Statement of
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Committee on Transportation and Infrastructure
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FTA Implementation of the New Starts and Small Starts Programs

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Good morning, Chairman DeFazio, Ranking Member Duncan, and Members of this Subcommittee. Thank you for the opportunity to testify today on the recent Notice of Proposed Rulemaking (NPRM) on the Federal Transit Administration's (FTA) New Starts and Small Starts programs, which are among the Federal government's largest discretionary programs. This Proposed Rule is intended to continue and strengthen our successful management of this important program. Our goal for New Starts remains to deliver the best projects, on time and within budget, that realize the benefits projected. At the same time, we want to streamline the New Starts process so that decisions are made more quickly and projects are delivered sooner.

As I testified in May, we believe FTA's management of the New Starts program fosters highly successful Federal-local partnerships that benefit millions of Americans across the country on a daily basis, with additional transportation capacity and increased travel choices available to both transit riders and users of our Nation's highway system. At that time, I reported that we were focusing on continuous improvement of the New Starts program, by planning to implement a number of management changes and by issuing the NPRM which is the subject of this hearing. I am pleased to report today that we have made substantial progress on these process improvements. In addition, the NPRM proposes to codify a number of regulatory improvements to the New Starts process that we have already implemented as policy.

New Starts Program Status

Since the passage of the Intermodal Surface Transportation Efficiency Act of 1991, FTA has provided nearly $13.7 billion in New Starts funds to help build 27 light rail, 19 commuter and heavy rail, and a number of streetcar, bus, and other transit projects with total project costs of approximately $41.8 billion. Since June 2006, FTA has executed 6 Full Funding Grant Agreements (FFGAs) with a Federal share of $3.42 billion, and total project costs of approximately $10 billion. Our most recent FFGA, with the Tri- County Metropolitan Transportation District for the Portland, Oregon, I-205/Downtown Mall Light Rail Transit project, was executed on June 19, 2007. On August 1, 2007, we transmitted an FFGA for the Norfolk Light Rail project to Congress for 60-day review and on September 18, we transmitted an FFGA for the Second Avenue Subway project in New York City to Congress.

In its May 10, 2007 report, the U.S. Government Accountability Office reiterated that our New Starts evaluation process "could serve as a model for other transportation programs." The NPRM we are discussing today continues our efforts to ensure that we make the best investment choices and provide strong oversight. Granted, we have some work to do in streamlining the Small Starts application and implementing other changes in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), but the New Starts program remains the gold standard of Federal funding programs. FTA's current portfolio of projects under construction, which total $21.5 billion in project costs, is being managed to within 0.5 percent of the FFGA baseline and cost estimates; this demonstrates that our processes are working. The challenge of producing accurate travel forecasts remains significant, as our forthcoming Contractor Performance Report will indicate, even as we have seen recent improvements. While we have done well in the post-FFGA world, it is clear that we need to increase our focus on improving the accuracy of traffic and revenue forecasts in order to ensure that Federal transit investments are cost beneficial. Improving the reliability of project cost and benefit estimates will help ensure that Federal investment in transit is directed to the most worthwhile projects and also improves the information available to support local decision-making. The result is successful projects that ultimately foster Federal and local commitment to additional investment in transit.

Progress in New Starts Process Improvements

As I testified last May, FTA strives for continuous process improvement, quality, and increased customer satisfaction. At that time, we had just completed our New Starts Process Review conducted by Deloitte Consulting, LLP, and were beginning to implement several of its recommendations. The Report made a series of recommendations in each of four general areas: project development and evaluations processes; New Starts process management; FTA's organizational structure; and, improved communications. Let me briefly describe our progress to date in each area.

With respect to **streamlining project development and evaluation** processes, in our June 2007 *Final Policy Guidance on New Starts and Small Starts*, FTA eliminated a number of New Starts reporting requirements, including, for many projects, the need to re-report any criteria on an annual basis. Second, as part of the NPRM to be discussed in more detail later, we are proposing the use of Project Development Agreements under which a New Starts project sponsor and FTA would agree to key project development deliverables and schedule and clarify FTA and local expectations for demonstrating project development progress. Third, FTA unveiled a program of guidance and training in project risk management. Finally, FTA has made significant progress in implementing the Public-Private-Partnership Pilot Program, by selecting three projects in which to participate. We believe Penta-P will be a successful extension of the Federal-local partnership, which can result in more efficient Federal investments in new major public transit capital projects.

New Starts process management improvements are exemplified by our recent publication of several important new industry guidance documents. These include methods to capture previously unmeasured benefits in local travel forecasting procedures and a Preliminary Engineering "checklist," which clarifies in one source document, the distinct requirements for

advancing projects into this project development stage. Further, FTA released the first set in a series of New Starts "fact sheets" – one page synopses geared to local policymakers and agency staff alike. These fact sheets describe the guiding principles supporting New Starts activities, including project development, evaluation, technical competencies, and FTA requirements. Finally, FTA is implementing a pilot internet-based case management system designed to respond to the need for better tracking of project deliverables, FTA review periods, FTA comments and direction, and grantee responses to that direction.

The third theme focuses on **FTA's own organizational structure**. FTA has made substantial progress in implementing the "New Starts Team" concept, designed to bring together technical and programmatic resources to deliver responsive technical assistance and to bring a "problem-solving" attitude to the implementation of our program. We recently published internal standard operating procedures for the New Starts Teams and earlier this month provided training to key members of the New Starts Teams from Headquarters and the Regional Offices on a wide range of New Starts program operational issues. This training included over 60 staff from FTA Regional Offices, making it the largest internal meeting the agency has held in almost 10 years.

Finally, we have made significant progress in improving **communications** with program stakeholders. Many of FTA's initiatives, such as enhanced guidance, FTA procedural and technical requirements and expectations training, a transparent New Starts case management system, and clearer lines of FTA responsibility contribute to improved communications. During this year, we continued the popular "New Starts Roundtable" discussions with transit agency staff and will be conducting extensive outreach on the New Starts NPRM.

Development of the Notice of Proposed Rulemaking and Final Rule

As you know, FTA published a Notice of Proposed Rulemaking (NPRM) on New Starts and Small Starts in the *Federal Register* on August 3, 2007. This document represents the culmination of a significant effort to obtain input from key stakeholders. The issuance of the NPRM is consistent with requirements in SAFETEA-LU for FTA to provide notice of any changes in policy or procedures in general, and in the New Starts program in particular. Accordingly, on January 19, 2006, FTA published a Federal Register Notice of Proposed New Starts Policy Guidance that included as Part 2 a series of key questions that would become the subject of this NPRM. Because of the wide range of issues that needed to be addressed in some detail on the new Small Starts program, on January 30, 2006, FTA published an Advance Notice of Proposed Rulemaking (ANPRM) on Small Starts. FTA provided further opportunity for public involvement by holding three listening sessions (in San Francisco, Fort Worth, and Washington, D.C.) in February and March of 2006.

FTA received over 70 written comments on the draft of the New Starts Policy Guidance and its related policy issues and over 90 comments on the Small Starts ANPRM. In response, on May 22, 2006, FTA published final New Starts Policy Guidance and FY 2008 Reporting Instructions for the New Starts program. FTA is also providing further responses to these comments in this NPRM. After a period of public review and comment, FTA published

additional policy guidance on June 4, 2007, which included the aforementioned streamlined reporting of the New Starts criteria for annual evaluation.

I would note that we are planning extensive outreach on the NPRM we have just issued. We have already held two outreach sessions (in Los Angeles and Denver) and one is being held in Chicago today. Two more outreach sessions are scheduled, one in Washington, D.C., on October 2, 2007, and a final session, in coordination with the American Public Transportation Association's Annual Meeting in Charlotte, N.C., next week. At these sessions, FTA staff will provide further explanation of our NPRM and related proposed evaluation measures, and invite public comment to the docket, which closes on November 1, 2007.

Once the docket closes, we plan on closely examining the comments we have received. Given the apparent stakeholder interest on this topic, and on the NPRM itself, we expect that it will take some time to carefully consider input and to prepare a Final Rule. We expect that the Final Rule will be issued some time in 2008.

Summary of the Notice of Proposed Rulemaking

The NPRM implements the changes made in the New Starts Program and in the establishment of the Small Starts Program, as provided for in SAFETEA-LU. Key features include:

- Formal establishment of a streamlined Small Starts program for projects requesting less than $75 million in Federal Capital Program funds and with a total cost of not more than $250 million;
- Codification of an even-more-streamlined Very Small Starts program for projects costing less than $50 million which have certain characteristics;
- Making substantial bus corridor improvements (like Bus Rapid Transit) eligible for Small Starts funds;
- Full consideration of all statutory project justification criteria (including the land use and economic development benefits of New Starts projects);
- Enhanced attention to the congestion mitigation impacts of New Starts projects; and
- Continued emphasis on assuring that only cost-effective projects are recommended for Federal funding.

Small Start and Very Small Starts

The Small Starts program is a significant departure from the traditional New Starts program, which has long required as a defining feature of eligibility a "fixed guideway," that is, either an exclusive or semi-exclusive transit right-of-way or in-street rail operations. SAFETEA-LU established the Small Starts program to advance lower-cost fixed guideway and non-fixed guideway projects such as bus rapid transit, streetcars, and commuter rail projects through an expedited and streamlined evaluation and rating process. Many of the Small Starts program features included in the NPRM were initiated in the Interim Guidance on Small Starts that we issued in August 2006. For example, the NPRM provides details on requisite features of a non-fixed guideway project in order for a project to qualify. Small Starts project justification

includes only cost effectiveness and two measures of project effectiveness: land use and economic development benefits and mobility. Project justification may be made based on simplified travel demand forecasts based on year of opening, rather than a complex, twenty-year forecast. Local financial commitment is assessed based on a short-term financial plan that demonstrates the capacity to build and operate the proposed project, again in the first years of operation.

In the Interim Guidance issued in August 2006, FTA introduced a project concept called "Very Small Starts." The NPRM proposes to continue this approach for simple, low-risk projects. These types of projects would qualify for a highly simplified project evaluation and rating process by FTA. A project would be required to be a bus, rail or ferry project, contain certain features and have a total project cost of less than $50 million. Such projects, by their nature, have sufficient benefits to rate well without further analysis.

Project Justification and Local Financial Commitment Criteria

A key feature of the New Starts portion of the NPRM is the consideration of all of the project justification criteria provided for in SAFETEA-LU. In recent years, while FTA has gathered and reported information on all of the criteria, only cost-effectiveness and land use have been weighed in assessing overall project justification. The NPRM changes this by reorganizing the justification criteria into cost-effectiveness and several measures of effectiveness (land use and economic development benefits, mobility improvements, and environmental benefits) and by clarifying that operating efficiencies are covered by cost-effectiveness.

In doing so, FTA expands the evaluation of the economic development benefits of proposed New Starts and Small Starts projects in a new combined measure of land use and economic development benefits. FTA continues to believe that it is extremely difficult to discern economic development benefits from land use benefits. FTA's current measures for transit supportive land use do, in fact, qualitatively capture the potential for economic development in a New Starts corridor. However, the NPRM provides an opportunity for input on how we might better distinguish between land use and economic development effects of transit investments. We have engaged a consultant to assist us in this matter and to provide us with technical advice on how to improve our approach to measuring these important benefits. Finally, the NRPM continues to include an assessment of transit supportive land use policies and patterns, which is a current part of our evaluation criteria, as part of the assessment of the reliability of the project justification evaluation.

While we believe that the approach we have proposed for evaluation of the land use and economic development benefits of proposed investments is workable, it would be desirable to develop approaches that could measure these benefits more directly. At present, our measure of effectiveness includes the mobility benefits attributable to the proposed transit project, and hence forms the core of our analysis of cost-effectiveness. However, that measure is necessarily limited to those benefits which can be reliably measured using well-defined travel demand models. The NRPM includes a question seeking input on how FTA might implement improved measures of project merit that would include the land use and economic development benefits more directly.

The NPRM continues our current approach for evaluating local financial commitment. Project sponsors must develop financial plans that indicate sufficient resources to build and operate the proposed project, as well as to maintain and operate the transit system as a whole. For New Starts projects, the financial plan must cover a 20 year planning horizon. For Small Starts projects, the plan can cover the period up through revenue service, which reflects the smaller scale, and relative simplicity of these projects. The NPRM continues to emphasize the importance of the amount of the local financial contribution, providing a higher rating for those projects which overmatch the Federal investment, thus continuing our longstanding practice of rewarding those projects which help leverage the scarce Federal investment dollar, allowing for more worthy projects to be funded with Federal support.

Traffic congestion is a major issue in the urban areas where New Starts projects are being considered. When investments in transit are made in coordination with congestion reduction plans that include effective road pricing strategies, we believe such projects have greater potential to relieve road congestion. Accordingly, the NPRM proposes to consider the relationship of the project to road pricing strategies as an "other factor" in evaluating project justification. In addition, the NPRM includes evaluation of the congestion reduction potential of the proposed investment in the assessment of the mobility benefits of the project. Finally, the NPRM asks for input into how FTA could include highway system user benefits as part of the measure of mobility improvements counted in calculating the cost-effectiveness of the proposed project. While the definition of "user benefits" is proposed to continue to include such benefits, FTA has not been able to do so because the forecasts of such benefits have not been consistent or reliable. Input on this topic, as well as research DOT will initiate on this topic, could provide a basis to include these benefits in our calculations.

While cost-effectiveness is only one portion of the project justification criteria, the NPRM proposes to make permanent our current policy of recommending for funding only those projects which rate at least "medium" on this measure. Projects that have lower cost-effectiveness ratings may continue through the project development process and be approved for Preliminary Engineering and Final Design, in order that they have an opportunity to continue project development. Such projects could either find ways to reduce costs or improve on the benefits forecast, and thus qualify for a funding recommendation, or to develop an alternative financing plan which would not involve New Starts funds (but could use other FTA formula funds, flexible Title 23 funds, or local funds). However, we would not expect such projects to receive Full Funding Grant Agreements (for New Starts) or Project Construction Grant Agreements (for Small Starts).

We believe that it is appropriate to include this requirement in the NPRM and Final Rule since cost-effectiveness is the only measure that compares a project's benefits to its costs. The measure of effectiveness we use—user benefits—is an objective, quantifiable measure of benefits. It is based on the same travel models that forecast the project's ridership and that support the metropolitan planning process. User benefits are made up of travel time savings and other less tangible benefits such as improved reliability and predictability, ride quality, sheltered waiting and other comfort and convenience factors. User benefits are a good surrogate measure for other benefits such as improved accessibility and mobility (the more travel time savings

which can be measured the more accessible certain locations become). User benefits also can reflect the propensity for increases in property values (which is likely to occur based on how much more accessible certain locations become).

Our assessment of cost-effectiveness essentially considers such other benefits as mobility improvements, environmental benefits, congestion reduction, and land use and economic development to be directly proportional to the user benefits we measure. A project with a high rating on cost-effectiveness almost always has high ratings on other factors such as mobility improvements and environmental benefits, in particular.

Conclusion

Chairman DeFazio, Ranking Member Duncan, and Members of this Subcommittee, FTA is committed to the New Starts and Small Starts programs. We believe that the NPRM we have issued provides a good basis on which to make continued improvements to the management of this important program. We remain committed to streamlining project delivery while providing strong project management oversight. We strive to bring good projects in on-time and within budget. We are enhancing customer service through improved communications. We look forward to working with Congress on these and other issues facing our Nation's public transportation system. I will be happy to respond to your questions.