project sponsors believe that DOT will not move forward with their New Start projects unless the project sponsor requests significantly less than a 50 percent CIG share. This significant overmatch could discourage project sponsors from seeking a CIG grant. Moreover, overmatch requirements can affect local community decisions on whether to proceed with a highway or transit project because of the unequal playing field between the availability of highway and transit federal funds to complete a project.

We urge Congress to establish a fixed CIG share for New Start, Core Capacity, and Small Start projects.

CIG Policies

On June 29, 2018, FTA issued a "Dear Colleague" letter to public transit agencies highlighting the Administration's policies regarding the CIG program. The Administration's Dear Colleague letter established geographic diversity as a factor in FTA funding allocation decisions; considered DOT loans "in the context of" all federal funding sources requested by the project sponsor, and not separate from the federal funding sources; and included other Administration policy objectives.[8] FTA stated that these changes reflect the Administration's current policy and are in effect. At the same time, FTA also made changes to the CIG Risk Assessment process.[9]

Section 165 of the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act (P.L. 116–6, Division G) prohibits FTA from implementing or furthering new policies detailed in FTA's June 29, 2018 Dear Colleague letter to CIG project sponsors.

Although we have a great partnership with FTA, we have a serious difference of opinion with the agency regarding the policies outlined in FTA's Dear Colleague letter. We regret that FTA did not consult with the public transit industry prior to making these significant policy changes. FTA's Dear Colleague letter has created considerable confusion among project sponsors regarding certain CIG policies. In addition, it remains unclear how FTA interprets the THUD Appropriations Act limitation of the Dear Colleague letter.

Federal Loans as a Federal Funding Source. In the Dear Colleague letter, FTA states that it "considers U.S. Department of Transportation loans in the context of all Federal funding sources requested by the project sponsor when completing the CIG evaluation process, *and not separate from the Federal funding sources*."[10] (emphasis added). This change could be read to curtail a public transit agency's ability to use Transportation Infrastructure Finance and Innovation Act (TIFIA) loans for the local share of a CIG project.

Current law specifically provides that TIFIA may be used for any non-federal share of transit project costs if the loan is repayable from non-federal funds. Thus, we believe that FTA's policy is inconsistent with TIFIA's statutory requirements. Moreover, under FTA's policy, DOT will treat TIFIA loans differently based on whether they are funded under FTA or Federal Highway Administration (FHWA) programs.

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[6] Federal Transit Administration, Current Capital Investment Grant Projects, Accessed July 2019.

[7] Section 5309(l)(5) of Title 49, United States Code, states: "Nothing in this section shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost."

[8] U.S. Dep't of Transportation, Federal Transit Administration, Dear Colleague letter, June 29, 2018.

[9] The Risk Assessment changes were posted to the FTA website as part of a set of questions and answers, and not distributed through a formal notice and comment process or other public process.

[10] U.S. Dep't of Transportation, *supra* note 8.

We urge Congress to clarify that TIFIA loans repaid with non-federal funds are local match.

Changes to Risk Assessment Process. On June 29, 2018, FTA also announced two changes to the CIG Risk Assessment process that could cause delays to projects going through the pipeline: the timing of the Risk Assessment and increasing the Probability Threshold of CIG projects' budget and schedule.

Timing of FTA Risk Assessment. Under the new policy, FTA conducts a Risk Assessment of New Starts and Core Capacity projects prior to entry into the Engineering phase (i.e., during Project Development) of the program. Prior to the new policy, Risk Assessments were generally conducted during the Engineering phase of CIG projects.[11] This change is problematic because project sponsors may not have an adequate level of design and engineering completed to provide accurate and fair estimates for the Risk Assessment at this early stage.

In addition, current law limits the Project Development phase of New Start and Core Capacity projects to a two-year period (although FTA may extend the time period). Conversely, the Engineering phase is not time-limited (although projects must show that they are making progress three years after entering Engineering).

APTA is very concerned that requiring the Risk Assessment during the Project Development phase provides an additional hurdle to completing Project Development within the two-year time period. Given the significant number of tasks already required to be completed during the two-year period,[12] this change is likely to require CIG project sponsors to conduct and fund even more preliminary work before seeking entry into Project Development. The sponsor's funding of this preliminary work is not included in calculating the CIG share.

Probability Threshold. When determining the reasonableness of a project sponsor's cost and schedule, FTA reviews the estimates to determine whether they include reasonable assumptions or whether adjustments need to be made. FTA then examines risks related to the project to determine the appropriate level of contingency funding needed. FTA increased its Probability Threshold from 50 percent to 65 percent in determining the reasonableness of the cost and schedule estimates. APTA is concerned that increasing the Probability Threshold percentage will require project sponsors to identify more contingency funds, adding to the costs for project sponsors.

Moreover, given that the federal share is established upon entry into Engineering, cost overruns are the risk and responsibility of the project sponsor. This change increases costs for project sponsors regarding risks for which they are already responsible.

We urge Congress to require FTA to conduct the Risk Assessment and establish the federal CIG share during the Engineering phase of New Start and Core Capacity projects. Similarly, we urge Congress to require FTA to reduce the Probability Threshold from 65 percent to 50 percent in determining the reasonableness of cost and schedule estimates, which will restore the Probability Threshold to the level required prior to FTA's 2018 changes in Risk Assessment policy.

REFORMING THE CIG PROGRAM: A ZERO-BASED REVIEW

Over the past 18 months, APTA has solicited input from our diverse membership on priorities for the next surface transportation authorization bill. At our Legislative Committee meeting on June 23, 2019, members unanimously approved APTA's surface transportation authorization recommendations, which include numerous proposed reforms of the CIG program. In October, APTA's Board of Directors will consider these recommendations for final approval.

APTA strongly urges the Committee to conduct a zero-based review of the CIG program to assess *all* statutory, regulatory, and other administrative requirements through a two-part test:

- Does the requirement strengthen the CIG program and ensure that beneficial projects across the country are delivered in a timely manner?

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[11] New Start and Core Capacity projects are required by law to go through a three-phase process—Project Development, Engineering, and Construction. Small Start projects are required by law to go through a two-phase process—Project Development and Construction. The FFGA or Small Start Grant Agreement (SSGA) are typically awarded prior to the Construction phase of the project.

[12] Under Project Development, the project sponsor is already required to select a locally preferred alternative (LPA); have the LPA included in the fiscally constrained metropolitan transportation plan; and complete the environmental review process required under the National Environmental Policy Act (NEPA).

- Does the requirement protect the taxpayer's interest in funding good projects?

We strongly believe that dozens of current CIG requirements fail this two-part test.

In addition to a zero-based review, we recommend *four additional policy reforms* to strengthen the CIG program.

First, APTA recommends that FTA establish a CIG Pipeline Dashboard. The Dashboard would allow for the public to track the status of each project in the CIG pipeline. The Dashboard would provide a level of transparency and oversight that enhances good governance and can be a valuable tool for current and future project sponsors, Congress, interested stakeholders, and many others.

Second, providing funding certainty is essential for any multi-year transportation project. To that end, *APTA calls on Congress to codify a fixed federal CIG share for New Start, Core Capacity, and Small Start projects*. Codifying a fixed federal CIG share will provide certainty for project sponsors contemplating entry into the CIG program and it will expedite FTA decision-making.

Third, *APTA advocates for the continued use of TIFIA loans to be considered as a local match*. Many CIG project sponsors have utilized TIFIA loans to help offset upfront costs associated with capital projects. While the federal government does provide money to fund these critical public transportation capital projects, the TIFIA loan is repaid with local funds. APTA seeks a technical clarification stipulating that such TIFIA loans shall be counted as the non-federal share of project costs.

Finally, *we call on Congress to move the Risk Assessment to the Engineering phase of the CIG process and reverse the changes to the Probability Threshold*. Specifically, we urge Congress to require FTA to conduct the Risk Assessment and establish the federal CIG share no earlier than 180 days after entering the Engineering phase (for New Starts and Core Capacity projects) or earlier at the project sponsor's request. Similarly, we urge Congress to require FTA to reduce the Probability Threshold from 65 percent to 50 percent in determining the reasonableness of cost and schedule estimate.

The Appendix includes APTA's surface transportation authorization recommendations regarding the CIG program, as approved by APTA's Legislative Committee on June 23, 2019.

CONCLUSION

On behalf of APTA, thank you for giving me the opportunity to testify and share our thoughts on Capital Investment Grants. We look forward to working with the Committee on Transportation and Infrastructure to strengthen the CIG program and ensure that these critical public transportation projects across the country are delivered in a timely manner.

APPENDIX

CAPITAL INVESTMENT GRANTS PROGRAM (§ 5309)

APTA strongly supports the CIG program. Beginning with enactment of the Transportation Equity Act for the 21st Century (TEA 21) in 1998, both Congress and FTA have repeatedly layered additional requirements on the CIG program, which has resulted in a bureaucratic maze. Congress must continue to reject policies that would cut, delay, or make this vital program more burdensome. We urge Congress to adopt provisions that will strengthen the CIG program and ensure that beneficial projects across the country are delivered in a timely manner.

APTA Recommendations:

- *Establish a fixed federal CIG share for New Start, Core Capacity, and Small Start projects. The fixed federal CIG shares shall be*:
  - i. New Starts: 60 percent or, for New Start projects with significant total project costs, a lesser percentage;
  - ii. Core Capacity: 80 percent or, for Core Capacity projects with significant total project costs, a lesser percentage; and
  - iii. Small Starts: 80 percent.
- *Increase the maximum federal and total estimated net capital costs for Small Starts projects by $100 million*. In 49 U.S.C. § 5309(a)(7)(A), strike "$100,000,000" and insert "$200,000,000"; and in subparagraph (B), strike "$300,000,000" and insert "$400,000,000".

- *Extend the time period for Core Capacity projects to be at or over capacity from five years to 10 years, and clarify that projects that expand or modify existing station facilities are increasing capacity*. Strike clause (iii) of 49 U.S.C. § 5309(e)(2)(A), and insert "(iii) will increase capacity of an existing fixed guideway system, corridor, or station at least 10 percent and is—(I) at or over capacity; or (II) projected to be at or over capacity within the next 10 years;".
- *Extend the deadline to complete Project Development activities for New Starts and Core Capacity projects from 2 to 3 years*. In 49 U.S.C. § 5309(d)(1)(C)(i) and in § 5309(e)(1)(C)(i), strike "2" and insert "3".
- *Strike the requirement for New Starts and Core Capacity project sponsors to complete a Before and After Study and require the Government Accountability Office to provide Congress a biannual report that analyzes the impacts of New Starts and Core Capacity projects on public transportation services and ridership*. Strike 49 U.S.C. § 5309(k)(2)(E).
- *Expand the use of warrants, where a project can pre-qualify for a satisfactory rating on particular requirements if certain conditions are met. Current FTA policy guidance does not allow warrants for projects with a capital cost greater than $500 million*. Strike 49 U.SC. § 5309(g)(3)(D). In 49 U.S.C. § 5309(g)(3)(C), strike "; and" and insert "."
- *Require FTA to conduct the Risk Assessment and establish the federal CIG share during the Engineering phase of New Start and Core Capacity projects*. In 49 U.S.C. § 5309, insert a subsection: "(r) For projects defined under subsection (a)(2) or (a)(5), the Secretary may not determine a maximum Capital Investment Grant contribution or perform a risk assessment until at least 180 days after a project has entered into the Engineering phase, unless the project sponsor specifically requests a risk assessment on an earlier date.".
- *Require FTA to reduce the probability threshold from 65 percent to 50 percent in determining the reasonableness of cost and schedule estimates, which will restore the probability threshold to the level required prior to FTA's recent changes in Risk Assessment policy*. In 49 U.S.C. § 5309(f)(1)(A) before the semicolon, add "but may not exceed 50 percent".
- *Establish a CIG Program Pipeline Dashboard on a publicly available website that includes complete information on the program and the status of each CIG project in the pipeline, including*:
  i. the amount of CIG funding appropriated, allocated, and obligated for the program and each of its components (New Starts, Core Capacity, and Small Starts).
  ii. the date the project entered Project Development and Engineering (if applicable);
  iii. the status of FTA and DOT review at each stage of the process, including when a Letter of No Prejudice (LONP) was requested and the date of when the LONP was issued;
  iv. the date the New Starts FFGA, Core Capacity FFGA, or Small Starts grant agreement was executed; and
  v. the status of the project sponsor in securing its non-federal match, based on information provided by the project sponsor.
- *Reduce the required period of notification to Congress from 30 days to 10 days before issuing a letter of intent, entering into an FFGA, or entering into an early systems work agreement*. In 49 U.S.C. § 5309(k)(5), strike "30 days" and insert "10 days".
- *Reduce the required period of notification to Congress for a Small Start project from 10 days to 3 days*. In 49 U.S.C. § 5309(h)(6)(C), strike "10 days" and insert "3 days".
- *Allow expenditures to fulfill compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), to be counted toward the non-federal match for CIG projects prior to entering Project Development*.
- *Require the Secretary to issue updated guidance no later than six months after the date of enactment*. In 49 U.S.C. § 5309(g)(5)(A), strike "of the Federal Public Transportation Act of 2012".
- *Add a Congressional notification requirement on the status of implementation for the Program of Interrelated Projects and the Expedited Project Delivery Pilot Program. Add the following new section*:

  "Sec. ______ Capital Investment Grants Program Notification Requirement.

Not later than 90 days after the date of enactment of this section, and every 90 days thereafter, the Administrator shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of——
(A) The status of implementation for the Program of Interrelated Projects and the Expedited Project Delivery Pilot; and
(B) Any additional legislative actions that may be needed."

EXPEDITED PROJECT DELIVERY FOR CAPITAL INVESTMENT GRANTS PILOT PROGRAM (FAST ACT § 3005(B))

The Expedited Project Delivery for Capital Investment Grants Pilot Program was originally established in MAP–21. This pilot program allows for up to eight New Starts, Core Capacity, or Small Starts projects to expedite the evaluation process normally required for CIG. FTA has only issued an expression of interest for projects and has not begun implementation of the pilot program.

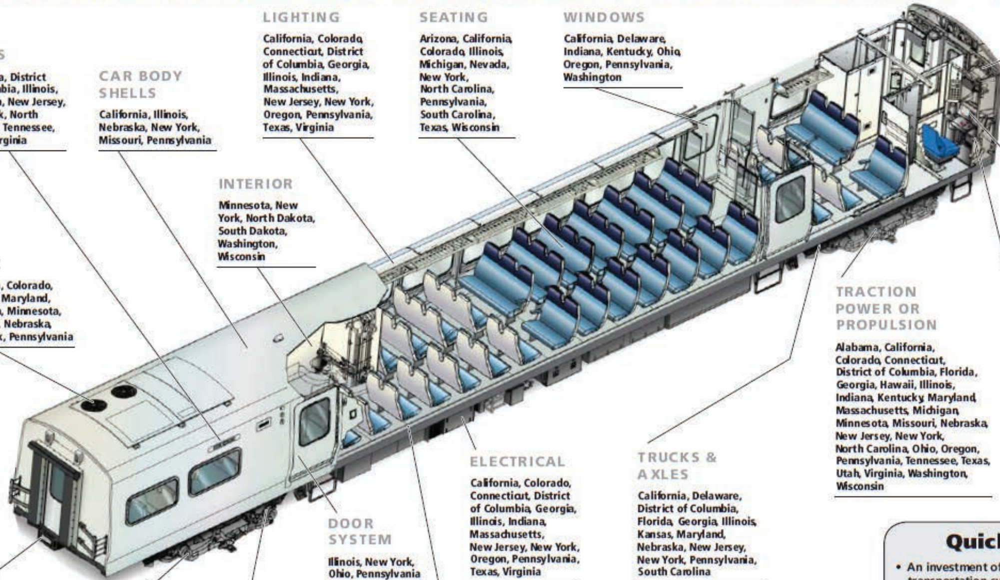
APTA Recommendations:

- *Increase the maximum federal CIG share from 25 percent to 50 percent*. Amend § 3005(b)(9)(A) by striking "25 percent" and insert "50 percent".
- *Reduce the required period of notification to Congress from 30 days to 10 days*. Amend § 3005(b)(8)(D) by striking "30 days" and insert "10 days".
- *Increase the maximum federal and total estimated net capital costs for Small Starts projects to be consistent with 49 U.S.C. § 5309(a)(7), as amended by these Recommendations*. Amend § 3005(b)(1)(I) in clause one by striking "$75,000,000" and insert "$200,000,000"; and in clause two, strike "$300,000,000" and insert "$400,000,000".
- *Strike the requirement for project sponsors to complete a Before and After Study*. Amend § 3005(b) by striking paragraph (12) and re-designating paragraph (13) as (12).

Rail Manufacturing = Jobs Across America

Strong public transportation makes our economy grow and makes the U.S. more competitive

APTA AMERICAN PUBLIC TRANSPORTATION ASSOCIATION



LIGHTING
California, Colorado, Connecticut, District of Columbia, Georgia, Illinois, Indiana, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Texas, Virginia

SEATING
Arizona, California, Colorado, Illinois, Michigan, Nevada, New York, North Carolina, Pennsylvania, South Carolina, Texas, Wisconsin

WINDOWS
California, Delaware, Indiana, Kentucky, Ohio, Oregon, Pennsylvania, Washington

SIGNS
California, District of Columbia, Illinois, Michigan, New Jersey, New York, North Carolina, Tennessee, Texas, Virginia

CAR BODY SHELLS
California, Illinois, Nebraska, New York, Missouri, Pennsylvania

EVENT RECORDERS
California, Delaware, Georgia, New York, Pennsylvania, South Carolina

INTERIOR
Minnesota, New York, North Dakota, South Dakota, Washington, Wisconsin

MONITORING & DIAGNOSTIC SYSTEMS
California, District of Columbia, Florida, Maryland, New Jersey, New York, Pennsylvania

HVAC
Alabama, Colorado, Georgia, Maryland, Michigan, Minnesota, Missouri, Nebraska, New York, Pennsylvania

TRACTION POWER OR PROPULSION
Alabama, California, Colorado, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin

COMMUNICATIONS
Arizona, California, Delaware, District of Columbia, Florida, Georgia, Illinois, Minnesota, New York, Pennsylvania, South Carolina, Washington

ELECTRICAL
California, Colorado, Connecticut, District of Columbia, Georgia, Illinois, Indiana, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Texas, Virginia

TRUCKS & AXLES
California, Delaware, District of Columbia, Florida, Georgia, Illinois, Kansas, Maryland, Nebraska, New Jersey, New York, Pennsylvania, South Carolina

DOOR SYSTEM
Illinois, New York, Ohio, Pennsylvania

COUPLERS & DRAFT GEAR
California, Delaware, Georgia, New York, North Carolina, Pennsylvania, South Carolina

WHEELS
Connecticut, Florida, Illinois, New York, Pennsylvania, Texas, Virginia

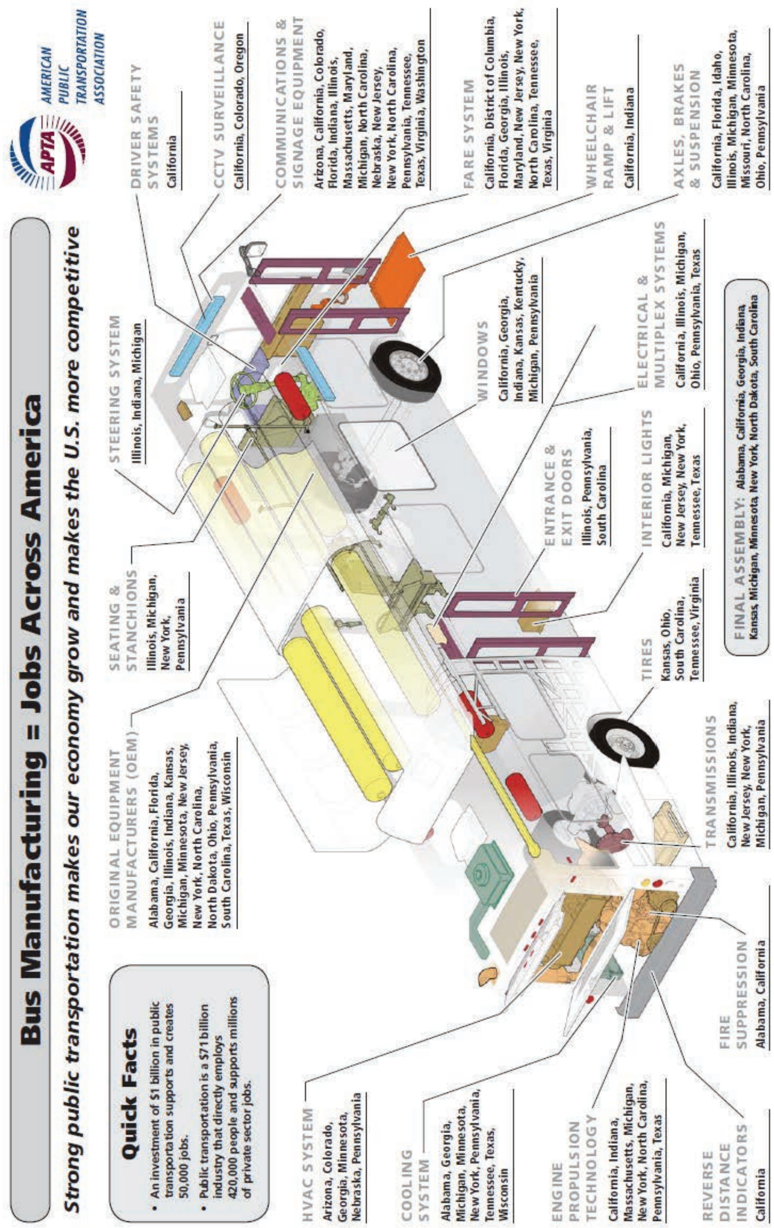
BRAKES
California, Delaware, Georgia, Maryland, New York, Pennsylvania, South Carolina

FLOORING
Alabama, California, Massachusetts, Wisconsin

FINAL ASSEMBLY
California, Florida, Illinois, Massachusetts, New York, Pennsylvania, Utah

Quick Facts

- An investment of $1 billion in public transportation supports and creates 50,000 jobs.
- Public transportation is a $71 billion industry that directly employs 420,000 people and supports millions of private sector jobs.



Ms. NORTON. Thank you very much, Mr. Skoutelas. I must say, your figure—when I hear a figure like that, $1.3 billion, I believe it was, not allocated, you know, I am not used to that kind of money floating around the Congress and nobody making use of it.

Could I ask you, Mr. Skoutelas, you indicated I believe that there was no consultation before the changes in TIFIA and risk assessment. No regulation, no regulatory changes required for that kind of change?

Mr. SKOUTELAS. There was none. There was none, and we think it is vitally important as the industry—again, not to take anything away from the FTA staff and their expertise, and I commented on that previously, a lot of expertise lies within the project sponsors themselves. And we have a lot to offer because the individual members and sponsors are on the frontlines delivering these projects.

And so I think an order of consultation, an opportunity for the industry to input, would be highly appropriate.

Ms. NORTON. That is the usual rule in the Congress. We make all kinds of mistakes by not consulting. And if that is not required by regulation, we will have to make sure in the 2020 reauthorization that the appropriate statutory change is made. Very helpful suggestions.

I tried to get at, for example, your notion of reporting on the status when I asked the Acting Administrator to get back to me, but your further detail will be very helpful to us in submitting questions to her following this hearing.

I am trying to understand these different programs. We have one program, the DOT discretionary program, and then we have this program which seems to be far more complicated. And I believe—I am trying to understand how one being more complicated than the other—of course, the CIG program encourages local communities to build on the program—using the program that is least complicated, which turns out to be the highway program. Does that result in localities making decisions it would not otherwise make?

All of you, or, Mr. Skoutelas, why don't we start with you.

Mr. SKOUTELAS. I certainly think that is a strong possibility. I think it discourages, to some degree, projects from getting into the pipeline once they see some of the daunting requirements. The demand is great from communities because this is a valuable resource of funding that is important for them to build important projects like bus rapid transit or extensions to light rail, and the like.

Local governments make judgments and where they are going to put their money, and certainly the agencies themselves have to make that decision. Do they ask for Federal dollars; do they not? Which projects do they support?

My only point to that is I think there needs to be a level playing field. There is no basis to require a full set of more demanding requirements on one mode versus another, and I think that would be something that Congress ought to look at. And let's level the playing field; let's make it equally appropriate in terms of what has to be done to implement these projects. I think that would serve us very well.

Ms. NORTON. Do either of you have views on that notion? I am sure that the projects went different ways for different reasons. They have very different authorizations. Do you have any response on that question?

Mr. GEREND. I will give you the perspective from Kansas City. As mentioned in my comments, we advanced our streetcar starter line project. Outside of CIG, it was $102 million. We leveraged a Federal partnership through the surface transportation program, and then TIGER, now BUILD, for some supplemental Federal match.

So FTA oversaw the implementation of that program outside of CIG, and that was advantageous to the timeline of that project, which we completed really in record time—in under 5 years from planning to full-blown operations, with satisfactory, obviously, oversight and a really successful launch.

We are now in full-blown New Starts through our streetcar extension, and really are noticing clearly the differences in the requirements, despite the fact that we have successfully deployed an initial project.

And with my background on the regional transportation side, I would say in all cases, frankly, the rigor of the CIG program is unlike any other Federal transportation grant program across any of the categories that we have had experience with in Kansas City and, frankly, an order of magnitude more complicated than similarly funded roadway projects, highway projects, and the like, that we are continuously advancing throughout the region.

So it is an impediment to progress. It is where the money is, frankly, for large-scale capital transit projects. So we play by the rules. We understand that they are rigorous, and we expect that that comes with the territory. But there is a front-end local financial commitment that is very real in these processes. The Federal obligation and commitment for partnership is at the very back end of the project, so as indicated, we may be spending upwards of $20 million of local funds developing a project concept before we know we have a Federal partnership that is real and can actually implement a project.

That is a tough pill for local governments to swallow, but it comes with the territory, and so we are in a position of having to make that decision, and we are doing that because that it is a competitive framework but it is challenging, and the due diligence and the burden on sponsors is very real.

Ms. NORTON. Well, thank you very much, Mr. Gerend. This is very difficult. One program is more complicated than another just because Congress has set out one is a grant program; the other was always meant to give a lot of discretion to the jurisdictions. So in reauthorization, we will have to look more closely in making the CIG program easier to deal with at the level of the administration as well with grantees.

I am pleased to recognize our ranking member, Mr. Davis.

Mr. DAVIS. Thank you, Madam Chair, and thank you to the witnesses. Sorry we didn't have a little bigger crowd, but you got the best of the best with us three here, I would say.

Hey, look, first off, Mr. Gerend, now the Kansas City Streetcar, I know that is probably in my colleague, Ms. Davids' district, but I got to know, does it go to Worlds of Fun?

Mr. GEREND. It does not, not yet, no.

Mr. DAVIS. OK, is that in your long-term planning?

Mr. GEREND. That is part of our multimodal strategy to extend beyond streetcar. It's multimodal: bus, on-demand transit services, of course.

Mr. DAVIS. As somebody who was born in Des Moines, Iowa, our closest city outside of Des Moines to go have fun at when I was young was Kansas City, and I remember the Worlds of Fun was my favorite place to go.

So is that in your district, Ms. Davids? Is it across the State line? Oh, it is in Missouri? OK, well, hey, you know what is good? It is projects like that that can transcend State lines, if needed, if needed.

Well, first off, I want to thank all the witnesses. And, you know, we have talked about the CIG program, the panel before with the Acting Administrator, and now with you. And I get we have some issues between the discretionary portion versus some of the normal applicant portions of CIG, and I think the Acting Administrator answered a lot of the concerns very well.

But I have got an overall concern on this panel; an overall concern with how do we actually get to the bipartisan solution to reauthorize the FAST Act. And the biggest concern I have is are we, at T&I, going to have to pass a bill that we know is not adequately funded, like that last one, for the entirety of the policy recommendation period. How do we get do a point where we have a fully funded highway reauthorization? What do we do?

You know, there are many that have taken a strict increase in our current revenue stream off the table. So what is the next step, Mr. Alger? What is the next step to actually ensure that we not only make the Highway Trust Fund solvent, we make it viable; we make it less volatile; and how do we bring in new modes of transportation that may not be paying into the Highway Trust Fund now, but maybe more of a ubiquitous part of our roadways in the future?

Mr. ALGER. Well, I think there are a couple points here. Number one, all transportation in the United States is interrelated—if we don't fund transit then more people are going to be on the roads in cars, and we are going to have more trucks; we are going to have all kinds of problems, more congestion, people trying to get where they are trying to get to. So there has to be a solution for everything.

I almost think that we are making this too complicated. We are trying to get this——

Mr. DAVIS. In Congress? Really?

Mr. ALGER. Really. I truly believe that.

So this $2 trillion that everybody is talking about, I almost think we need to take smaller bites of the apple. There are a lot of things out there that we could do, that we could raise the gas tax today. We could do some other things that have been proposed. We sat this morning and there is like 10 or 12 different items that are available to be done today that we could do. But we just can't seem to get everybody together.

One comment that I had when I met with a couple Members of Congress was why can't we just get everybody in one room like this and we lock the doors until somebody figures out what the hell we are going to do. Because it just doesn't seem to happen around here. If it was private industry we would come with a solution, we would get it together, we would move forward. For some reason, this thing just gets bottlenecked, and I don't get it. There is a lot of things we could do right now that we just choose not to do, whether it is bipartisan or not. And it is foolish.

Mr. DAVIS. Well, I appreciate the comments. You know, as somebody who has said, I think it is extremely shortsighted just to use the existing revenue sources that we have, because same Federal Government tells auto manufacturers to make engines that burn less gas. So we are not providing a long-term, less volatile solution.

Do you have any ideas how we bring electric vehicles into the mix? I want to sell more electric vehicles. I have got an old Mitsubishi factory that shut down, that is in my district, a few years ago, that has now got a few hundred million dollars of investment from Rivian car company, and investment from Ford Motor Company, Amazon and others, hundreds of millions of dollars. They want to produce small SUVs and small, light, electric pickups.

I mean as we look ahead over the next 5 to 6 years, 10 years, I believe more of those will be on the roadway, and I certainly hope so because it will provide jobs to my constituents. But what do we do since, you know—any of you drive a fully electric vehicle up there?

Mr. SKOUTELAS. I don't have an automobile. I take the bus.

Mr. DAVIS. All right, well, I can't do that in my district. So nobody drives a fully electric vehicle on the panel, right?

Mr. ALGER. I do not, but I think that we could put a tax on electric vehicles so that they pay for the roads that they are using, that the gas-powered cars are using. They are using the same facilities, they should pay for using those facilities, just like everybody else does.

Mr. SKOUTELAS. Can I offer a comment? First of all, I want to thank you for your leadership on this whole issue, and you have come and spoken to our group in recent months, and you have made the strong case that there needs to be action taken.

Certainly from the standpoint of the transportation industry, and there is almost an incredible alignment between the associations and virtually everyone that recognizes, we need to take this bold step forward for infrastructure investment. It is a great opportunity that we have. Yes, there might be some issues. Is it a gas tax? Is it some blend? Is this a tax on electric vehicles? That is seemingly something we should be able to get over, and to cause some kind of a blending.

In my own personal opinion, I believe that perhaps that is the future of a tax on electric vehicles. Unfortunately, there is not enough of them yet to make a difference. And yet it probably needs to be in the horizon of when that can happen. But I would hope that given the great demands that we have in our communities across the board, across the multimodal nature of infrastructure, that we can find a way to come together to get it done.

As Bob said here, it shouldn't be that difficult. I know it is, but it shouldn't be that difficult. And we stand here to help however way we can to assist in that.

Mr. DAVIS. Well, thank you all. I know I have no time to yield back, and I want to thank Mr. Gerend, too, for the long-term plans of extending the streetcar to one of the greatest amusement parks in my childhood.

Thank you, Madam Chair. I yield back nothing.

Ms. NORTON. Well, I want to thank the ranking member for his important questions. I do want to note that once Mr. Alger raised the Highway Trust Fund, it brought the ranking member back, who has other business, but he came right back to the table because I think, like his questions indicated, you see a bipartisan desire to do something about the Highway Trust Fund. He seems to have taken off raising the gas tax, but he didn't take off your other two suggestions, Mr. Alger. And if I may recall it for the record, I believe the number is two-thirds of the States have raised their gas tax.

Mr. ALGER. Thirty-one.

Ms. NORTON. Thirty-one States. That is more than two-thirds. So the problem is in the Congress. It looks like nobody would be punished if we did at the Federal level what the States have already done at their level. I am not sure whether we are afraid of our own shadow.

Mr. ALGER. I think it is 96 percent of the people that have been elected to Congress have voted for a gas tax and got reelected. It is something like that. So people should not be scared to vote to raise the gasoline tax.

Mr. DAVIS. It is about the same as the incumbent retention rate all around.

Ms. NORTON. We may have to find some way to get a vote on that matter, or at least to test, to do a kind of whip count and see if we put the figures that the ranking member just gave and that I just gave before people whether we might get another result. We can do a whip count and see whether we are simply going off of what we have done for more than 20 years, and that with these new figures, States may have updated their own thinking about——

Mr. ALGER. If I may, it is very frustrating on our part to talk about this for the last 9 months to 1 year and see absolutely nothing get done. It is really frustrating from industry, from the associations, from the general public. And it seems like we have the opportunity now potentially, now we need to seize that opportunity and make something happen.

Ms. NORTON. Thank you very much. Ms. Davids.

Ms. DAVIDS. Well, thank you to the witnesses for being here today. I appreciate the testimony you have provided in writing and then listening to the suggestions that you have.

So of course I definitely want to talk to Mr. Gerend about not just the Kansas City Streetcar, but the regional collaboration that has happened across the State lines, which I think has been one of the most beneficial things to our area in terms of economic vitality and growth that we have seen over the last number of years.

I want to just dig right into some of the recommendations that you made. There are two really big things that jump out at me, and we have very limited time for each person to testify, so I wanted to jump into the Very Small Starts program and your recommendation of reintroducing that as part of the CIG. And could you just really quickly talk about why you think that would be beneficial and what it would look like?

Mr. GEREND. Sure. Thank you for the question, and it is a pleasure seeing you this morning. We had some experience in the Kansas City region with our Troost MAX BRT project in deploying that, then, was the Very Small Starts program, which was designed to help small-scale projects with high community benefits move through the process, sort of on an expedited timeline with minimal requirements. These are lower risk projects so there is lots of conversation in the room today about small cities, about rural communities.

We definitely think as we look at even the Small Starts requirements and the burden placed on projects even through the Small Starts pipeline that there is a smaller—the smaller end of the projects in that spectrum, there is an opportunity to, once again, carve those out, create another category, effectively, for the small Small Starts project, the Very Small Starts projects, that could help expedite and move low-risk projects with high benefits at a faster pace. It has worked well in the past; we think it is an opportunity; it is worth revisiting again.

Ms. DAVIDS. And so when we think about those high community benefits, it kind of sparks the next recommendation, so that was—or takeaway—the second takeaway was what you were just speaking about. And then a third takeaway which has to do with the project due diligence, and part two—I really get into these things—part two of the due diligence takeaway has to do with the way that the Federal Government looks at the local commitment. And, you know, you specifically mentioned the—I remember seeing this go through the voter-approved tax to secure funding for projects, and some of the other things that have happened in the region that demonstrate a local commitment to investing in these projects, and then to still not have that count.

Can you talk a little bit about what do you think we need to do to make sure that when the people who are on the ground doing what they are supposed to be doing and committing to projects in very real ways still are not—they are not getting that credit in these programs.

Mr. GEREND. Sure, happy to elaborate. So in my written statement it was really about the requirements to enter into engineering through the New Starts pipeline. And with that comes, as was talked about earlier today, some specific requirements related to financial commitment. And many properties around the country are having conversations with FTA about defining commitment, what does that really mean. So in our case, we are fortunate. We have had a voter-approved taxing district dedicated for our expansion effort. It passed 70 to 30. That included a sales and property tax. It demonstrates the value. We have had recently as it relates to—as recently as last week, city council formal ordinances and agreements approved.

It really is, though, an ongoing conversation with FTA about what the Acting Director's comments were related to no additional actions. What specifically does that mean? How does it relate to local processes? How does it relate to State law and annual appropriations of budgeted resources? So really sort of in the weeds.

The point that I would really like to make here as it relates to CIG, and engineering specifically, is that it is still an action and it is authorization and approval to enter into a phase of the process that is still without a Federal commitment. We are not talking about full-funding grant agreement; we are just simply seeking to move into the final phase of the process, the engineering phase, and there are some really high bars as it relates to entering into that phase.

So our recommendation as it relates to the risk assessment, financial readiness, some of those considerations as we are thinking about streamlining the program we think makes sense to reevaluate and reconsider. Do they really have to be located where they are currently located in the process, or could they be criteria that instead of being held against entry into engineering or held against a full-funding grant agreement.

So FTA still has the leverage to require satisfactory responses, but we are not slowing down the projects and we are utilizing the engineering phase on the backend of the process to fully inform project plans, financial plans and ultimately, obviously, the local cost share.

So all to say it is part of a really costly and labor intensive due diligence effort, and we think there are some advantages with deferring some of those requirements to later in the process. And that is what we would suggest the committee consider as you reevaluate the long-term opportunities for streamlining and program improvements.

Ms. DAVIDS. Thank you. I appreciate your testimony, and I yield back.

Ms. NORTON. Thank you very much. We will have another round of questions, and I yield to the ranking member, Mr. Davis.

Mr. DAVIS. Well, thank you all for your comments, and I am glad to hear the chair talk about wanting to have the debate on the long-term solvency of the Highway Trust Fund. I look forward to having that debate at this committee, and I look forward to our Ways and Means Committee, our committee on revenue, have the debate. But I think we here at T&I can help lead the charge on what that debate looks like. And that is why I am glad, you know, you three are at the table.

I know Mr. Alger, your organization has put together options. I mean I have always been for diversification. I mean I enjoy the discussion on the political courage on whether or not to cast a vote or take a vote here in Congress. I believe every vote we take has an impact on whether or not we get reelected or elected in the first place. And frankly, you know, many of the issues that we face are going to be used either for or against any of us. But the bottom line is Members of Congress on both sides of the aisle, we take votes based upon what we think is best for policy.

I mean I can tell you there are good men and women that sit on this committee and serve in this Congress that will not put political considerations ahead of doing what is right for this country. I think we all agree that we ought to have a more funded, well-funded, more solvent, less volatile Highway Trust Fund. It is going to deal with our crumbling roads, our crumbling bridges; it is going to deal with our transit issues, streetcar issues and streetcar extensions. But we have got to stop the discussion on politics when it comes to issues.

I have a distinct concern as a policymaker, how do we actually solve the long-term problems that we have in our Highway Trust

Fund. I spent 16 years as a congressional staffer working with local communities before I got elected making sure that they knew how to fund their long-term projects. So this Highway Trust Fund problem didn't start when I got here 6½ years ago. It started long before this. And we, in this committee, have continued to lead in making sure that we put good funding solutions together, but we can do better.

Now, I hope all of us in this room agree that the roadways are going to look much different in the next 10 years. Let's look at Europe, for example. President Macron said that in the next 10 years he doesn't envision any fossil fuel burning on a roadway in France. You don't think that is going to have an impact on the rest of the EU? Unless they have a Frexit. It is going to be huge. You don't think that is going to come over here?

I mean look, I hope we are selling a lot of Rivian small trucks and SUVs out of my district. We didn't sell enough Mitsubishis which means that plant shut down. And now it is reopening. So we look ahead. I want to commend ARTBA for helping to lead the charge in the past, for helping to look at diversification. That is leadership. We need to do more of that and less about politics here in this committee. That is what I hope we do here.

Now, I mentioned diversification. I got 1 minute and 36 seconds left after my 3½-minute filibuster. Who wants to answer what can we do to diversify? Do you agree that we need to diversify, number one. And what do you recommend?

Mr. ALGER. So I will take the lead on that. You know, we have had the BOLD Act in place at ARTBA for quite some time now. We have been talking about this. As I talked about, 31 States have done some sort of a gas, diesel tax increase. It is nonpolitical, it is simple, it is easy, it is nothing that we shouldn't be doing anyway.

ARTBA members have long been open to user-based growing revenue alternatives to the motor fuels user fee to support the Nation's aviation infrastructure system. The 6.25-percent air cargo tax was imposed in 1972 as a cost of moving goods for transportation. Congress could apply the same concept to surface transportation infrastructure through either a commercial truck air cargo tax companion or a vehicle-miles tax on trucks.

And then combining the freight fee with electric user vehicle fees collected on the battery manufacturers level or as a registration fee, like 27 States do now, can serve as a strong base alternative to motor fuel tax increases. Or better yet, combine the two and then you have even got two mechanisms that will adjust the tax.

Mr. DAVIS. And those are the types of debates that we need to have here. Look, this committee, during my time here, was asked by the barge industry—our water resources, our locks and dam, our inland waterway and navigation system, it runs through my district in Illinois—it is so important for us to get products out into the global marketplace, they asked for a voluntary fee increase. You know what? It passed unanimously, I believe, out of this committee room. Not one person has been criticized for that because it was working within industry; we were working within the institution.

Now my biggest problem is, is the Corps of Engineers going to spend that money wisely. We went from no money to wondering what to do; now we have a surplus, wondering if the Corps of Engineers is going to actually invest in upgrading our inland waterway system. That is a good problem to have. We don't have that in highways and bridges and transit right now. But this committee leads. This committee does it, and I look forward to working with the chair to make sure we have good commonsense solutions like that coming forward.

Mr. Alger, thank you for those other options. Thank you for your time. And Mr. Skoutelas, Mr. Gerend, thank you for your time. I promise I won't ask another round of questions. I yield back.

Ms. NORTON. Well, that was a very useful round 2 to the close on it. I thank the ranking member. You can see the ranking member is searching for ways to respond to your testimony indicating what is necessary if we are going to proceed, and the fact that the issue of gas tax increases has become so prominent in this testimony was not one shunned by the ranking member, but encouraged more questions for him. And I want to ensure him that I want to work with him to find a way to get through this conundrum that the States have somehow managed to get through, your figure of 31 States. My State, the District of Columbia, has raised its gas tax. I wouldn't be surprised if the ranking member's State has as well.

Mr. DAVIS. They just doubled it.

Ms. NORTON. Just doubled it, he says. So we have lots of encouragement from you and from our own jurisdictions. I want to say to the ranking member how much I appreciated his forward-thinking remarks on how France will get to no fossil fuels in no time flat because it shows his understanding and concern about climate change, indeed about the revenue that could be yielded by doing what France is doing, and that is turning away from fossil fuel to other modes of energy.

So I want to indicate, I want to thank you, I was not aware that France was that far ahead of us, and I want to encourage the ranking member that I would like very much to work with him on this issue, as well, which is very much related to our committee. I think the transportation is second in use of fossil fuels in the United States.

If there are no more questions, then I would certainly like to thank our witnesses. You were held overtime because of the interest of the ranking member and me in your testimony. I want to thank each and every one of you for very helpful testimony today. Your contribution has not only stimulated us, but will certainly go into our thinking about the 2020 reauthorization.

I ask unanimous consent that the record of today's hearing remain open until such time as our witnesses have provided any answers that may have been requested by Members or that they, themselves, want to submit in writing. I thank the ranking member for his questions, and I ask unanimous consent that the record remain open for 15 days for any additional comments and information submitted by Members or witnesses to be included in the record of today's hearing.

Without objection, so ordered.

If no other Members have anything to add, the subcommittee stands adjourned.

[Whereupon, at 12:55 p.m., the subcommittee was adjourned.]

SUBMISSIONS FOR THE RECORD

Prepared Statement of Hon. Sam Graves, a Representative in Congress from the State of Missouri, and Ranking Member, Committee on Transportation and Infrastructure

Thank you, Chairwoman Norton, and thank you to our witnesses for being here today.

I also want to welcome Mr. Tom Gerend—a fellow Missourian who's testifying on behalf of the Kansas City Streetcar Authority.

The Kansas City Streetcar Main Street Extension project is currently working its way through the Captial Investment Grant (C.I.G.) process.

To date, the streetcar has transported more than 6 million passengers along a corridor in Kansas City that has more than $3 billion in economic development underway leading to more than 36 percent increase in the market value of property within the transportation district.

The expansion that is being applied for will hopefully build upon this record and deliver a strong return on investment for the taxpayers and for the city.

Today's hearing enables the Committee to:

- Exercise its responsibility for oversight of Federal transportation program spending; and
- Gather ideas on how to improve this program as we work to develop the next surface transportation reauthorization bill.

Congress established clear criteria and a transparent selection process for evaluating projects that are seeking C.I.G. funding.

We need to maintain proper oversight of the taxpayer money that is being used for these projects across the country.

Also, these Federal investments need to go to projects that provide transit services that our constituents will want to use.

At a time when many people are seeking different mobility options, Congress needs to ensure that federal investments in transit projects relieve congestion in local communities, make commutes safer, and are a good use of taxpayer money. With that, I look forward to hearing from today's witnesses.

I yield the balance of my time.

Prepared Statement of Hon. Eddie Bernice Johnson, a Representative in Congress from the State of Texas

Thank you, Madam Chairwoman.

It is with great appreciation that I thank the Chairwoman for holding this hearing today, as it allows us to review the Federal Transit Administration's (FTA's) implementation of Capital Investment Grant (CIG) Program, considering the Administration's FY 2018 and FY2019 budget requests to phase out the program, and the June 29, 2018 FTA Dear Colleague letter to transit agencies.

In the FTA's Dear Colleague letter of June 29, 2018, FTA stated it would publish revised policy guidance on how it administers this program for notice and comment. Today, I am eager to hear from the Acting FTA Administrator on the progress of publishing its revised policy guidance and the comments received in response.

Moreover, in her written testimony today, Acting Administrator Williams noted that the FTA is complying with statutory requirement in its implementation of the CIG program. That assertion does not seem to be accurate.

Specifically, the FTA's Dear Colleague letter changed statutory requirements for the CIG program by not allowing the use of other U.S. Department of Transportation loans, which would be repaid by non-Federal funds, to be considered as project sponsor funds. Thus, FTA causes project sponsors to raise additional funds that are not required by statute.

Finally, FTA is placing the blame for all delays in processing an application for a CIG grant on local officials without taking any responsibility for its own internal processing and changing of criteria in assessing applications that are contrary to the statute. Only two CIG Funding Agreements were executed and not withdrawn in 2017 and 2019. Why does it take so long for the FTA to review and approve an application?

I am ready to work with my colleagues in fulfilling our oversight responsibilities and ensuring FTA's implementation of this program is complying with statutory requirements.

I look forward to hearing your testimony and solutions from stakeholders to improve FTA's implementation of the Capital Investment Grant Program.

Thank you. I yield back.

Report, Subcommittee on Highways and Transit, Majority Staff, July 16, 2019, Submitted for the Record by Hon. Peter A. DeFazio

Committee on Transportation and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Peter A. DeFazio
Chairman

Katherine W. Dedrick, Staff Director

Sam Graves
Ranking Member

Paul J. Sass, Republican Staff Director

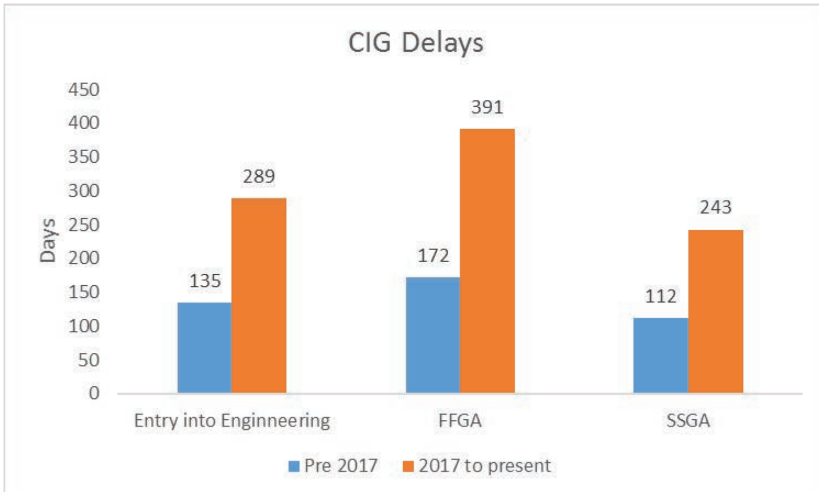
JULY 16, 2019

TO:	Members, Subcommittee on Highways and Transit
FROM:	Majority Staff, Subcommittee on Highways and Transit
RE:	Oversight of the Federal Transit Administration's Implementation of the Capital Investment Grant Program

Transit industry stakeholders have raised concerns about the implementation of the Capital Investment Grant Program (CIG) in recent years, including the slow pace of decision-making and new policy guidance leading to costlier projects and a higher required local cost share. In order to further examine concerns raised with the Committee and to ensure compliance with the law, Chairman DeFazio and Ranking Member Graves sent a bipartisan letter to the Federal Transit Administration (FTA) and dozens of transit agencies on March 8, 2019, seeking "data that will allow us to conduct a quantitative analysis of the CIG program and its operations under the FAST Act."

The findings below are based on a majority staff review of data provided to the Committee. Results have been consolidated to ensure the identity of individual projects or agencies remain confidential. Analysis of certain project data under the CIG program and the findings, detailed below, corroborate the concerns raised by transit agencies.

Finding 1: Transit agencies face significantly longer timeframes for decision-making by FTA under this Administration



Transit agencies have continued to express frustration over the long wait times for project approvals and the lack of clear and timely communication from FTA on the causes of a delay or a timeline for approval. A review of the data confirms significantly longer approval times for decisions under the CIG program by this Administration. The analysis examined the number of days to get approval into Engineering and to execute Full Funding Grant Agreements (FFGAs) for New Starts projects and Small Starts Grant Agreements (SSGAs) for Small Smarts projects.[1]

The number of days for approval more than doubled under this administration, demonstrating a signicant delay in project approval. These delays affected projects regardless of their size, indicating that the delays had nothing to do with the complexity of projects.

Finding 2: FTA actions have resulted in at least $845 million in extra costs for transit agencies

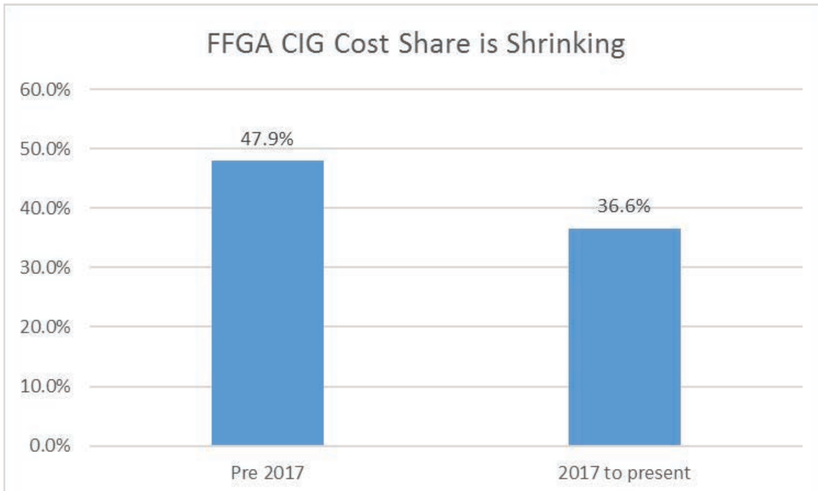
The risk assessment is a third party assessment of the project risks and their effects on the project's timeline and cost estimate. It also calculates the amount of contingency funding that FTA will require the project sponsor to have in order to cover potential cost overruns.

The Committee requested information from transit agencies documenting higher project costs resulting from changes in the risk assessment process and delays in approving projects, and reviewed aggregated data provided by a subset of transit agencies willing to report data. Changing the probability threshold in the risk assessment process from 50 percent to 65 percent added an additional $650 million to total project costs for these projects. In addition, the data also revealed $195 million in additional project costs from delays in the approval process.

In total, the data revealed approximately $845 million in additional project costs created unnecessarily by FTA actions. These additional costs were generally covered by local dollars, forcing local governments to scramble to pay for federal inaction. The identified cost overruns do not represent costs for all agencies, only a subset from those willing to report them, and therefore is an incomplete figure.

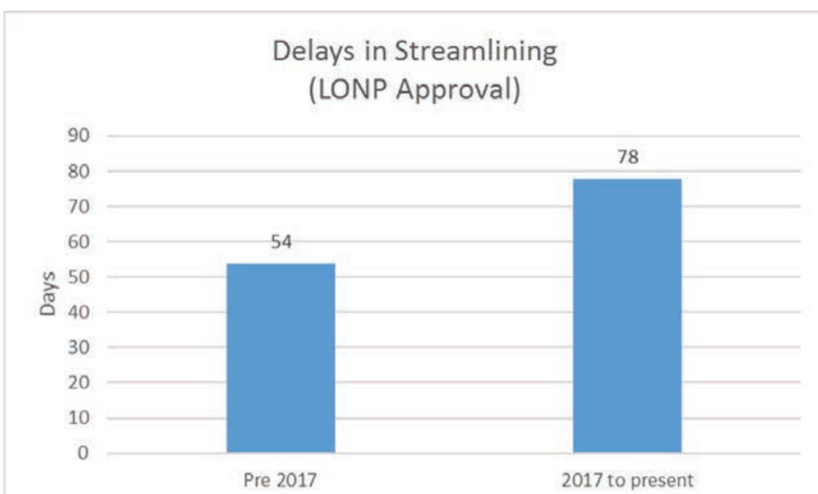
[1] Full Funding Grant Agreement, (FFGA) is a multiyear agreement between the federal government and a transit agency that establishes the terms and conditions for federal financial participation, including the maximum amount of federal funding that is committed. A Small Starts Grant Agreement (SSGA), is similar to an FFGA but for a transit project seeking less than $100 million in a CIG grant and typically commits the funding in a single year.

Finding 3: The federal cost share for New Starts projects is shrinking



The Committee has also been made aware that transit agencies have felt pressured by FTA staff to seek lower federal shares in order to be approved for a CIG grant. The data provided demonstrates the effect of this pressure; *the CIG cost share for New Start projects has dropped over 10 percent in the last two years*. The data reveals that currently, the average CIG cost share for New Starts projects is 36.6 percent. This is below the arbitrary 40 percent cap that FTA has unofficially communicated to transit agencies should be their cost share goal. This unofficial policy is directly contrary to 49 U.S.C. § 5309(l)(5), which states: "[n]othing in this section [49 U.S.C. § 5309] shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost."

Finding 4: Project sponsors are waiting longer for approval to use streamlining tools

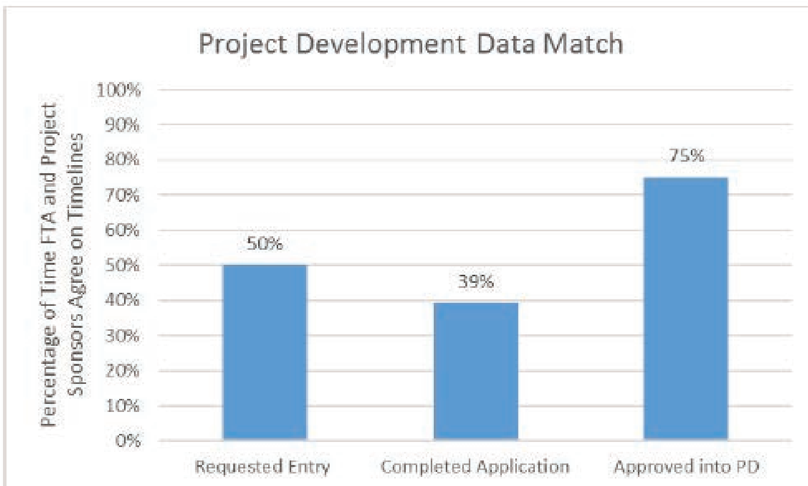


CIG projects move through a lengthy and strenuous process. Upon nearing final project approval, project sponsors may request a Letter of No Prejudice (LONP) to allow them to begin work before final approval on the most time sensitive components of the project. LONPs can lead to significant cost savings and may reduce the potential for schedule delays later in the project.

LONPs are not a commitment of funds, but a cost saving measure and streamlining tool. Given the importance the Administration has placed on streamlining project approvals, expediting LONPs would be logical. *However, committee data shows that the number of days required to approve a LONP rose by 44 percent in the current Administration*.

Finding 5: Transit agencies and FTA are working from different timelines

A comparison of the data FTA submitted and the data transit agencies submitted revealed large disparities in terms of timelines in the Project Development phase. *The dates provided by FTA and transit agencies matched as little as 39 percent of the time*.



The data shows that FTA and project sponsors are frequently not in agreement on the date a project moves from one phase to the next. This finding raises concerns about a lack of coordination, understanding, and bureaucratic complexities in the CIG program. This finding also supports calls for a CIG program dashboard.

Statement of Randal O'Toole, Senior Fellow, Cato Institute, Submitted for the Record by Hon. Sam Graves of Missouri

My name is Randal O'Toole and I'm a senior fellow with the Cato Institute, which is located at 1000 Massachusetts Avenue NW, Washington DC. I've worked on urban transportation issues for 24 years, including writing numerous papers on the transit capital improvement grant program, also known as New Starts.

New Starts is one of the most destructive programs the United States has ever inflicted upon its cities. It is comparable to the federal urban renewal programs created in 1949 that were devastatingly critiqued by Jane Jacobs in her book, *The Death and Life of Great American Cities*. New Starts has prompted transit agencies to go heavily into debt in order to build antiquated transportation systems whose high costs and low capacities do nothing to solve, and in many cases exacerbate, urban transportation problems.

The first problem with New Starts is that it is an open-ended fund—what I call an "open bucket" fund—that encourages transit agencies to develop the most expensive transit projects possible in order to get the most federal money. As a result, the cost of otherwise similar projects has increased by more than ten times since the early 1980s.

In 1981, San Diego built the first modern light-rail line without any federal support. It spent an average of about $7 million a mile on the line, which in today's dollars is $17 million a mile.

Later in the 1980s, several cities including Portland, Sacramento, and San Jose used federal highway turn-back funds, in which cities were allowed to use federal funds for cancelled interstate highways on transit capital improvements instead, to build light rail. They chose light rail because it was expensive and a way to absorb all of the highway funds. They spent an average of about $30 million a mile, in today's dollars, building those lines.

By the 1990s, under New Starts, the average cost of light-rail projects had risen to about $75 million a mile in today's dollars. In the 2000s, it had grown to more than $100 million a mile. Today, the average cost of light-rail projects on the New Starts project list is more than $220 million a mile, and none are less than $110 million a mile. This increase in costs is mainly if not solely because transit agencies have competed with one another to get "their share" of federal New Starts funds.

The second major problem with New Starts is that it has encouraged cities to adopt obsolete technologies so they can spend this much money. Light rail and streetcars were rendered obsolete in 1927, when a bus designer named William Fageol developed the first bus that was both less expensive to buy and less expensive to operate than streetcars. In the following ten years, more than 500 American cities converted their streetcars to buses. The supposed General Motors streetcar conspiracy, which began in 1937, was actually an effort by General Motors to capture market share from Fageol, not an effort to shut down streetcars which was happening anyway.

The main reason, other than cost, why light rail is obsolete is that it is low-capacity transit, despite claims by transit agencies to the contrary. The "light" in light rail refers not to weight—light-rail cars actually weigh more than heavy-rail cars—but to capacity. According the American Public Transportation Association's transit glossary, light rail has "a light volume traffic capacity."[1] Buses, in fact, have much higher capacities to move people than most rail.

This seems counterintuitive since a bus can hold, at most, about 100 people while light-rail cars can hold 150 and be strung together in trains of two, three, or four cars. But for safety reasons, a light-rail line can move no more than about 20 trains per hour, limiting its capacity to 6,000, 9,000, or 12,000 people per hour (depending on the number of cars).

By comparison, busways can safely move hundreds of buses per hour. There are busways around the world that take up no more land than a light-rail line but routinely move twice as many people per hour as the highest-capacity light-rail line in the United States. As a report from the Institute for Transportation & and Development Policy concluded, "there are currently no cases in the US where LRT [light-rail transit] should be favored over BRT [bus-rapid transit]."[2] Yet, thanks mainly to New Starts, it has been built in 29 urban areas.

Transit agencies' claims that rail transit stimulates economic growth are contradicted by research funded by the Federal Transit Administration. This concluded that "Urban rail transit investments rarely 'create' new growth, but more typically redistribute growth that would have taken place without the investment."[3] In other words, the presence of a rail line might influence where a new development is located, but the development would have taken place with or without the rail line.

A more recent study found that, far from contributing to economic growth, spending on unproductive infrastructure can lead to "economic fragility."[4] This can be seen in San Jose's Valley Transportation Authority, which has gone so heavily into debt building light rail that, in any recession, the agency must choose between making heavy cuts to transit service or defaulting on its debt. As a result, it has lost more than a third of its riders since its 2001 peak and ridership in 2018 was the lowest in its history. It can also be seen in the Los Angeles Metro system, which cut bus service and raised fares in order to help fund new light-rail lines, with the result that it has lost more than four bus riders for every new rail rider.[5]

Indeed, the construction of rail transit lines funded by New Starts has rarely been good for transit riders. Dallas Area Rapid Transit is proud of the fact that it has built more miles of light rail than any agency in the country. What it fails to mention is that, before it started building light rail, transit carried 2.8 percent of Dallas-area commuters to work. By 2017, this had declined to 1.6 percent. Portland is supposed to be a great light-rail success story, but in 1980, before it started building light rail, transit carried 9.9 percent of commuters to work. Today, Portland has five light-rail lines, a commuter-rail line, and a streetcar line, and transit carried just 7.9 percent of commuters to work in 2017.

Other reasons used to justify expensive projects are that they help the poor and are good for the environment. Neither are true. Most low-income people today own a car and the number who depend on transit to get to work is very small. Census data show that people who earn less than $25,000 a year were significantly less likely to commute by transit in 2017 than they were a decade ago, whereas people who earn more than $75,000 are significantly more likely to commute by transit than a decade ago. Indeed, the above-$75,000 income class is transit's biggest growth market, and people in this income class hardly need transportation subsidies.[6] These trends are partly because New Starts has encouraged transit agencies to build expensive rail lines catering to the middle- and upper-middle class, while they cut service to low-income neighborhoods.

As for transit being greener than driving, that is only true in a handful of places. Outside of New York, San Francisco, Portland, and Honolulu, transit uses more energy and emits more greenhouse gases per passenger mile than the average car. New rail transit lines may save a little energy compared with buses, but the energy and greenhouse gas cost of building those lines is so large that it would require many decades of savings to pay back that cost.[7]

Streetcars and new commuter rail lines are just as bad as light rail. As illustrated by Washington's H Street streetcar, streetcars are basically just a way to spend federal dollars, as they provide no economic or transportation benefits. Many recent commuter-rail lines, including lines in Austin, Dallas-Ft. Worth, Minneapolis, Miami-Ft. Lauderdale, Nashville, Orlando, Portland, and Salt Lake City, were so expensive and carry so few riders that it would have been less expensive to give every daily round-trip riders a new Toyota Prius every other year—and in some cases every year—for the life of the rail project.[8] In 2017, fare revenues from Orlando's SunRail didn't even pay for the cost of operating the ticket machines, much less the trains.[9]

Heavy-rail lines built in Baltimore, Los Angeles, and Miami have all flopped as well. While heavy rail may make sense in New York City, spending more than $2 billion a mile building more subways doesn't make sense, especially when the New York Metropolitan Transportation Authority has a $41 billion debt, a $60 billion maintenance backlog, and $20 billion in unfunded pension and health care obligations.

Peter Rogoff, who was President Obama's first administrator of the Federal Transit Administration, said it best: "paint is cheap; rail systems are extremely expensive." By that, he meant that "you can entice even diehard rail riders onto a bus, if you call it a 'special' bus and just paint it a different color than the rest of the fleet," in other words, start a bus-rapid transit line.[10]

In conclusion, Congress should not reauthorize New Starts or Small Starts. If Congress wants to continue contributing funds to transit agencies, the money now going to New Starts should be put in a formula fund whose formula depends heavily on the fare revenues collected by transit agencies. Transit agencies should be allowed to use these funds, without a local match, for buying buses, rehabilitating worn-out transit infrastructure, or building new infrastructure. Basing the formula on fares will more fairly distribute funds across the country and encourage transit agencies to put their riders first, and to emphasize programs that increase ridership rather than ones that increase costs.

NOTES

1. *Glossary of Transit Terminology* (Washington: American Public Transit Association, 1994), p. 23, tinyurl.com/y5m5tm6x.

2. Walter Hook, Stephanie Lotshaw, and Annie Weinstock, *More Development for Your Transit Dollar: An Analysis of 21 North American Transit Corridors* (New York: Institute for Transportation & and Development Policy, 2013), p. 21, tinyurl.com/y3yxl2ge.

3. Robert Cervero and Samuel Seskin, *An Evaluation of the Relationships Between Transit and Urban Form* (Washington: Transit Cooperative Research Program, 1995), p. 3, tinyurl.com/24ggm2j.

4. Atif Ansar, Bent Flyvbjerg, Alexander Budzier, and Daniel Lunn, "Does Infrastructure Investment Lead to Economic Growth or Economic Fragility? Evidence from China," *Oxford Review of Economic Policy*, Volume 32, Number 3, 2016, pp. 360–390, arxiv.org/pdf/1609.00415.pdf.

5. *National Transit Database Historic Time Series* (Washington: Federal Transit Administration, 2018), table TS2.1, tinyurl.com/y52ta9t5.

6. For more information on ridership trends, see Randal O'Toole, *Transit's Growing Costs Drive Away Low-Income Commuters* (Camp Sherman, OR: Thoreau Institute, 2019), ti.org/pdfs/TPB1.pdf.

7. Randal O'Toole, *Does Rail Transit Save Energy or Reduce Greenhouse Gas Emissions?* (Washington: Cato Institute, 2008), tinyurl.com/y2uz7f4d.

8. For an explanation of how this was calculated as well as data for 20 different commuter-rail systems, see Randal O'Toole, "Dumb Trains," *The Antiplanner*, November 27, 2018, ti.org/antiplanner/?p=15347.

9. Kevin Spear, "SunRail Ticket Revenue is Less Than Ticketing Expense," *Orlando Sentinel*, February 24, 2017, tinyurl.com/y4z4jj8h.

10. Peter Rogoff, "Next Stop: A National Summit on the Future of Transit," presentation at the Federal Reserve Bank of Boston, May 18, 2010, tinyurl.com/y6o24puu.

APPENDIX

QUESTION FROM HON. PETER A. DEFAZIO TO HON. K. JANE WILLIAMS, ACTING ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION

Question 1. Acting Administrator Williams, I'd like to understand the final stages of the CIG approval process better.

After career staff verify a project has met all the legally required metrics, please tell the Committee how many political appointees, and how many offices within FTA and the Office of the Secretary have to approve the project before a grant agreement is signed.

ANSWER. For a CIG construction grant agreement, FTA officials in the budget, legal, program, policy, and regional offices review and approve the agreement prior to the FTA Administrator's review. Once the FTA Administrator approves the agreement, it is forwarded to officials in the Office of the Secretary to review and concur in the Acting Administrator's recommendations in order to ensure compliance with Departmental policy and Federal law prior to Secretarial action.

QUESTIONS FROM HON. HENRY C. "HANK" JOHNSON, JR. TO HON. K. JANE WILLIAMS, ACTING ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION

Question 2. Your testimony speaks to local issues that can inhibit projects from advancing through the CIG pipeline. However, several of these impediments are generated by FTA itself. For example, the transit agency is forewarning project sponsors that they'll likely need to overmatch funding to even receive a grant. This isn't federal law, and wouldn't be enforced in a court of law.

What's the plan to move these projects through the pipeline if local sponsors are unexpectedly required to foot larger portions of the bill?

ANSWER. The law specifically requires FTA to consider the amount of local financial commitment that exceeds the required non-government share of the cost of the project. (49 U.S.C. 5309(f)(2)(E)). This has been a long-standing consideration for the program by all Administrations dating back to the program's origins in the mid-1970s.

By conducting effective project risk assessments, FTA and the project sponsor can identify more accurate project cost estimates prior to entry into Engineering for New Starts and Core Capacity projects, creating the opportunity for adjustments to be made to the project budget earlier in the process.

Projects continue to move through the CIG pipeline. Since January 2017, FTA has advanced funding for 25 projects totaling $7.6 billion in CIG funding commitments. FTA maintains close contact with project sponsors throughout the process to maximize coordination.

Question 3. If FTA is committed to funding robust public transportation systems, why are they insisting, beyond what's indicated in statute, that project sponsors allot more funds than they're required to for these projects?

ANSWER. FTA administers the CIG program in accordance with statutory requirements, which establish a maximum Federal share (49 U.S.C. 5309(l)(1)(B)). Further, the law explicitly requires that FTA consider the extent to which a CIG project has a local financial commitment that exceeds the required non-government share of the cost of the project. (49 U.S.C. 5309(f)(2)(E)).

Question 4. In the Project Development phase of New Starts and Core Capacity projects, applicants are required by the National Environmental Policy Act (NEPA) to conduct an environmental review of the projects for which they're seeking CIG funding.

The Trump Administration has taken steps to roll back the environmental review process for federal infrastructure projects—is that correct?

ANSWER. Executive Order (EO) 13807 "Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects" was signed on August 15, 2017. EO 13807 does not roll back the environmental review process but instead addresses the need for a more efficient, coordinated, predictable, and transparent Federal environmental review process for infrastructure projects while protecting public health, safety, and the environment.

Question 5. Can you explain how these rollbacks to environmental review process are compatible with FTA's requirements for the Project Development phase of their grant approval process?
ANSWER. EO 13807 does not roll back the environmental review process.

Question 6. Does FTA have any concern that they may be approving projects improperly vetted for their potential environmental threat to nearby ecosystems or communities?
ANSWER. FTA does not have any concerns. All projects must complete the NEPA process before they are eligible for CIG funding.

QUESTIONS FROM HON. ALAN S. LOWENTHAL TO HON. K. JANE WILLIAMS, ACTING ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION

Question 7. Is FTA tracking cost increases incurred by local governments that have bids expire while waiting for a Full Funding Grant Agreement?
ANSWER. The terms and details of project procurements are negotiated by CIG project sponsors. FTA tracks project sponsors' progress on advancing design and procurements for proposed projects, but is not involved in the contract preparations, reviews, or negotiations. Project sponsors develop and manage the project schedule and, if necessary, seek a Letter of No Prejudice from FTA to allow a contract award to proceed with work in advance of a CIG construction grant award.

Question 8. What steps is FTA taking to address delays and streamline the New Starts process to avoid these cost increases?
ANSWER. FTA works closely with project sponsors during each phase of the CIG process to communicate next steps and requirements. The timing of CIG construction grant awards depends on project sponsors completing the requirements in law. Project schedules can, and often do, change as project sponsors work to get actions completed at the local level—such as obtaining local funding commitments, completing all critical third-party agreements, and developing a firm and final cost, scope, and schedule.

QUESTIONS FROM HON. SAM GRAVES TO HON. K. JANE WILLIAMS, ACTING ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION

Question 9. How many days, on average, did it take to issue a letter of no prejudice during the first two years of the Obama Administration?
ANSWER. Between January 20, 2009 and December 31, 2010, the first two years of the Obama Administration, FTA approved 31 Letters of No Prejudice (LONP). The average timeframe to approve the LONPs from the date complete information was submitted to FTA was 40 days.

Question 10. How many days, on average, did it take to issue a letter of no prejudice during the first two years of the Trump Administration?
ANSWER. Between January 21, 2017 and December 31, 2018, the first two years of the Trump Administration, FTA approved 15 LONPs. The average timeframe to approve the LONP from the date complete information was submitted to FTA was 53 days.

Question 11. When did the Federal Transit Administration change the probability threshold from 50 to 65 as part of the risk assessment process?
ANSWER. From 2007–2016, FTA required sponsors to meet a 65 percent probability threshold that the project could be completed within budget. It was only recently (from mid-2016 to mid-2018) that FTA used the 50 percent probability threshold.

a. What was the reason for that change?
   ANSWER. FTA is required by law to ensure "the reliability of the forecasting methods used to estimate project costs." (49 U.S.C. 5309(d)(2)(B)(i)). FTA has found that better cost estimates improve project delivery and protect the taxpayer investment.

b. What is the impact of that change?

ANSWER. FTA's data demonstrates that the current risk assessment process reduces unnecessary costs and delays by identifying and mitigating problems earlier in the process. The return to the 2007–2016 risk assessment 65 percent probability threshold has ensured that projects are more likely to be delivered within budget and gives the public more accurate information about project costs and budgets, so that taxpayer dollars are invested responsibly. This has significantly improved the delivery of CIG projects within budget and on schedule.

Comparing 13 completed projects that did not use the 2007 risk assessment tool with 28 completed projects that did use the tool, the percentage of projects completed within budget increased from 62 to 89 percent and the percent completed within schedule increased from 69 to 79 percent. FTA's data demonstrates that the current risk assessment process reduces unnecessary costs and delays by identifying and mitigating problems early. When FTA tested the 50 percent probability threshold for two years, there was evidence that an increased number of projects would exceed their budgets.

c. Did it increase costs for project sponsors?

ANSWER. The risk assessment process does not change or increase what it will actually cost a project sponsor to construct a project. FTA is required by law to ensure "the reliability of the forecasting methods used to estimate project costs." (49 U.S.C. 5309(d)(2)(B)(i)). The risk assessment is the tool FTA uses to meet this requirement.

In instances where the project sponsor's cost estimate is determined not to be reliable, based on the results of the risk assessment, FTA would require the sponsor to develop a more reliable cost estimate and corresponding project budget. The risk assessment process therefore ensures that project cost estimates are realistic and achievable.

d. Was there a prior time when the probability threshold was 65? If so, when?

ANSWER. From 2007 to 2016, FTA required sponsors to meet a 65 percent probability threshold that a project could be completed within budget. It was only recently (from mid-2016 to mid-2018) that FTA used the 50 percent probability threshold.

QUESTIONS FROM HON. RODNEY DAVIS TO HON. K. JANE WILLIAMS, ACTING ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION

Question 12. What steps can the Administration take to ensure that communities in rural areas can take advantage of the Capital Investment Grant program?

ANSWER. Although small urban project sponsors have secured CIG grants in the past, primarily through Small Starts Bus Rapid Transit projects, the CIG program evaluation criteria are structured such that densely-populated corridors are most likely to be successful in the CIG program. FTA will continue working with Congress to ensure that as many communities as possible can benefit from our Federal partnership, whether through the CIG program or other FTA opportunities.

Question 13. Are there any policy proposals that this Committee should consider as it works to develop the next surface transportation reauthorization bill that would further this objective?

ANSWER. FTA routinely communicates with Congressional and industry stakeholders. FTA will certainly continue working with Congress through surface transportation reauthorization discussions and other avenues that to ensure as many communities as possible can benefit from our Federal partnership, whether through the CIG program or other FTA opportunities.

QUESTION FROM HON. ROB WOODALL TO HON. K. JANE WILLIAMS, ACTING ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION

Question 14. Charts were displayed at the hearing that illustrated concerns with the Federal Transit Administration's (FTA) implementation of the Capital Investment Grant program.

Can FTA please provide the Committee with any information or documentation that clarifies or explains those charts?

ANSWER. Overall, as stewards of billions of taxpayer dollars, including one of U.S. DOT's largest discretionary grant programs, FTA must be certain that funding decisions are properly reviewed to ensure that projects are delivered within budget and on schedule. FTA does have specific responses to the Committee's findings displayed at the hearing as follows:

Finding #1: Transit agencies face significantly longer timeframes for decision-making by FTA under this Administration

First, FTA would note that the Committee based its findings on the date of the project sponsor's initial request for approval, not the date on which all required information was received and considered complete by FTA. FTA cannot act on incomplete requests, as there can be significant delays in acquiring this information in order to complete their request.

In addition, project timelines often vary, primarily due to local decisions or other issues outside of FTA's control. Simply measuring the days between a request and an approval does not capture project-specific factors. For example, the Committee considers the Maryland Purple Line project to have waited 455 days for an FTA decision on its Full Funding Grant Agreement (FFGA). The data does not note that, for over a year of that timeframe, the project was subject to litigation in Federal court—including a court order precluding FTA from executing the FFGA, so that FTA could not act until the litigation was resolved.

Finding #2: FTA actions have resulted in at least $845 million in extra costs for transit agencies

The risk assessment process does not change or increase what it will cost to construct a project. FTA is required by law to ensure "the reliability of the forecasting methods used to estimate project costs." (49 U.S.C. 5309(d)(2)(B)(i)). The risk assessment process is the tool FTA uses to meet this requirement. In instances where the project sponsor's cost estimate is determined to be insufficiently reliable based on the risk assessment results, FTA requires the sponsor to develop a more reliable cost estimate and corresponding project budget. This is simply good governance—the risk assessment process ensures that project cost estimates are realistic and achievable with budgets sufficient for project delivery.

Finding #3: The federal cost share for New Starts projects is shrinking

The statute requires FTA to consider the local financial commitment that exceeds the required non-government share for New Starts projects. (49 U.S.C. 5309(f)(2)(E)). This has been a longstanding consideration since the program began in the mid-1970s. FTA works to support as many projects as possible throughout the nation, in accordance with Federal law.

Finding #4: Project sponsors are waiting longer for approval to use streamlining tools

FTA would again note that the Committee based its findings on the date of the project sponsor's initial request for approval, not the date on which FTA found the request to be complete and include all required information. In addition, there were several extenuating factors affecting the approval of Letters of No Prejudice (LONPs), including:

- A 35-day lapse in appropriations, the longest Federal government shutdown in history, which affected at least two LONP approval timeframes.
- FTA determined it was prudent to consider whether to allow construction activities to begin on several projects seeking LONPs since the projects faced significant challenges, such as environmental lawsuits and vehicle manufacturer compliance issues.

Finding #5: Transit agencies and FTA are working from different timelines

Unfortunately, this data was not provided to FTA, so we cannot comment.

QUESTION FROM HON. GARY J. PALMER TO HON. K. JANE WILLIAMS, ACTING ADMINISTRATOR, FEDERAL TRANSIT ADMINISTRATION

Question 15. After the Obama Administration lowered the CIG probability threshold from P65 to P50, did the FTA see an increase in the number of CIG projects that would have failed to meet the P65 threshold?

ANSWER. Comparing 13 completed projects that did not use the 2007 risk assessment tool with 28 completed projects that did use the tool, the percentage of projects completed within budget increased from 62 to 89 percent and the percent completed within schedule increased from 69 to 79 percent. FTA's data demonstrates that the current risk assessment process reduces unnecessary costs and delays by identifying and mitigating problems early. When FTA tested the 50 percent probability threshold for two years, there was evidence that an increased number of projects would exceed their budgets.

QUESTIONS FROM HON. PETER A. DEFAZIO TO ROBERT E. ALGER, CHAIRMAN OF THE BOARD, THE LANE CONSTRUCTION CORPORATION, ON BEHALF OF THE AMERICAN ROAD & TRANSPORTATION BUILDERS ASSOCIATION

Question 1. Mr. Alger, your testimony highlights an issue that was the subject of our first hearing this Congress in the Transportation Committee—the impacts and costs of delaying projects. Your testimony cites that costs for delivering transit projects increases an average of five percent annually, which is twice the general inflation rate. You state that a project that costs $100 million in 2019 will cost $163 million in 2029. Your testimony demonstrates that every day, failure to invest and advance projects to construction is literally throwing money away.

Do you believe FTA truly understands that by dragging their feet on project approvals, they are wasting money, forgoing good jobs, and delaying economic benefits to communities across the country?

ANSWER. Project delays are costly and problematic regardless of their origin. These costs are significant and add up over time. Whether project approvals, environmental reviews, or utility relocation are causes of delay, the longer improvements wait, the more expensive they become.

Funding uncertainty is also a proven driver of delays in investment and increased project costs. While many transit initiatives, like the Capital Investment Grant (CIG) program, are traditionally supported with general revenue dollars through the annual appropriations process, continued uncertainty or disruption to Highway Trust Fund (HTF) program funding will adversely impact all federal surface transportation programs. As a recent example, during the run-up to the FAST Act, such uncertainty about federal investment and HTF solvency caused seven states to delay roughly $1.6 billion in planned transportation projects.

To avert additional costly delays, ARTBA urges Congress to fix the HTF revenue shortfall once and for all.

Question 2. Mr. Alger, your testimony shows that in 27 States, Federal funds account for 60 percent or more of transit capital outlays. Only 6 States rely on Federal funds for less than 40 percent of their transit capital needs. New York is one of those States, where Federal dollars make up 37 percent of transit capital budgets. That means New Yorkers supply the remaining 63 percent of funds needed for transit capital, not to mention all costs to operate the largest subway system in the country. New Jersey is similarly self-sufficient with 58 percent of its capital needs coming from State and local funds, and California at 66 percent State and local funds.

Would you agree that States who provide a significant share of funding for their transit capital needs deserve a robust partnership with the Federal government to advance critical projects?

ANSWER. As indicated by the map provided in ARTBA's testimony, federal funds are a vital part of transit capital outlays in every state and the District of Columbia. More than 2,600 transit agencies used federal funds to support capital outlays, demonstrating the strong partnership between state and local transit agencies and the federal government.

However, both sides of this partnership must increase investment in transit programs to make improvements necessary to connect people and communities.

As you correctly indicate above, federal funds account for 60 percent or more in transit capital outlays for over half of the country and accounts for, on average, 40 percent of all transit agency capital outlays. For those states falling below 40 percent, there is a greater role for the federal government to play.

Given the variability in federal funds on transit capital outlays, ARTBA recommends only those phases of a project that are financed with federal dollars be subject to federal oversight in order to enhance project flexibility and reduce costly delays.

QUESTIONS FROM HON. HENRY C. "HANK" JOHNSON, JR. TO ROBERT E. ALGER, CHAIRMAN OF THE BOARD, THE LANE CONSTRUCTION CORPORATION, ON BEHALF OF THE AMERICAN ROAD & TRANSPORTATION BUILDERS ASSOCIATION

Question 3. Your testimony refers to, what you consider, unnecessary or prohibitive regulatory burdens to the delivery of transit projects. You refer to NEPA regulations as one of those regulatory burdens.

Are you also unconcerned about the approval of projects that fail to meet acceptable environmental standards?

ANSWER. If a project does not meet acceptable environmental standards, it would not be approved under NEPA. Thus, ARTBA is not concerned with the approval of such projects because an essential part of the review and approval process is ensuring acceptable environmental standards are met.

ARTBA recognizes regulations play a vital role in protecting the public interest in the transportation project review and approval process. Such regulations add a sense of predictability and ensure a balance between meeting U.S. transportation needs and protecting vital natural resources. These goals, however, are not mutually exclusive. The most successful transportation streamlining provisions have been process oriented and have essentially found a path for regulatory requirements to be fulfilled in a smarter and more efficient manner.

However, in recent years the rulemaking process has morphed from something intended to protect the public interest into a tool to achieve diverse policy and political objectives, many of which are largely unrelated to improving our transportation infrastructure. Furthermore, this process has been routinely unaccountable to affected interests, while often dismissing or undervaluing the project cost increases, delays and compromises in safety which can result.

NEPA was never meant to be a statute enabling delay, but rather a vehicle to promote balance. While the centerpiece of this balancing is the environmental impacts of a project, other factors must also be considered, such as the economic, safety, and mobility needs of the affected area and how a transportation project or any identified alternative will address those needs.

Regulatory reform is an essential part of any effort to ensure federal funding through the Capitol Investment Grant program is being spent in the most efficient manner possible. Reducing unnecessary delays in the project delivery process will allow allocated funds to have the maximum possible in terms of delivering projects.

Question 4. Can you recommend what a more streamlined application and review process for CIG projects should look like?

ANSWER. While recognizing the application and approval process is very complex and deserves a full study on what works well and what can be improved, ARTBA recommends the following enhancements to streamline delivery of CIG projects:

- Specific timelines—and limitations—should be put in place for the environmental process (receipt of a Record of Decision), preliminary design/engineering and FFGA approval stages of a CIG project. FTA should not be allowed to game the process by not starting the clock until they have unofficially gone through all the approval steps and are ready to grant an approval.
- FTA must ensure that projects are completely scoped out and the involved state/locality has fully approved the project to reduce mid-project re-scopings and costly change orders which can add cost and extend schedules.
- FTA project approvals and milestones are handled differently in different parts of the country by the agency's Regional Offices. Uniform, consistent and transparent approval processes must be applied across FTA regions—and across DOT modes.
- FTA should be granted the same flexibility as FHWA by being allowed to extend "contract authority" to projects so they can proceed while routine approvals move forward.
- Capital funding comes from a variety of state and local sources in addition to the federal contribution. Unlike most highway projects that have an 80–90 percent federal share, in many cases, CIG funding is a minority stake of the total project costs. Nonetheless, federal oversight is applied to the entire project, limiting flexibility in the construction of parts of a project not financed with federal funds. Only those phases of the project that are federally-funded should be subject to federal oversight.
- Historically, transit projects have been allowed to use Federal Loan Programs such as TIFIA and RRIF as local match. Recent denial of such flexibility has delayed some critically important projects, which only increases their eventual cost and schedule. Since the loans are repaid with local dollars, they should be allowed to be counted as local match.
- Where two or more DOT modal administrations have oversight responsibilities for a project (where both agencies may be providing funds), evaluation and final decision for a Buy America waiver should be coordinated between the two agencies or issued by one mode and binding on the other mode. Currently, two separate reviews are required, which adds time, cost and confusion. When a Buy America waiver is granted, DOT should establish, through guidance, a process by which essentially similar waiver requests are granted, rather than engage in an entirely new process.

QUESTIONS FROM HON. PETER A. DEFAZIO TO TOM GEREND, EXECUTIVE DIRECTOR, KANSAS CITY STREETCAR AUTHORITY

Question 1. Mr. Gerend, your KC Streetcar has exceeded expectations and drawn strong ridership and economic activity to Kansas City. You are currently seeking an expansion to the streetcar and it has been rated Medium-High by FTA. However, your project is currently seeking a 48 percent cost share, just below the statutory cap.

Has anyone at FTA suggested to you that your CIG share will have to be lower than 40 percent to get your expansion approved?

ANSWER. No.

Question 2. Do unwritten rules make project approval more difficult?

ANSWER. Yes. Examples include:

a. *National Office vs. Regional Office*—Responses and feedback that require continued engagement with the national office, and leave the regional office standing by, slow the process
b. *Local cost Share*—General suggestions that reducing federal cost share below allowable levels will improve project's funding chances
c. *Funding Commitment*—Interpretation and determination of compliance with "funding commitment" requirements
d. *Local Control*—Expectations regarding specific local managerial processes, procedures, and controls (i.e., which scheduling system a local project sponsor chooses to use, etc.)
e. *NEPA*—Lack of consistency with regards to implementation and compliance with NEPA requirements.

QUESTIONS FROM HON. PETER A. DEFAZIO TO PAUL P. SKOUTELAS, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

Question 1. Mr. Skoutelas, the Acting FTA Administer has testified that the FTA is doing better than the Obama Administration in getting CIG grants out the door and that any CIG project delays are the fault of project sponsors.

Would APTA members in the CIG program concur with this assessment?

ANSWER. We applaud both the Federal Transit Administration (FTA) and Congress' efforts to ensure that Capital Investment Grant (CIG) funds are invested in critical projects. We believe that the program has become a bureaucratic maze of statutory, regulatory, and administrative requirements. We believe that the Appropriations Act requirements to obligate 85 percent of CIG funds by a specific date helps move these projects through the CIG pipeline. We urge FTA to allocate *and obligate* the Fiscal Year (FY) 2018 and FY 2019 funds as soon as possible. We also strongly support a CIG Project Dashboard that would bring more transparency to FTA decision-making and project status.

Question 2. Do you think it is indicative of a bigger problem if multiple projects are delayed?

ANSWER. Delays cost money. These delays become a part of CIG project assumptions and they add risk to projects, which also costs money. These delays and added risks affect local decision-making, budgets, and support for critical CIG projects.

Question 3. Mr. Skoutelas, many FTA policy changes are driving up the costs for local sponsors. The Committee staff memo has documented $845 million in higher costs. Risk Assessments policies are driving up contingency funds, and project delays are driving up project costs as the economy expands. These new costs fall almost exclusively on the project sponsor after the CIG share is locked in.

Can you express to this Committee the frustration transit agencies are feeling with these new policies and their impacts on the projects?

ANSWER. As the Committee has noted, project delays cost significant additional resources. As I mentioned in my written testimony, Capital Investment Grants are burdened by red tape. APTA advocates for a streamlined CIG process to ensure that good projects are being built and to protect the taxpayers' interest.

Question 4. Are the cost overruns that are generally borne by local governments undercutting local support for transit projects?

ANSWER. As any local elected official will tell you, any price increase or decrease to a project may influence support or opposition for a project. It is difficult for any local member to go back to voters and request an additional tax assessment to fund increased costs for projects. FTA's recent changes to Risk Assessments provide a good example. FTA required local sponsors to identify more contingency funding. From a local perspective, costs went up, even though nothing regarding the overall estimated cost of the project had changed, except FTA's requirements.

QUESTIONS FROM HON. HENRY C. "HANK" JOHNSON, JR. TO PAUL P. SKOUTELAS, PRESIDENT AND CHIEF EXECUTIVE OFFICER, AMERICAN PUBLIC TRANSPORTATION ASSOCIATION

Question 5. Under previous administrations, when a project applied for CIG funding, the FTA provided guidance to the project sponsor about what needed to be done to strengthen their application. The FTA under the Trump Administration doesn't appear to be following precedent, and is not offering this level of transparency.

Can you describe the communication between the FTA and project sponsors?

ANSWER. APTA has a great working relationship with the FTA and we look forward to continuing to work together to advance these critical public transportation capital projects. However, there is limited transparency on decision-making regarding CIG projects. We would like to have further clarification on how FTA is applying the June 2018 Dear Colleague letter and how it interprets the Transportation Appropriations Act provision limiting the use of the Dear Colleague policies.

Question 6. Has the FTA provided sufficient guidance to transit agencies in addressing issues with their program so they can receive funding?

ANSWER. There remains confusion surrounding FTA's consideration of U.S. Department of Transportation (USDOT) loans in the context of all Federal funding sources. While we have noted that some project sponsors have received Transportation Infrastructure Finance and Innovation Act (TIFIA) loans simultaneously with CIG grant agreements, we do not understand how FTA evaluates this issue, or what metrics it uses. APTA supports Congressional efforts to clarify this issue and ensure that TIFIA and Railroad Rehabilitation and Improvement Financing (RRIF) loans repaid with local funds are considered local match.

Question 7. Do you believe that project sponsors may feel vulnerable and ill-equipped to move their projects through the CIG pipeline without guidance from the FTA?

ANSWER. As mentioned in my written testimony, both Congress and the FTA have repeatedly layered additional requirements on the CIG program which has resulted in a bureaucratic maze. CIG requirements are vastly more complex, time-consuming, and burdensome than the requirements of other comparable USDOT discretionary grant programs. Without consultation and guidance from the FTA, it can be difficult for project sponsors to navigate through the CIG pipeline in a cost-effective and expeditious manner. We strongly urge the Committee to conduct a zero-based review of the program to assess all current CIG requirements.

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