

disaster for the State of Kansas (FEMA-1699-DR), dated 05/06/2007.

*Incident:* Severe Storms, Tornadoes, and Flooding.

*Incident Period:* 05/04/2007 through 05/18/2007.

*Effective Date:* 05/25/2007.

*Physical Loan Application Deadline Date:* 07/05/2007.

*EIDL Loan Application Deadline Date:* 02/06/2008.

**ADDRESSES:** Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

**FOR FURTHER INFORMATION CONTACT:** A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

**SUPPLEMENTARY INFORMATION:** The notice of the Presidential disaster declaration for the State of Kansas, dated 05/06/2007 is hereby amended to include the following areas as adversely affected by the disaster:

*Primary Counties:* Clay, Cloud, Comanche, Leavenworth, Lyon, Reno, Rice, Saline, and Shawnee.

*Contiguous Counties:*

Kansas: Atchison, Chase, Coffey, Douglas, Geary, Greenwood, Harvey, Jackson, Jefferson, Johnson, Marion, Mcpherson, Morris, Osage, Pottawatomie, Republic, Riley, Sedgwick, Wabaunsee, Washington, and Wyandotte.

Missouri: Platte.

Oklahoma: Harper, and Woods.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

**Roger B. Garland,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. E7-10709 Filed 6-1-07; 8:45 am]

**BILLING CODE 8025-01-P**

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## DEPARTMENT OF STATE

[Public Notice 5821]

### Culturally Significant Object Imported for Exhibition Determinations: Paul Gauguin's "The Purau Tree" and Paul Cézanne's "A Modern Olympia"

**SUMMARY:** Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et*

*seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects Paul Gauguin's "The Purau Tree" and Paul Cézanne's "A Modern Olympia", imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of Paul Gauguin's "The Purau Tree" from on or about September 17, 2007, until on or about September 30, 2010, and the exhibition or display of Paul Cézanne's "A Modern Olympia" from on or about September 17, 2007, until on or about January 30, 2011, in the Nineteenth-Century European Paintings and Sculpture Galleries, The Metropolitan Museum of Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453-8050). The address is U.S. Department of State, SA-44, 301 4th Street, SW., Room 700, Washington, DC 20547-0001.

Dated: May 22, 2007.

**C. Miller Crouch,**

*Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. E7-10701 Filed 6-1-07; 8:45 am]

**BILLING CODE 4710-05-P**

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## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[Docket Number: FTA-2007-27172]

#### Final Guidance on New Starts/Small Starts Policies and Procedures and Notice of Availability of Updated Reporting Instructions

**AGENCY:** Federal Transit Administration, DOT.

**ACTION:** Notice of Availability of Final Guidance on New Starts/Small Starts Policies and Procedures and Updated Reporting Instructions.

**SUMMARY:** This notice conveys the Federal Transit Administration's (FTA) Final Guidance on New Starts/Small

Starts Policies and Procedures. This Policy Guidance complements FTA's previous Guidance on New Starts Policies and Procedures, dated May 22, 2006, by providing further updates and enhancements to the procedures for project planning and development necessary to receive New or Small Starts funding. This notice also announces the availability of FTA's *Reporting Instructions for the Section 5309 New Starts Criteria*, which must be followed when reporting New Starts information for evaluation during the FY 2009 project evaluation cycle, as well as for any requests to enter into preliminary engineering, final design, or a full funding grant agreement until further notice. Finally, this notice provides the schedule for reporting of information for FTA's FY 2009 New Starts budget evaluations.

**EFFECTIVE DATE:** These policies and procedures will take effect on June 4, 2007.

**FOR FURTHER INFORMATION CONTACT:** Ron Fisher, Office of Planning and Environment, telephone (202) 366-4033, Federal Transit Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., East Building, Washington, DC 20590 or [Ronald.Fisher@dot.gov](mailto:Ronald.Fisher@dot.gov).

#### Availability of Comments Considered in the Development of this Guidance, and of the New Starts Reporting Instructions

A copy of the notice of availability of the proposed Guidance, issued on February 12, 2007, and comments and material received from the public as a part of its review of the proposed Guidance, are part of docket FTA-2007-27172 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, West Building, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may retrieve the Guidance and comments online through the Document Management System (DMS) at: <http://dms.dot.gov>. Enter docket number 27172 in the search field. The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site. An electronic copy of this document may also be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may also reach the

Office of the Federal Register's home page at: <http://www.nara.gov/fedreg> and the Government Printing Office's Web page at: <http://www.gpoaccess.gov/fr/index.html>. FTA's Reporting Instructions for the Section 5309 New Starts Criteria is available on FTA's Web site for New Starts planning and project development at [http://www.fta.dot.gov/planning/planning\\_environment\\_5221.html](http://www.fta.dot.gov/planning/planning_environment_5221.html).

**Schedule for Reporting the new Starts Project Justification and Local Financial Commitment Criteria for Evaluation in the FY 2009 Annual Report on Funding Recommendations**

The formal deadline for reporting information on the New Starts and Small Starts project justification and local financial commitment criteria—i.e., the New and Small Starts templates and supporting land use and financial information—for evaluation in the *FY 2009 Annual Report on Funding Recommendations* is September 7, 2007. In addition, FTA requests, for projects already in the New Starts or Small Starts “pipeline” (projects in preliminary engineering, final design, or Small Starts project development), that information related to travel forecasts, operating and maintenance cost methodologies, and service annualization factors as appropriate be submitted by July 30, 2007 if this information is different from what was submitted last year. This advanced submission of information helps FTA staff to understand the information underlying the New or Small Starts project justification criteria, and helps to ensure that the information reported in the formal New or Small Starts templates is sufficient for FTA's evaluation and rating of candidate projects. Both the “advanced” and formal submission of information should be sent to the FTA Office of Planning and Environment (TPE), 1200 New Jersey Avenue, SE., East Building, Washington, DC, 20590. In addition, FTA's consultants for financial and land use reviews will be contacting sponsors of projects in the pipeline in late-August 2007 to provide additional direction on transmitting specific information to them for these reviews.

As conveyed in the Policy Guidance, which follows, only projects that are candidates for a funding recommendation (i.e., seeking either an FFGA or PCGA), or which have undergone significant scope, cost, or financial changes, need submit information for evaluation.

FTA considers requests for project entry into preliminary engineering, final design, or Small Starts project development at any time of the year. For

sponsors who hope to have their proposed New Starts project approved into preliminary engineering or Small Starts project approved into project development in time for inclusion in the *FY 2009 Annual Report*, a complete request (with previously FTA-accepted travel forecasts, baseline alternative, build and baseline capital costs, and achievement of other project readiness requirements, as appropriate) must be submitted to FTA no later than September 7, 2007. FTA encourages sponsors of such projects to contact FTA as soon as possible to assess their readiness for preliminary engineering and project development and to prepare their request for advancement. Projects supported by incomplete or premature requests will not be considered for inclusion in the *FY 2009 Annual Report*.

FTA encourages sponsors of candidate New Starts projects to follow the *Reporting Instructions* closely, and to submit complete information according to the deadlines established above. FTA's period for completing its FY 2009 budget evaluations is very short. FTA staff is committed to working closely with project sponsors to resolve any questions or issues with their submittals, but cannot guarantee the acceptance and inclusion of any revised or updated information after September 30, 2007 in time for the FY 2009 evaluation. Project sponsors should contact the FTA Office of Planning and Environment, or their FTA Regional Office, if they have any questions regarding the submission of information for evaluation, or the process for developing such information.

**Response to Comments and New and Small Starts Program Changes**

The purpose of this notice is to convey the Final Guidance on New Starts/Small Starts Policies and Procedures, reflecting the changes implemented as a result of comments received on the February 12, 2007 notice of availability. FTA finds that there is good cause to make this guidance effective upon publication of this notice because sponsors of projects seeking New and Small Starts funding must have adequate time to prepare information that FTA will use to evaluate projects for inclusion in the President's FY 2009 budget request to Congress.

**1. Information Required of Grantee**

**a. Operating Efficiencies and Environmental Benefits**

*FTA adopts as final its proposal to no longer require the submission by New*

*Starts project sponsors of information on FTA's measures for operating efficiencies and environmental benefits.*

The elimination of these two requirements is intended to reduce the reporting effort of New Starts project sponsors. FTA has not found that current measures for these two evaluation criteria distinguish, in any meaningful way, the differences between projects. Moreover, FTA believes that the operating efficiencies of New Starts projects are essentially captured under FTA's current measure for cost effectiveness. Until measures can be developed that provide salient information for the environmental benefits criterion that better differentiates the characteristics of projects, grantee submission of the information is not required. FTA's *Reporting Instructions for the Section 5309 New Starts Criteria* have been updated to reflect this change.

*Comments:* Nearly all of the respondents agreed with this proposal, although many expressed support for the eventual development by FTA of a more effective measure for environmental benefits.

*Response:* FTA agrees that New Starts projects can make important and meaningful contributions to an improved environment, and believes that their environmental benefits ought to be better captured in the evaluation and rating process. To that end, FTA has been studying a number of potential environmental benefits measures which better distinguish New Starts projects from each other. These measures will be proposed some time in the future and FTA will seek comment on them at that time. At this time, however, FTA will continue to use its current evaluation measure of the Environmental Protection Agency's ambient air quality rating.

**b. Transit Supportive Land Use Patterns and Policies**

*FTA adopts as final its proposal that the resubmission of information on transit supportive land use patterns and policies for the purposes of the Annual Report on Funding Recommendations be optional for both New Starts and Small Starts.*

While land use ratings rarely change over the course of a project's development, project sponsors have the option of submitting information for this criterion should they believe that the new information would improve their project's rating.

*Comments:* Most respondents agreed with the proposal, with some additional suggestions. Several respondents felt that in the absence of an annual

requirement FTA should make clear that land use remains an important part of FTA's evaluation and continue to encourage local governments, with transit agency support, to take supportive land use actions during the course of project development. Others suggested that FTA should continue to raise the standard for land use ratings as a project advances, and require that a project sponsor submit land use information prior to being permitted entry into final design. Finally, a few respondents requested that FTA consider new information for re-evaluation at any time if a sponsor believes that this information will result in improving its project's land use rating.

*Response:* FTA's proposal to no longer require annual land use reporting should not be construed in any way as a diminishment of its support for good transit-oriented land use planning. Indeed, FTA will re-evaluate a project's transit-supportive land use plans and policies annually if its sponsor desires to submit significant new information. While annual re-evaluations will be at the discretion of project sponsors, FTA will continue to evaluate and rate transit-supportive land use at the time of a request to enter preliminary engineering, and will require a formal re-evaluation and rating of transit-supportive land use at the time of a sponsor's request to advance a project into final design.

#### c. Annual Report on Funding Recommendations

*FTA adopts as final its proposal to no longer require New Starts and Small Starts project sponsors to submit information for evaluation for the Annual Report on Funding Recommendations if their project is not likely to be ready for a funding recommendation. Such information is required, however, for New Starts projects in or near final design, or for projects which have experienced a significant change since its last evaluation.*

This policy change is intended to reduce the reporting burden for candidate New and Small Starts projects in their earlier stages of development while at the same time better align FTA's annual project evaluation responsibilities with its statutorily-required *Annual Report on Funding Recommendations*.

*Comments:* Most of those commenting on this proposal agreed with it. A few respondents suggested that FTA should make reporting optional in cases where local funding processes and conditions would make a new rating necessary or

desirable. A few others expressed concern about what FTA would report in the absence of a formal resubmission of the information supporting the New Starts criteria. Questions on the proposal included what would constitute a "significant" change requiring a new evaluation and rating for projects not being considered for funding; how far in advance FTA would notify sponsors of the need to resubmit updated information; and what criteria FTA would use to determine if a project is a candidate for a funding recommendation.

*Response:* FTA views its *Annual Report on Funding Recommendations* as a complementary document to the Administration's annual budget request. FTA's proposal was intended to reduce the annual reporting burden on candidate New Starts project sponsors which have not yet reached a level of development necessary to warrant consideration for a funding recommendation. So long as a project sponsor submits information when requesting approval into preliminary engineering and final design (or, for Small Starts, project development) and the project continues to advance on schedule with insignificant changes to its scope, cost, and/or financial plan, additional submissions and a formal re-evaluation (until the time of its consideration by FTA for funding), strikes FTA as unnecessary. However, when a project experiences a significant event e.g., a loss of local revenues that brings into question its local financial commitment; a change in project scope that would have a significant impact on its operation and hence transportation benefits; or an increase in its cost estimate that requires a re-examination of its financial plan and/or threatens the project's cost effectiveness—a formal re-evaluation and re-rating will be required. The examples above serve as general guidelines that might trigger a re-evaluation; the decision on the need for such an evaluation will be made by FTA on a case-by-case basis. The decision to re-rate a project would be made and transmitted by FTA in the previous year's *Annual Report on Funding Recommendations* or by letter no later than April 30 prior to the Fall preparation of the next *Annual Report*, thus providing the sponsor ample time to address any causes of concern and prepare updated information for evaluation.

On the other hand, and at the discretion of project sponsors, FTA will re-evaluate projects that have taken positive steps since preliminary engineering, such as gaining additional funding commitments or reducing

project costs that are expected to improve the project's rating for the *Annual Report on Funding Recommendations*.

In the case where a re-evaluation is not necessary, FTA will report all recent relevant and validated information on a candidate project for the *Annual Report*. The primary focus will be placed on reporting the progress demonstrated by the project sponsor in terms of meeting its schedule, addressing NEPA requirements and design uncertainties, and garnering local funding commitments. For projects advancing under a project development agreement (PDA) with FTA, adherence to the milestones included in the PDA will be noted. Modest changes to the project scope and cost estimate will also be reported (as noted above, major changes would require a formal re-evaluation and rating). It is anticipated that most of this information will be collected over the course of the year as part of FTA's normal project oversight responsibilities. In limited cases it may be necessary for project sponsors to submit supporting documentation on changes in the local financial commitment for their project, although it is not expected that a full financial plan would need to be submitted.

Projects that demonstrate readiness for a funding recommendation will be required to submit updated New Starts criteria and be evaluated and rated, thus ensuring complete information for decision-making. In the absence of any comments on the criteria proposed by FTA to determine when a project will be considered for funding, FTA will continue to utilize the threshold it currently follows: That is, projects expected to be approved into final design by the Spring after the Fall preparation of *Annual Report on Funding Recommendations*. Small Starts projects that have completed NEPA by the Fall preparation of the *Annual Report* would also be considered to be a funding candidate and would be subject to reporting and evaluation.

#### 2. FTA Review of Key Documents

*FTA will not adopt at this time the proposed requirement that potential New Starts and Small Starts project sponsors in alternatives analysis provide a timely opportunity for FTA comment on documents describing the alternatives at their conceptual, detailed, and final stages of development. FTA is inclined, however, to establish this requirement at such time that it has the resources and systems in place to address stakeholder concerns with the proposal. In addition,*

*FTA may propose as a requirement at some time in the future the review of, and comment upon, other key products of the alternatives analysis study process.*

The intent of this proposal was to ensure that FTA be involved early in a corridor planning study that might result in the selection of a candidate New or Small Starts project. FTA believes that such involvement produces a number of benefits to the study effort, including the provision of technical assistance for improving the information available to support local decision-making and the management of both FTA and local expectations for advancement of the study and the resulting locally-preferred alternative. This proposed requirement supports FTA's goal of working closely with sponsors of alternatives analysis studies to ensure that communication of Federal and local concerns occurs at the appropriate time so that they can be resolved quickly and avoid negative impact of the study's progress and cost.

*Comments:* Comments received on this proposal generally recognized the benefit of engaging FTA early in the project development process, but expressed significant concerns about making such engagement a formal requirement whereby FTA would officially review and approve the documents mentioned. Concerns expressed by the majority of commenters included the perceived insertion of FTA into the local decision-making process, the timeliness of FTA's review of the materials, and the potential time and costs these requirements could add to the project development process.

*Response:* SAFETEA-LU gives FTA the responsibility to ensure that reasonable alternatives are considered in alternative analyses for a project to be eligible for New Starts funding, and that these alternatives are developed in such a way that their costs, benefits, and impacts can be properly presented to decision makers and stakeholders. Documentation and submission to FTA of the descriptions of alternatives at the conceptual, detailed, and final level of definition assists FTA in carrying out this responsibility. FTA believes that such a Federal-local partnership better protects the public interest, which FTA places as its over-arching goal for the New and Small Starts program. FTA's proposal was not intended to undermine local decision-making authority, which FTA holds to be a core principle of alternatives analysis studies.

Furthermore, FTA's proposal never contemplated an approval of the

alternatives (except for FTA's long-standing approval of the New Starts "baseline" alternative). Rather, FTA's reviews would simply highlight for study sponsors the issues surrounding the development of the alternatives that must be addressed in order for a locally preferred alternative to advance into preliminary engineering as quickly as possible.

Nevertheless, FTA is concerned that enforcing this requirement without being able to commit to a timeframe for its review would fail to give project sponsors important information for their project schedules. Therefore, over the next several months, FTA will collect information on existing review times that will help inform us of a reasonable period for the reviews of various products of alternatives analysis studies. Moreover, FTA is currently researching the use of enhanced, technology-based information management systems to improve the efficiency, accountability, and transparency of FTA reviews. In the meantime, FTA will continue to strongly encourage project sponsors to submit documents to FTA for review on the descriptions of alternatives and technical methods and results, as described in FTA guidance and workshops. FTA assures study sponsors that the timely review of these documents is an agency priority.

### 3. Travel Forecasts

#### a. Validation Against Travel Patterns

*FTA adopts as final the proposal—for implementation in May 2009—that travel forecasts for both New and Small Starts submitted in support of a request to enter preliminary engineering (PE) or project development (PD) be based on travel models that have been validated against data sufficient to describe current ridership patterns.*

The purpose of this policy is to ensure that sufficient data on current ridership patterns are available to understand the key markets served by the existing transit system and to check the grasp of those markets by the local travel forecasting procedures. Without adequate data, the identification of purpose and need for a major transit project is substantially limited by the absence of insight into the functions and limitations of the existing transit system. Further, the inability to test the travel forecasting procedures for their understanding of those functions and limitations reduces the credibility of forecasts for transit alternatives in the future.

*Comments:* Comments reflected a variety of topics ranging from funding to survey bias, with no topic receiving

more than one-third of the nineteen total responses. There was concern that collecting data and then calibrating travel models every five years was costly; that five years was an arbitrary timeline; and that by the time the travel models were calibrated, it would be time to begin data collection efforts again. Other comments indicated that alternative methods of data collection such as automated counts, farebox counts, vehicle location systems and/or telephone surveys should substitute for or supplement system-wide ridership surveys. Comments also noted the difficulty of eliminating survey bias and the need to provide survey requirements to ensure that data is collected uniformly by project sponsors.

*Response:* During the past five years, a large number of project sponsors have proceeded through alternatives analysis without any useful data on current ridership patterns. The locally preferred alternatives emerging from those analyses have included guideway-expansion projects whose forecasts were prepared without any insight into the ridership patterns on recently opened initial guideway projects in the metropolitan area. Other project sponsors have proceeded with forecasts for initial projects that would depend heavily on park-ride access but without any data on park-ride facilities and express-bus services opened relatively recently in the area. In these circumstances, the forecasting procedures are uninformed by readily available information on travel markets that are key to understanding the benefits of proposed major investments in transit facilities. Consequently, the uncertainties in the forecasts are large and the risks are significant that the forecasts—and therefore the project evaluation and ratings—will be substantially in error.

In these circumstances, any unexpected characteristics in the forecasts become cause for concern and potential delay as project sponsors struggle—without data—to document the reasonableness of the unusual characteristics or to correct the forecasting tools. Therefore, FTA thinks it in the best interest of all parties to have sufficient data on key travel markets, travel forecasting procedures that are tested with those data, and a clear understanding of current ridership patterns as they inform the purpose and need for a major transit project. Further, FTA views the costs of such data collection as very small relative to the value of the information obtained, to the costs of other tasks (engineering, environmental, and others) necessary to

project development, and to the costs of the projects proposed for funding.

FTA agrees that a 5-year horizon—or any fixed point in time—is arbitrary and potentially not useful in many cases. In metropolitan areas with relatively slow growth in population and employment, and with a relatively stable transit system and transit ridership, a 10-year-old on-board survey plus current on-off counts may well be sufficient to prepare useful information on current ridership patterns. Conversely, in rapidly growing areas that have opened the initial guideway facility in the past three years, a 4-year-old survey of bus riders may well be an insufficient basis for understanding the potential performance of a second guideway line. Therefore, FTA will consider the adequacy of data on existing ridership patterns on a case-by-case basis. Project sponsors are advised to discuss with FTA—well in advance of a planned alternatives analysis—the nature, extent, timing, and quality of local data sources on current transit ridership patterns.

Finally, this policy requires the availability of sufficient data on current travel patterns but not the specific method(s) for obtaining that data. Methods for obtaining information from individual riders might include personal interviews with a very limited number of questions, phone surveys, intercepts of riders at stations/stops rather than on board, and other emerging methods. Further, advances in automated passenger counters, farecard systems, automatic vehicle locator systems, and other data-collection methods may reduce the need for information from individual riders. Detailed on-off passenger counts, for example, might be used to update the sample expansion of an older on-board survey. In other circumstances, those counts might be used to estimate station-to-station trip tables, informed by a limited amount of rider-specific information. In general, FTA anticipates that project sponsors will tailor the strategy for data assembly to their individual circumstances to ensure that sufficient useful information is available as efficiently as possible.

#### b. Mode-Specific Effects

FTA adopts as final its proposal to allow project sponsors that seek to introduce a new transit mode to an area to claim credits (implemented through what is commonly called a mode-specific constant) for the user benefits caused by attributes of that mode beyond the travel time and cost measures currently available in the local travel model. FTA will continue to work closely with sponsors of projects that

*have calibrated mode-specific constants to ensure that they are using constants that are generally consistent with the methods and values permitted for sponsors of projects which are new to an area.*

This policy establishes a reasonable approach to crediting alternatives that represent new transit modes locally with the mobility benefits caused by changes in transit service characteristics that are universally omitted from current travel forecasting methods. The policy applies to both the transit guideways identified as locally preferred alternatives and to guideway-like elements of baseline alternatives used to evaluate proposed projects. The approach gives credit—and additional user benefits—based on the specific attributes of the alternative as they are perceived by travelers. FTA will assign credits for characteristics in three categories: (1) Guideway-like characteristics (equivalent to a maximum of eight minutes of travel-time savings); (2) span of good service (up to three minutes); and (3) passenger amenities (up to four minutes). Further, FTA will define a discount of up to 20 percent on the weight applied to time spent on the transit vehicle. These credits and discount are applied to the calculation of user benefits only; ridership forecasts will not be affected. This policy is effective immediately except in the case of baseline alternatives in areas that are considering expansion of existing guideway systems. The policy will apply to those alternatives beginning in May 2008 so that project sponsors have sufficient time to modify their travel forecasting procedures.

FTA will issue technical guidance on the application of this policy in the May 2007 Reporting Instructions.

*Comments:* The most frequent comment was a request that walk access be given a similar user benefit credit as park and ride access trips. Other comments expressed the concern that these credits would penalize both transit agencies seeking to expand an existing mode as well as those agencies with an already well validated travel model. Respondents requested greater transparency on the process of calculating user benefit credits. In addition, respondents would like to utilize local information to supplement the calculation of credits to user benefits in their region.

*Response:* Because of the large size of the “transportation analysis zones” used in travel models to represent the geography of metropolitan areas, nearly all current travel models overestimate the potential walk access market for

fixed guideways. Many of the walk-to-guideway and walk-from-guideway trips represented in these models would actually require a bus connection. Because a walk-guideway-walk trip is subject to this error at both ends of the guideway trip—and the errors are multiplicative—FTA cannot grant credits for walk-only travel on guideways where the size of that travel market is inevitably and grossly overstated. However, in an effort to capture all credible benefits and reward good practice in local travel models, FTA will consider the full crediting of these benefits for walk-access as well as drive-access transit trips when the local travel models support accurate accounting of walk to guideway walk trips. Therefore, project sponsors may propose the full set of credits where they believe that the local travel models handle walk-access to fixed guideways with sufficient accuracy.

This policy in no way penalizes areas that have existing guideway transit systems and have calibrated forecasting procedures with transit-mode-specific constants and coefficient discounts for guideway transit. The policy remedies a large disadvantage previously faced by sponsors of an initial guideway project in a given metropolitan area.

Technical assistance in the application of the constants can be requested of FTA by contacting the FTA Office of Planning and Environment at (202) 366-4033.

#### 4. Evaluation Criteria

##### a. Overall Project Justification Rating

FTA adopts as final its proposal to replace the current three-tiered overall project rating scale of “low,” “medium,” and “high” with a five-tiered rating scale of “low,” “medium-low,” “medium,” “medium-high,” and “high” as directed in SAFETEA-LU.

This policy was intended to modify the current overall ratings to be consistent with the ratings specified in SAFETEA-LU, which requires that projects be given an overall rating based on a five-tier scale of “high,” “medium-high,” “medium,” “medium-low,” and “low.” The application of this modest change will be documented in a separate summary document on the FY 2009 New Starts Evaluation and Rating Process, to be issued by June 30, 2007.

*Comments:* Almost all comments received were supportive of the proposed change to the five-tiered rating scale. A few commenters asked for clarification on the decision rules.

*Response:* The overall rating is determined by the average of the rating for project justification and for local

financial commitment. When the average of these ratings is unclear (e.g., project justification rating of “medium-high” and local financial commitment rating of “medium”), FTA will round up the overall rating to the higher rating (e.g., project justification rating of “medium-high” and local financial commitment rating of “medium” yields an overall rating of “medium-high”) except in the following circumstances:

- A “medium” overall rating requires a rating of at least “medium” for both project justification and local financial commitment.
- A “medium-low” overall rating requires a rating of at least “medium-low” for both project justification and local financial commitment.

#### b. Simplified Rating of Local Financial Commitment

*FTA adopts as final its policy to add a decision rule that Small Starts and Very Small Starts projects that meet the conditions for a simplified financial rating be given a rating of “high” if their sponsors request no more than a 50% Small Starts share, while those requesting between 50% and 80% share receive no less than a “medium” rating.*

Agencies currently receive a simplified financial rating of “medium” if they can demonstrate they have a reasonable plan to secure funding for the local share of capital costs; that the additional operating and maintenance costs of the project are less than 5% of the agency’s operating budget; and that the agency is in good operating condition. By giving higher ratings to projects seeking less Small Starts funding, FTA is providing an incentive for a project to request a lower percentage of Small Starts funding, thus allowing for the program to benefit more localities.

*Comments:* Nearly half of the respondents supported this proposal. Of those who did not, comments cited this incentive would make it difficult to put together entry level projects; it would dilute other financial considerations of a project sponsor and it may disadvantage high quality projects as measured by other criteria. In addition, other comments requested greater flexibility in the amount of local match or the ability to consider the economic health of the area while still competing for a “high” financial rating.

*Response:* Projects which meet the aforementioned conditions for streamlined evaluation and rating will in every case receive a rating sufficient to advance in development and be considered for Small Starts funding, regardless of the local share. FTA believes that the ability of project

sponsors to contribute a higher non-Small Starts funding share represents a measure of local commitment to a project that should be recognized in the ratings. FTA further believes that providing higher ratings for requests of less Small Starts funding is entirely consistent with SAFETEA-LU provisions that specify local share as an evaluation consideration. Finally, by specifying that projects seeking Small Starts funding must be under \$250 million in total cost and \$75 million in Small Starts funding, SAFETEA-LU constrains higher cost projects to less than 50 percent in Small Starts funding.

#### c. Mobility Measures for Transit Dependents

*FTA adopts as final its proposal to replace the current measure of mobility benefits for transit dependents with three easily computed measures: (1) The share of user benefits that accrue to transit dependents; (2) user benefits per project passenger mile for transit dependents; and (3) the number of project riders who are transit dependent.*

This policy addresses the dimensions of a project’s improvements to mobility: (1) The extent that it benefits transit dependents compared to their representation in the metropolitan area; (2) the magnitude of the increase in mobility for each traveler normalized by the length of their journey on the project; and (3) the number of travelers affected. The overall rating for mobility for transit dependents will be based on the ratings of each of these three dimensions of mobility. The procedures for developing these measures are provided in FTA’s updated *Reporting Instructions for the Section 5309 New Starts Criteria*, available simultaneously with this notice.

*Comments:* Three-quarters of the respondents were concerned that these measures do not take into account the evolving definition of a transit dependent. Thus, project sponsors who attempt to improve service to those who choose to be transit dependent may not be able to capture this segment by income or employment data. Further, respondents noted that measuring benefits per passenger mile may skew the results to favor long haul transit. In addition, several respondents cited that the NEPA documentation assesses the project benefits to low income and minority populations and may be a more meaningful tool in addressing overall transit equity.

*Response:* Because travel models stratify the metropolitan population by either auto ownership or income, the current state of the practice can

ascertain the mobility impacts of a project on carless households or the lowest income group used in a travel model. Carless and lower income households are reasonable surrogates for transit dependents. Forecasts of benefits for some other definition would require a new methodology to be implemented for every area seeking Small Starts funding, instead of relying on existing travel models. As noted, long haul transit with infrequent stops may rate well for the user-benefit-per-mile measure. Finally, using NEPA documents to address transit dependent mobility improvements is problematic given that there is no standardized approach for reporting project benefits in NEPA documentation.

#### d. Subfactors for Local Financial Commitment

*FTA adopts as final the three proposed changes to the evaluation and rating of local financial commitment for both New and Small Starts, all of which are related to the sub-factors used to develop the ratings for the stability and reliability of the capital and operating finance plans. These changes include for both the capital and operating plans: (1) Eliminating the completeness sub-factor; (2) merging the existing capacity and cost estimates and planning assumptions sub-factors together; and (3) re-weighting the remaining sub-factors.*

This policy is intended to both simplify FTA’s evaluations of local financial commitment and better align considerations of the uncertainty associated with financial planning assumptions with the factor they affect. The application of this modest change will be documented in a separate summary document on the *FY 2009 New Starts Evaluation and Rating Process*, and FTA’s *Guidelines and Standards for Assessing Local Financial Commitment*. Both documents will be available no later than June 30, 2007.

*Comments:* All comments received were supportive of the proposed changes to the evaluation and rating of local financial commitment.

*Response:* FTA will reduce the number of subfactors used to develop the ratings for the stability and reliability of the capital and operating finance plans from five to three. The three subfactors will be weighted as follows to arrive at a summary capital/operating rating: (1) Current capital/operating condition (25%); (2) commitment of capital/operating funds (25%); and (3) cost estimates/planning assumptions/capacity (50%).

The three measures used to determine the overall local financial commitment

rating and their weights will be maintained at: (1) The share of non-New Starts funding (20%); (2) the stability and reliability of the capital finance plan (50%); and (3) the stability and reliability of the operating finance plan (30%). All FTA decision rules for determining a rating for local financial commitment will remain in place as well.

#### e. Innovative Contractual Agreements for Operations

*FTA adopts as final its policy that the degree to which a project employs innovative contractual agreements will be considered in the evaluation and rating of the operating finance plan for both New and Small Starts.*

This policy is intended to encourage project sponsors to examine innovative operating arrangements that might result in cost savings. FTA will increase the operating plan rating one level from "medium" to "medium-high" or from "medium-high" to "high" if the project sponsor can demonstrate it has provided the opportunity for the operation and maintenance of the project to be contracted out. The operating plan rating will not increase if the operating finance plan rating is below a medium. FTA will revise its guidance documents, including the *Guidelines and Standards for Addressing Local Financial Commitment*, to reflect this change.

*Comments:* Nearly half of the respondents requested that similar considerations be made for transit agencies that have studied such innovative arrangements, regardless of whether the arrangement was implemented or not. Other comments cited the concern that this proposal could disrupt existing labor union contracts. The last set of comments cited the lack of statutory basis to provide an additional weight for this consideration.

*Response:* The operating plan rating will be increased for project sponsors that can provide evidence that the operations and maintenance of the project will be contracted out or that simply an *opportunity* has been given for contracting out but that there were substantive reasons for not doing so. FTA believes that current statutes do not prohibit the implementation of this proposal.

#### f. Rating Information in Planning Studies

*FTA adopts as final its proposal that alternatives analysis (AA) final reports and AA/Draft Environmental Impact Statements (Draft EISs) must present—for all alternatives—the information used by FTA to assign New or Small Starts ratings if that information has*

*been vetted by FTA. If the information has not been vetted with FTA, then the absence of the information must be highlighted in the document.*

The intent of this policy is to comply with FTA requirements for AAs and the Council on Environmental Quality for DEISs by identifying information relevant and important to a decision on a locally preferred alternative. If this requirement cannot be met, publication of the AA or AA/DEIS would not be delayed; rather, the absence of the information and its relevance must be explained in the AA or AA/DEIS.

*Comments:* Many opposed the proposal stating that the NEPA and New Starts process should be independent. Others opposed the proposal because of potential project delays citing the lack of FTA staff to review the information. Others agreed that FTA should allow that a disclosure statement be used in alternatives analysis documents when fully vetted information is not available, which would summarize the New Starts process and explain that information addressing the criteria has not yet been completed.

*Response:* It has been FTA's long standing policy to integrate the NEPA and New Starts processes because they share common goals. The Council on Environmental Quality regulations state that "an environmental impact statement should at least indicate those considerations, including factors not related to environmental quality, which are likely to be relevant and important to a decision." For projects seeking New or Small Starts funding, rating information that determines whether the project can qualify for funding is "relevant and important to a decision." Regarding concerns over project delays, this policy will not delay a document/project if information on the New Starts criteria has not been vetted with FTA. In such cases, the absence of such information would simply be acknowledged without prejudice with a statement that it has not yet been fully vetted with FTA and therefore no assurances can be given that the alternatives considered, including the locally preferred alternative, would be eligible or competitive for New or Small Starts funding. The inclusion of such a statement simply provides the public and local decision makers full disclosure of the actions necessary to advance the preferred alternative into the New or Small Starts project development process.

#### g. Other Factors

*FTA adopts as final its proposal to incorporate under "other factors" two specific considerations. First, if a*

*proposed New or Small Starts project is a principal element of a congestion management strategy, in general, and an auto pricing strategy, in particular, the project justification rating could be increased. Second, if a New or Small Starts project addresses significant transportation problems or opportunities in a corridor and the appropriateness of the preferred alternative as a response, FTA will consider the contents of the "make-the-case document" as a standard criterion under "other factors." A "high" make-the-case rating could increase the project's overall rating and a "low" make-the-case rating could decrease the overall rating. FTA further continues to encourage the reporting, under "other factors," of information on a project's economic development impacts. Particularly compelling information may be used by FTA to increase a project's "project justification" rating.*

Each of the considerations has the potential of changing the overall project justification rating. The first consideration can only increase the rating while the second can either increase or decrease the rating. The details of how these factors will be applied, along with consideration of the economic development factor will be described in an update to its summary document on the *New Starts Evaluation and Rating Process*, available no later than June 30, 2007.

*Comments:* In response to the first consideration, comments indicated that a congestion pricing strategy is not effective except in large cities with substantial investment in transit infrastructure. The second consideration was largely supported with just over half of the respondents citing their support. Of those who opposed the consideration, the reason cited was that FTA would be evaluating a document and not the project itself.

*Response:* The first consideration supports the Department's initiative to address congestion using pricing strategies. Successful pricing strategies have been introduced in medium-sized cities. The purpose of the second consideration, the make-the-case document, is intended to marshal the best available arguments for the proposed project based on the analytical results of planning and project development findings. As such, FTA believes that it provides important information in assessing project merit that complements the mechanical application of ratings and numbers. FTA will base its rating on the extent to which a compelling case is made that addresses this purpose.

Issued on: May 30, 2007.

**James S. Simpson,**  
Administrator.

[FR Doc. 07-2774 Filed 5-31-07; 11:09 am]

BILLING CODE 4910-57-P

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

May 25, 2007.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

**Dates:** Written comments should be received on or before July 5, 2007 to be assured of consideration.

#### Federal Consulting Group

*OMB Number:* 1505-0196.

*Type of Review:* Extension.

*Title:* Litigation Management—Information Collection Regarding Proposed Settlements.

*Form:* TRIP 03.

*Description:* Section 103(a) and 104 of the Terrorism Risk Insurance Act of 2002 (Pub. L. 107-297) authorize the Department of the Treasury to administer and implement the temporary Terrorism Risk Insurance Program established by the Act. Section 107 contains specific provisions designed to manage litigation arising out of or resulting from a certified act of terrorism. The Terrorism Risk Insurance Extension Act of 2005, Public Law 109-144, added section 107(a)(6) to TRIA, which provides that procedures and requirements established by the Secretary under 31 CFR 50.82, as in effect on the date of issuance of that section in final form [July 28, 2004], shall apply to any Federal cause of action described in section 107(a)(1). Section 50.82 of the regulations requires insurers to submit to Treasury for advance approval certain proposed settlements involving an insured loss, any part of the payment of which the insurer intends to submit as part of its claim for Federal payment under the Program. The collection of information in the notice of proposed settlement in

Section 50.83 that insurers must submit to implement the settlement approval process prescribed by Section 50.82.

*Respondents:* Business and other for-profit institutions.

*Estimated Total Reporting Burden:* 5,141 hours.

*OMB Number:* 1505-0197.

*Type of Review:* Extension.

*Title:* Recordkeeping Requirements for Insurers Compensated Under Terrorism Risk Insurance Program.

*Description:* Sections 103(a) and 104 of the Terrorism Risk Insurance Act of 2002 (Pub. L. 107-297) (as extended by the Terrorism Risk Insurance Extension Act of 2005, Pub. L. 109-144) authorize the Department of the Treasury to administer and implement the Terrorism Risk Insurance Program established by the Act. In 31 CFR part 50, subpart F (Sec. 50.50-50.55) Treasury established requirements and procedures for insurers that file claims for payment of the Federal share of compensation for insured losses resulting from a certified act of terrorism under the Act. Section 50.60 allows Treasury access to records of an insurer pertinent to amounts paid as the Federal share of compensation for insured losses in order to conduct investigations, confirmations and audits. Section 50.61 requires insurers to retain all records as are necessary to fully disclose all material matters pertaining to insured losses. This collection of information is the recordkeeping requirement in § 50.61.

*Respondents:* Business and other for-profit institutions.

*Estimated Total Reporting Burden:* 833 hours.

*Clearance Officer:* Howard Leiken, (202) 622-7139, Department of the Treasury, 1425 New York Avenue, NW., Room 2113, Washington, DC 20220.

*OMB Reviewer:* Alexander T. Hunt (202) 395-7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**Robert Dahl,**

Treasury PRA Clearance Officer.

[FR Doc. E7-10690 Filed 6-1-07; 8:45 am]

BILLING CODE 4811-37-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Form 1041-ES

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1041-ES, Estimated Income Tax for Estates and Trusts.

**DATES:** Written comments should be received on or before August 3, 2007 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622-3634, or through the internet at [RJoseph.Durbala@irs.gov](mailto:RJoseph.Durbala@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Estimated Income Tax for Estates and Trusts.

*OMB Number:* 1545-0971.

*Form Number:* Form 1041-ES.

*Abstract:* Internal Revenue Code section 6654(1) imposes a penalty on trusts, and in certain circumstances, a decedent's estate, for underpayment of estimated tax. Form 1041-ES is used by the fiduciary to make the estimated tax payments. The form provides the IRS with information to give estates and trusts proper credit for estimated tax payments.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 1,200,000.

*Estimated Time Per Respondent:* 2 hours, 38 minutes.

*Estimated Total Annual Burden Hours:* 3,161,236.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material