

March 11, 2013

Peter M. Rogoff
Administrator, Federal Transit Administration
U.S. Department of Transportation
1200 New Jersey Ave SE
Washington, DC 20590

Docket Number FTA–2010–0009: Notice of Proposed Policy Guidance for Major Capital Investment Projects

Dear Administrator Rogoff:

The undersigned organizations¹ appreciate the opportunity to submit comments on the Federal Transit Administration's (FTA's) [Proposed Policy Guidance for Major Capital Investment Projects](#) (New Starts/Small Starts). We thank the FTA for its extensive and inclusive rulemaking process. We also commend and strongly endorse the changes to the [Final Rule](#) that:

- Create incentives for project sponsors to consider the location of affordable housing when planning new transit corridors and for local communities to preserve and expand affordable housing near proposed transit stations; and
- Adjust the cost-effectiveness calculation to remove disincentives to enrichments that facilitate economic development in station areas and maximize the overall benefits of proposed projects.

These changes represent clear recognition of the fact that both communities and transit performance are enhanced when transit policy is effectively coordinated with land use, housing, and economic development policy to ensure equitable access to transit and more effective linkages of people with jobs and other essential destinations.

Drawing on our expertise in the fields of affordable housing, community development, and transit-oriented development we offer the following comments, primarily designed to clarify the standards by which applicants will be judged – ensuring fairness and facilitating implementation by local applicants – while also ensuring the guidance achieves the ultimate goals of the final rule.

1. **Definitions** – The final guidance should provide greater clarity on the definitions for key terms that have a bearing on implementation, including legally binding affordability restricted housing, transit corridor, project corridors, and transit station areas.

¹ Organization information can be found in Appendix A

2. **Economic Development** – The final guidance should provide clearer guidance to applicants on the standards by which affordable housing plans and policies will be judged. Specifically, we recommend including numerical targets for the share of affordable housing expected to be developed or preserved to qualify for each ranking level, greater emphasis on long-term affordability as well as the preservation of existing affordable housing, and a specific focus on the needs of extremely- and very-low income households.
3. **Enrichments** – We support FTA’s concept of “enrichments,” in which certain project elements are subtracted from the cost-effectiveness calculation to remove barriers to adopting measures that are not integral to project functioning and whose benefits are not fully captured by the project evaluation. These elements could greatly contribute to economic development and the overall success of a project. In addition to the directions included in the guidance, we recommend that FTA explicitly clarify the eligibility of affordable housing/community development projects as well as the incremental costs of structured parking.
4. **Land Use** – To allow for a full analysis of the performance of the proposed New Starts project and the transit system as a whole, the final guidance should incorporate a two-tiered measure of proximity of affordable housing to transit that accounts for the level of affordable housing within both the (a) proposed transit corridor and (b) existing transit system as a whole as compared with the level in the surrounding counties.
5. **Next Steps** – Finally, we recognize that some project sponsors may need additional guidance on how to develop high-scoring applications that successfully link transit, housing, and economic development policy. To the extent feasible given current funding constraints, we recommend that FTA collaborate with the Department of Housing and Urban Development (HUD) and other applicable partners to provide technical assistance resources, and develop additional guidance materials that highlight best practices and successful strategies for achieving the goals of the New Starts program and high scores on the application.

Detailed Comments

1. Definitions

We recommend that the final guidance provide greater clarity on the definitions for key terms that have a bearing on implementation, including legally binding affordability restricted housing, transit corridor, project corridors, and transit station areas.

- a) **Legally binding affordability restricted housing.** We agree with the focus within the land use section on legally binding affordability restricted housing and, in general, believe the guidance provides an accurate and workable definition on what constitutes such restrictions. The one area where we think the guidance can and should be improved relates to the duration of the restriction. As you know, transit systems are designed to last for decades. In order to ensure

that the affordable housing is still available and targeted to low-income families over a similarly long time horizon, it is essential that the affordability be retained for as long a period as possible. Accordingly, the most appropriate land use measure would consider only the existence of legally binding affordability restricted housing whose restrictions will survive over the long-term. While there are a number of different ways to define “long-term” in this context, we would propose focusing on developments whose restrictions will last 15 years or longer following the projected opening of the project corridor or otherwise meet the standards set by our definition of “homes affordable over the long term” in Appendix B.

- b) The Final Rule and Proposed Guidance refer to “transit station areas,” “project corridors” and “transit corridors,” in various contexts, without defining what each term means. It is important that project sponsors have a clear understanding of the target areas to which they should assess the level of existing affordable housing and focus affordable housing-related plans and policies moving forward. We recommend that the final guidance clearly define these terms, focusing on the areas within a half mile of planned transit stations.

2. Economic Development Criteria

We strongly support FTA’s proposal to analyze the plans that jurisdictions have in place to maintain/expand the stock of affordable housing moving forward, with different standards for different stages of the transit evaluation/development process. While the scoring matrix provided in the Proposed Guidance represents a strong first step, we offer the following recommendations to strengthen these criteria:

- a) ***FTA should provide more specificity on what constitutes a “low,” “medium” or “high” scoring project.*** The proposed assessment framework captures many of the principles that promote effective affordable housing plans and policies. However, the proposed standards remain vague, and project sponsors will need additional guidance to ascertain what specific actions they should take to receive a high score. Based on our in-depth knowledge of affordable housing policy, we have proposed a revised set of standards that provide greater clarity and address all the other concerns described below. The specific standards we propose are included in ***Appendix B.***
- b) ***The best way to provide clarity to project sponsors while preserving flexibility is to set numerical affordability targets and then leave it up to sponsors and their partners to determine how best to achieve them.*** While flexibility is necessary to allow project sponsors and their partners to adopt the policies and tools that work best in their local context, it is important to provide clear outcome-based targets to which they should strive so they know what it will take to achieve a high or medium score. A firm affordability target (such as 20 percent of any newly developed residential units) will provide greater clarity for project sponsors while still giving them the flexibility to achieve the goal in the most efficient manner possible

The specific targets that we propose are included in Appendix B, with higher targets proposed for a high score (20 percent of newly developed units) than for a medium score (10 percent of

newly developed units). We also propose a definition of the income group that would be the subject of these targets (a moderate-income group that can be helped through locally-available tools). Our proposed language also distinguishes between the Engineering and Full Funding Grant Agreement stages by specifying that plans need to be in place in only a majority of jurisdictions covered by the proposed project at the Engineering stage, as opposed to all of the jurisdictions. (If it would make more sense to say jurisdictions covering a majority of the proposed stations or a majority of projected ridership, we would endorse this amendment.)

- c) ***At the same time, to address fair housing concerns, exceptions should be made for station areas with a high poverty concentration and low housing costs.*** For the most part, the overriding housing concern with respect to new transit stations is the prospects of gentrification that will price out low- and moderate income families leading to lower ridership and inequitable access to transit. However, in some cases, the persistence of poverty and the abundance of affordable housing suggest that the concentration of poverty is of greater concern. For this reason, we have included in Appendix B an exception to the affordable housing incentives to account for proposed station areas located in areas of highly concentrated poverty with an abundance of affordable housing.

This exception applies to the development of *new* affordable housing units. It does not affect the requirement to adopt plans to preserve *existing* affordable housing, which applies to all station areas in the project corridor.

- d) ***Project sponsors should be required to address the preservation of existing affordable housing to score “medium” or “high” at both the Engineering and Full Funding Grant Agreement stages.*** Preservation is crucial to ensuring that housing in proposed station areas will remain affordable. In addition to the lengthy construction process, property value appreciation in an affected area can occur over a number of years. In many cases, affordability restrictions have time limits, and projects may need to be recapitalized to protect their physical and financial viability. These properties will be at risk of conversion to market-rate housing, contributing to the displacement of low- and moderate income families and undermining ridership goals. Rising property values often put pressure on less-expensive market-rate properties to raise rents/sales prices or redevelop as higher-end housing. Therefore, plans, policies and financial resources for preservation are necessary to ensure that planned station areas remain affordable across the income spectrum.
- e) ***Higher-scoring plans and policies to support affordable housing should promote long-term affordability.*** Given the long-term investment in public transit infrastructure, it is essential that affordable housing investments similarly be structured to ensure that affordable housing units are available over the long-term to continue to provide equitable access to transit for households of all incomes over an extended time-frame. Accordingly, our proposed language specifies that local plans and policies focus on providing housing that is “affordable over the long term,” with a specific definition proposed in Appendix B.

In this regard, please note that we have proposed focusing on a longer duration of affordability in the economic development section as compared with the land use section. The reason is that the economic development criteria focus on setting policies to guide future efforts to preserve and expand affordable housing, whereas the land use criteria focuses primarily on evaluating what already exists. Clearly, in developing and preserving affordable housing in station areas going forward, we should strive for the longest-possible affordability periods – hence the extended time periods referenced in Appendix B. Under land use, however, we need to evaluate what already exists, and since many existing affordability restrictions will be for shorter periods, we have picked a more moderate target to ensure we effectively evaluate the current affordability landscape.

- f) ***Higher-scoring plans and policies should address the needs of the most vulnerable households.*** There are many diverse types and beneficiaries of affordable housing. Affordable housing can be targeted to low-income seniors, homeless individuals, low-income working families, moderate-income working families in higher-cost areas, and other household types across the income spectrum. While local jurisdictions and developers have become adept at providing housing solutions across this spectrum, in general the level of subsidy and support necessary to provide adequate, stable housing increase as the incomes of the targeted beneficiaries decrease.

To ensure that housing remains available for people of all incomes, affordable housing plans and policies should explicitly address the needs of very-low income (under 50 percent of area median income) and extremely low-income (under 30 percent of area median income) households. However, because the ability to serve very-low and extremely low-income households is largely dependent on the availability of federal subsidies – which varies from state to state and community to community – we recommend evaluating plans to serve these households on a qualitative basis, rather than including them within the numerical goal described above. The numerical goals focus on a population of moderate-income households that can be feasibly served with locally controlled resources and policies.

For more details on our specific proposals, see the proposed language in Appendix B.

3. Enrichments

We applaud FTA’s concept of “enrichments,” in which certain project elements are subtracted from the cost-effectiveness calculation to remove barriers to adopting measures that are not integral to project functioning and whose benefits are not fully captured by the project evaluation. We strongly believe this will benefit New Starts/Small Starts projects from various perspectives, including economic development, project effectiveness, environmental quality and social equity. We recommend the following changes to further improve enrichments calculations:

- ***FTA should allow the incremental costs of structured parking (as compared to surface parking) to be included as an enrichment if used for more intensive development adjacent to transit stops.*** Though parking can facilitate ridership, the construction of extensive surface parking lots

adjacent to transit can crowd out more productive uses of real estate such as intensive residential and commercial development. At the same time, structured parking adds substantially to the overall costs of such intensive development and will often make that development infeasible, defeating the FTA's goals of encouraging economic development and boosting ridership through transit-oriented development. Therefore, if a project sponsor's plan proposes to use vertical parking structures rather than a surface parking lot and uses the freed-up land for more intensive development (especially of affordable housing and/or community facilities), the incremental costs of the parking structure (vs. the costs of surface parking) should count as an enrichment.

- ***FTA should explicitly mention the eligibility of affordable housing as a joint development activity.*** Under existing program rules and guidance, project sponsors are allowed to include residential development (including affordable housing) in joint development projects. FTA can encourage project sponsors to undertake such projects by explicitly mentioning that affordable housing joint development projects are eligible as enrichments.

4. Land Use criteria

We commend FTA for considering the proximity of proposed stations to existing “legally binding affordability restricted” housing. It is important for project sponsors to extend transit access to neighborhoods that include affordable housing developments so that households across the income spectrum have good access to transit. Furthermore, as lower-income households make up a significant portion of transit ridership, policies that focus on increasing transit access to these households can enhance the effectiveness of the project itself by boosting and stabilizing ridership.²

However, we do have some questions and concerns with the specific measure proposed in the guidance (the proportion of affordable housing as a share of the housing stock within the corridor, as compared to that in the region as a whole). We also have a recommendation for how to strengthen the proposal to more effectively measure whether a proposed alignment is effective in providing transit access to residents of affordable housing.

First, we submit the following request for clarification. The guidance proposes to compare “the share of ‘legally binding affordability restricted’ housing in the corridor compared to the region’s share of ‘legally binding affordability restricted housing’”. However, the guidance does not indicate whether the scoring thresholds refer to the *percentage point* difference or the *actual percentage* difference. At a minimum this should be clarified. (As explained below, we recommend a different set of scoring thresholds entirely, but even if you disagree with our proposal, it will be important to clarify the original one.)

Second, we offer the following concerns with the proposed measure:

² Nearly 66 percent of transit users had household incomes below \$50,000 (in 2004 dollars). Neff, John, and Larry Pham. 2007, May. A Profile of Public Transportation Passenger Demographics and Travel Characteristics Reported in On-Board Surveys. Washington, DC: American Public Transportation Association.

- a) **Use of Region vs. County as Point of Comparison.** Given the relatively small share of affordable housing at the regional level, and the fact that both affordable housing and transit tend to be clustered in urban areas, the percentage of affordable housing in proposed transit corridors will often be much higher than that of the region as a whole. This could make it appear that a chosen alignment is effective in providing good transit access to residents of affordable housing developments even if the share of affordable housing being served by a proposed alignment is lower than the share in the immediate county in which the stop is located.

A county-level comparison also works in the other direction. It can help ensure that regions choosing to extend transit into suburban counties without a history of affordable housing development retain appropriate incentives to select alignments that maximize transit access by low- and moderate-income households living in affordable housing. Using the county as the comparison point would help ensure that an alignment that compares favorably with the county as a whole in terms of the access it provides to residents of affordable housing would score well, even if the share of affordable housing units falls well below the regional average that is being influenced by large shares of affordable housing in the central city.

We propose using the county as the comparison point for each station area and then weighting the final results according to the number of housing units in the project corridor as a whole.

- b) **Length of affordability restrictions.** As noted in our discussion of definitions above, it is very important that the final guidance consider the *length* of affordability restrictions in addition to the *quantity* of affordable units. A unit that is affordable at the time of application review could have its affordability restrictions expire either during the project development/construction phase or shortly after the station is operational, thus negating the benefits of the transit investment for low- and moderate-income households. Therefore, we recommend that only projects that maintain a legal affordability restriction for 15 years following the projected opening of the corridor, or that meet other applicable provisions under the definition of “affordable over the long term” (as defined in Appendix B) should count toward this calculation.

We acknowledge that further analysis is needed to verify that the nature and duration of long-term affordability restrictions can be easily ascertained from publicly-available data and to determine appropriate scoring thresholds to use in analyzing these data. Accordingly, we recommend the final guidance state that:

- FTA ultimately intends for the land use analysis to focus only on affordable housing with long-term restrictions lasting at least 15 years or longer following the projected opening of the project corridor; but
- Pending confirmation that data on long-term use restrictions are easily available and accurate, the land use criterion will be judged based on the availability of any legally-binding affordability restriction, as verified by the information included in the National Housing

Preservation Database (<http://www.preservationdatabase.org/>), augmented by locally available data if needed to supplement, update or correct the national database.

See Appendix C for additional information on our proposed methodology for measuring proximity to legally binding affordability restricted housing under the land use criterion.

Recommended approach to measuring proximity of legally binding affordability restricted housing:

To assist FTA in refining its measurement of the proximity of legally binding affordability restricted housing to proposed stations, we reviewed data on the spatial relationship between rail transit and affordable housing. After analyzing the data, we developed a two-tiered assessment that builds off the criterion put forth by FTA in the proposed guidance. Please refer to Appendix C for additional details and methodology. The following is a basic summary.

First, we agree that it makes sense to evaluate the share of affordable housing in the corridor compared to that in the surrounding areas. As previously mentioned, we believe that the county in which the specific station/corridor is located is the appropriate unit of comparison, rather than the region as a whole. We also believe that the proportion of affordable housing in the transit corridor vs. the relevant counties should be expressed as a ratio that allows for easier comparisons across different metropolitan regions. We have provided more details on this recommendation, including proposed scoring thresholds, in Appendix C.

While this will provide a strong measure of how well a specific proposed project reaches residents of affordable housing, it is also important to analyze the performance of the system as a whole in providing access to affordable housing. In some contexts, it may be appropriate for a project sponsor to extend transit access to an area that does not have a significant existing residential component, such as a business park or other major job center. In this scenario, such a project would likely receive a low score on the land use measure, as it may not contain any affordable housing, while the surrounding county will likely include some affordable housing. However, if the transit system as a whole already reaches a significant amount of affordable housing, such a project would benefit residents of the affordable housing by providing greater transit access to economic opportunity.

Therefore, we propose applying the same measure (the ratio of the share of affordable housing around transit stations compared to that in the surrounding counties) to the transit system as a whole, including the proposed expansion. A particularly strong score for this measure should raise the “proximity of legally binding affordability restricted housing” score by one level (i.e, from “Low” to “Medium” or from “Medium” to “High”). We have included additional details and scoring thresholds in Appendix C.

5. Resources for Project Sponsors

We recognize that some project sponsors may be unfamiliar with issues related to affordable housing and community development. They may not have a history of working with local jurisdictions’ housing development and land-use planning organizations. Therefore, many project sponsors may need

additional assistance in complying with these new standards. To the extent feasible given current law and funding constraints, we recommend the following:

- ***FTA should continue to collaborate with HUD and encourage project sponsors to work closely with applicable housing entities.*** We understand that FTA has consulted with HUD throughout the New Starts/Small Starts rulemaking process on affordable housing-related elements, and we encourage FTA to continue this collaboration, as HUD should be able to provide both data resources (to verify the land use criteria calculations) and examples of best practices.
- ***FTA should provide technical assistance and additional information resources.*** While affordable housing may be new territory to some project sponsors, other jurisdictions and organizations have completed such policies and plans successfully. In order to improve efficiency, it is important to provide project sponsors with examples of best practices through the provision of direct technical assistance, the coordination of communities of practice, and/or the development of printed resources (such as reports or guidebooks) that detail examples of successful and high-scoring projects, and outline the steps that were taken to achieve those policies and plans.

Once again, we commend FTA on the important steps it has taken thus far to maximize the community benefits of public transit investments. We greatly appreciate the numerous opportunities that FTA has provided to share our experience and ideas. We stand ready to work with FTA moving forward to successfully implement the Final Rule and Guidance, and to promote best practices in promoting healthy communities through transit-oriented affordable housing and community development. Please contact Jeff Lubell, Executive Director; Center for Housing Policy (jlubell@nhc.org) or Michael Spotts, Senior Policy Analyst; Enterprise Community Partners (mispotts@enterprisecommunigy.org) for any questions or clarifications.

Sincerely,

Enterprise Community Partners
Housing Partnership Network
Local Initiatives Support Corporation
Low Income Investment Fund
National Housing Conference
National Housing Trust

Appendix A: About the Organizations Submitting the Comments

Enterprise Community Partners (Enterprise) is a national nonprofit organization that creates opportunity for low- and moderate-income people through affordable housing in diverse, thriving communities. Enterprise provides financing and expertise to community-based organizations for affordable housing development and other community revitalization activities throughout the U.S. Since 1982, Enterprise has raised and invested more than \$11.5 billion in equity, grants and loans to help build or preserve nearly 300,000 affordable rental and for-sale homes to create vital communities and more than 410,000 jobs nationwide.

The **Housing Partnership Network** is a member-driven organization comprised of 100 entrepreneurial nonprofits that operate all across the country. The members are diversified social enterprises combining a mission focus with business acumen. The members' businesses include lending, real estate development, property management, and housing counseling. Collectively, they have 13,400 employees, \$1.3 billion in annual revenues, and have served 4.3 million low-income people. The Network is best described as a business collaborative. The members' senior leadership comes together with their peers to exchange information, solve problems, and share best practices. Their collaborations have spawned member-owned businesses that improve member operations and advance innovations in the practice of affordable housing and community development. For example, when insurance costs spiked after 9/11, members launched a captive property and casualty insurance company that today insures approximately 60,000 homes with \$7.0 billion of insurance-in-force. Other businesses that have emerged from these collaborations include a group buying service for building materials, a company that acquires and modifies distressed mortgage notes to help homeowners stay in their homes, a new web-based approach to homebuyer education, and a multifamily real estate investment trust.

The **Local Initiatives Support Corporation (LISC)** is a non-profit organization dedicated to helping community residents transform distressed neighborhoods into healthy and sustainable communities of choice and opportunity — good places to work, do business and raise children. LISC mobilizes corporate, government and philanthropic support to provide local community development organizations with loans, grants and equity investments, local, statewide and national policy support, and technical and management assistance. In collaboration with local community development groups, LISC staff help identify priorities and challenges, delivering the most appropriate support to meet local needs.

The **Low Income Investment Fund (LIIF)** invests capital to support healthy families and communities. Since 1984, LIIF has served one million people by investing \$1 billion. Over its history, LIIF has provided financing and technical assistance to create and preserve affordable housing, child care centers, schools, transit-oriented developments and healthy food retail in distressed neighborhoods nationwide. LIIF's

work has generated \$20 billion in family income and societal benefits. LIIF has offices in San Francisco, Los Angeles, New York City and Washington, D.C. For more information about LIIF, visit www.liifund.org.

The **National Housing Conference (NHC)** represents a diverse membership of housing stakeholders including tenant advocates, mortgage bankers, non-profit and for-profit home builders, property managers, policy practitioners, realtors, equity investors, and more, all of whom share a commitment to a balanced national housing policy. Since 1931, NHC has been dedicated to ensuring safe, decent and affordable housing for all in America – That commitment bringing together our broad-based membership has earned us a reputation as the United Voice for Housing engaging in nonpartisan advocacy on housing issues.

The **National Housing Trust (NHT)** protects and improves existing affordable rental homes so that low income individuals and families can live in quality neighborhoods with access to opportunities. NHT has preserved or helped to preserve more than 25,000 affordable homes through real estate development, lending, and technical assistance.

Appendix B: Recommendations for Affordable Housing Provisions in Economic Development Criteria

Plans and Policies to Maintain or Increase Affordable Housing in Corridor

<p>Full Funding Grant Agreement - High</p>	<ul style="list-style-type: none"> • Comprehensive affordable housing plans have been developed and are being implemented that identify and address the current and prospective housing affordability needs along the corridor. The plans include robust efforts to preserve existing affordable housing (both legally binding affordability restricted housing and market-rate affordable housing) and a set of policies designed (and reasonably likely) to ensure that at least 20 percent of newly developed homes in each station area are affordable over the long-term to renters with incomes below 60 percent of the area median income and/or owners with incomes below the area median. The plans also explicitly address the housing affordability and quality needs of very- and extremely-low income households. • Financing commitments and/or sources of funding and robust financial incentives are secured and available at the local and/or regional level and along the proposed corridor to support affordable housing acquisition (including acquisition of land and/or properties intended to be converted to affordable housing), development and/or preservation consistent with adopted plans and policies. These commitments may include early phase or acquisition financing as well as permanent financing. • Land use policies and zoning codes support and encourage affordable housing development in transit corridors. • Developers are actively working in the corridor to secure priority development sites and/or maintain affordability levels in existing housing units.
<p>Full Funding Grant Agreement - Medium</p>	<ul style="list-style-type: none"> • Affordable housing plans have been developed and are being implemented that identify and address the current and prospective housing affordability needs along the corridor. The plans include efforts to preserve existing subsidized housing and a set of policies designed (and reasonably likely) to ensure that at least 10 percent of newly developed homes in each station area are affordable over the long-term to renters with incomes below 60 percent of the area median income and/or owners with incomes below the area median. The plans also explicitly address the needs of very- and extremely-low income households. • Some financial incentives are available along the proposed corridor to support affordable housing acquisition (including acquisition of land and/or properties intended to be converted to affordable housing), development and/or preservation consistent with adopted plans and policies. These commitments may include early phase or acquisition financing as well as permanent financing. • Land use policies and zoning codes support affordable housing development in and near transit corridors to a moderate extent. • Developers are starting to work in the corridor to secure priority development sites and/or maintain affordability levels in existing housing units.

<p>Full Funding Grant Agreement - Low</p>	<ul style="list-style-type: none"> • Affordable housing plans and policies are in development or non-existent, or fail to address key elements such as length of affordability, preservation of existing affordable housing, and the needs of very- and extremely-low income households. • Little or no financial incentives are available to support affordable housing development and preservation. • Land use policies and zoning codes support affordable housing development in and near transit corridors to a lesser extent. • There is little or no affordable housing development/preservation activity in the corridor.
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<p>Engineering - High</p>	<ul style="list-style-type: none"> • Plans and policies are in place in most of the jurisdictions covered by the project corridor that identify and address the current and prospective housing affordability needs along the corridor. The plans outline a strategy to preserve existing affordable housing (both legally binding affordability restricted housing and market-rate affordable housing) and include policy options designed (and reasonably likely) to ensure that at least 20 percent of newly developed homes in each station area are affordable over the long-term to renters with incomes below 60 percent of the area median income and/or owners with incomes below the area median. The plans also explicitly address the housing affordability and quality needs of very- and extremely-low income households. • Financing commitments and/or sources of funding and robust financial incentives are identified and secured to support affordable housing acquisition (including acquisition of land and/or properties intended to be converted to affordable housing), development and/or preservation consistent with adopted plans and policies. These commitments may include early phase or acquisition financing as well as permanent financing. • A strategy is in place to encourage jurisdictions to adopt land use policies and zoning codes that support and encourage affordable housing development in transit corridors. • Developers are actively working in the corridor to secure priority development sites and/or maintain affordability levels in existing housing units.
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<p>Engineering - Medium</p>	<ul style="list-style-type: none"> • Affordable housing plans are being prepared in most of the jurisdictions covered by the project corridor that identify and address the current and prospective housing affordability needs along the corridor. The plans outline a strategy to preserve existing affordable housing (both legally binding affordability restricted housing and market-rate affordable housing) and explore policy options designed (and reasonably likely) to ensure that at least 10 percent of newly developed homes in each station area are affordable over the long-term to renters with incomes below 60 percent of the area median income and/or owners with incomes below the area median. The plans also explicitly address the housing affordability and quality needs of very- and extremely-low income households. • Some financing commitments and/or sources of funding and have been
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	<p>identified and secured to support affordable housing acquisition (including acquisition of land and/or properties intended to be converted to affordable housing), development and/or preservation. These commitments may include early phase or acquisition financing as well as permanent financing.</p> <ul style="list-style-type: none"> • A strategy is in place to encourage jurisdictions to adopt land use policies and zoning codes that support and encourage affordable housing development in transit corridors. • Developers are starting to work in the corridor to secure priority development sites and/or maintain affordability levels in existing housing units.
Engineering - Low	<ul style="list-style-type: none"> • Plans and policies are not in place or being prepared that identify and address the specific housing affordability needs along the corridor. • Financing commitments and/or sources of funding have not been identified and secured to preserve and/or build new affordable housing consistent with adopted plans. • There is no strategy to encourage jurisdictions to adopt land use policies and zoning codes that support and encourage affordable housing development in transit corridors. • There is little or no affordable housing development/preservation activity in the corridor.

Ratings based on assessment of the following:

- Plans and policies to preserve and increase affordable housing in region and/or corridor
- Adopted financing tools and strategies targeted to preserving and increasing affordable housing in the region and/or corridor
- Documented evaluation of corridor-specific affordable housing needs and supply over the 20-year period following approval of the New Starts grant.
- Corridor-specific plans and policies to preserve and increase affordable housing in corridor
- Evidence of developer activity to preserve and increase affordable housing in the corridor.
- The extent to which the applicant’s activities promote long-term affordability and the needs of very- and extremely-low income households.

Definitions, Exceptions and Other Provisions:

- **Homes are “affordable over the long-term”** when they are affordable to and occupied by members of the target income group over the long-term, defined as follows:

Rental Housing must meet one of the following tests:

- owned by a nonprofit organization dedicated to providing affordable housing or
- governed by a legally binding use restriction (or other legal protection) requiring the housing (or the land upon which it operates) to be used to provide affordable housing

for 30 years or longer, as measured from the time the development goes into service.

Owner-occupied housing must be governed by a legally binding covenant (or other legal protection) designed to:

- ensure the unit remains affordable to and occupied by members of the target income group for at least 45 years and ensure that, every time the unit is sold or inherited during its affordability period, the clock is reset such that, from the date of sale or inheritance, the unit will remain affordable to and occupied by members of the target income group for at least 45 years.
- **Variation Among Proposed Transit Stations.** Applicants are not required to adopt the same housing policy or target for each proposed station along a corridor. Where different affordability targets are pledged for different stations, an application will be assessed based on the average of the pledged targets, weighted based on the projected number of new housing units within one-half mile of each station within the 20-year period from the date of application.
- **Exceptions for Areas with High Poverty Concentration and Low Housing Costs.** For a proposed station area with very low housing costs and very high poverty levels, additional investments in long-term affordable housing may not be warranted. Where rents, housing sale prices and poverty rates within a one-half mile of a proposed station all fall in the bottom quartile (i.e. very low rents and sale prices and very high poverty rates) of existing station areas in the metropolitan area, the applicant has the option of being excused from planning for additional affordable housing near that station. However, the affordability targets for newly developed housing remain in effect for the balance of the proposed transit corridor.

This exception applies only to the development of new affordable housing units. It does not affect the requirement to adopt plans to preserve existing affordable housing, which applies to all station areas in the project corridor.

Appendix C: Recommendations and Methodology for Affordable Housing Provisions in Land Use Criteria

Recommendations for Measuring Proximity of Legally Binding Affordability Restricted Housing

We support FTA's recommendation to measure the share of affordable housing in the corridor compared to that in the surrounding areas, with some important revisions. As previously mentioned, we believe that the county in which the specific station/corridor is located is the appropriate unit of comparison, rather than the region as a whole. We also believe that the proportion of affordable housing in the transit corridor vs. the relevant counties should be expressed as a ratio that allows for easier comparisons across different metropolitan regions. Therefore, we recommend adopting the following measure:³

- Calculate a ratio of (a) the percent of units in the transit corridor (defined as ½ mile around each proposed station) that are legally binding affordability restricted housing to (b) the percent of units in the counties in which the stations are located that are legally binding affordability restricted housing.⁴
 - Low Rating – Ratio below 1.25 (i.e., the share of affordable housing units within the transit corridor is lower than 125% of the share within the corresponding counties)
 - Medium Rating – Ratio of 1.25 to 2.49 (i.e., the share of affordable housing units within the transit corridor is between 125% and 249% of the share within the corresponding counties)
 - High Rating – Ratio of 2.5 or higher (i.e., the share of affordable housing units within the transit corridor is at least 250% of the share within the corresponding counties)

While this will provide a strong measure of how well a specific project reaches residents of affordable housing, it is also important to analyze the performance of the transit system as a whole. In some contexts, it may be appropriate for a project sponsor to extend transit access to an area that does not have significant existing residential development, such as a business park or other major job center. In this scenario, such a project would likely receive a low score, as it may not contain any affordable housing, while the surrounding county will likely include some affordable housing. However, if the transit system as a whole already reaches a significant amount of affordable housing, such a project would benefit residents by providing greater access to economic opportunity.

³ See the "Methodology – Measure 1" and "Methodology – Measure 2" sections in the following pages for details on these calculations.

⁴ For proposed projects crossing county lines, this measure must be weighted by the population within the transit corridors. So if 75% of the population in the transit corridor (defined as ½ mile around each proposed station) was in county A and 25% in county B, the results would be weighted accordingly.

- Therefore, we propose applying the same measure (the ratio of share of affordable housing in the corridor compared to that in the surrounding counties) to the transit system as a whole, including the proposed expansion.
- If the share of all housing within ½ mile of transit stations that is legally binding affordability restricted housing across the entire system is at least twice as high as the share of all housing within the counties served by the system that are legally binding affordability restricted housing, the project sponsor’s overall rating for “proximity of legally binding affordability restricted housing” should increase by one level (i.e, from “Low” to “Medium” or from “Medium” to “High”).

Recommendations for Identifying Legally Binding Affordability Restricted Housing that is Affordable Over the Long Term

As previously mentioned, it is very important that the final guidance consider the *length* of affordability restrictions in addition to the *quantity* of affordable units. Therefore, we recommend that only projects that maintain a legal affordability restriction for 15 years following the projected opening of the corridor, or that meet other applicable provisions under the definition of “affordable over the long term” (as defined in Appendix B) should count toward this calculation.

There are a number of different ways that long-term affordability can be guaranteed for this period of time, including commitments tied to the receipt of Low-Income Housing Tax Credits, HOME or other HUD funds, payment in lieu of taxes (PILOT) agreements, and other legal instruments tied to the receipt of federal, state, local and/or private funds/financing. In addition to data maintained by HUD on projects receiving subsidy, aggregated data on the location and length of affordability for federally subsidized housing can be found through the [National Housing Preservation Database](#).⁵ We recommend utilizing the National Housing Preservation Database as the primary source of data on the existence of federally-subsidized affordable housing and the duration of long-term affordability covenants.⁶ We also recommend allowing project sponsors, at their discretion, to provide documentation and/or certifications from state or local housing agencies, such as the state housing finance agency, to be used

⁵ “The *National Housing Preservation Database* was created by the Public and Affordable Housing Research Corporation (PAHRC) and the National Low Income Housing Coalition (NLIHC) in an effort to provide communities with the information they need to effectively preserve their stock of public and affordable housing. The *National Housing Preservation Database* incorporates all available data on federally subsidized housing properties and includes nine separate funding streams. The *National Housing Preservation Database* can be filtered by location, funding stream, or 'at risk of loss' status.” (Source: <http://www.preservationdatabase.org/index.html>).

⁶ To make this analysis as easy as possible for Project Sponsors to execute and for FTA to verify, we recommend focusing on all units of all properties included in the database. While a very small percentage of these units may in fact be market-rate units within mixed-income developments, there is not yet a way to determine the aggregate number of subsidized vs. market-rate units within each development from the database alone. We strongly recommend that HUD work to refine this or another database to provide more specific information that could be incorporated into future iterations of the New Starts guidance.

to certify the long-term affordability of state or locally financed affordable housing and update information not reflected in the database.⁷ Affordable housing units verified in this manner should receive the same consideration as those included in the database.

We acknowledge that further analysis is needed to verify that the nature and duration of long-term affordability restrictions can be easily ascertained from publicly-available data and to determine appropriate scoring thresholds to use in analyzing these data. Accordingly, we recommend the final guidance state that:

- a) FTA ultimately intends for the land use analysis to focus only on affordable housing with long-term restrictions lasting at least 15 years or longer following the projected opening of the project corridor; but
- b) Pending confirmation that data on long-term use restrictions are easily available and accurate, the land use criterion will be judged based on the availability of any legally-binding affordability restriction, as verified by the information included in the National Housing Preservation Database (<http://www.preservationdatabase.org/>), supplemented by locally available data if needed to update or correct the national database.

Methodology for Determining Recommendations for Land Use Criteria

In developing our recommendations for the affordable housing provisions in the land use criteria, we conducted an analysis of the spatial relationships between rail transit and affordable housing. In conducting this analysis we examined data from six regions:

- Atlanta
- Charlotte
- Chicago
- Denver
- Seattle
- Washington, DC

⁷ The structure of housing finance and regulatory entities varies by location. Some state and local jurisdictions consolidate all housing functions under one entity, while others split the responsibilities into multiple organizations (for example, a city may have a public housing agency to administer that stock of housing, a housing department to administer other funding sources such as HOME and the Community Development Block Grant, and have to apply for funding to a state housing finance agency).

These regions represent diverse real estate markets and are in different stages of build-out for their transit systems. We limited our focus within these regions to the counties served by existing transit lines.⁸

We obtained two measures for these markets:

- Measure 1: The share of residential units within ½ mile of a given transit stop that are affordable compared to the surrounding areas (i.e., the counties in which the stops were located, weighted by the total number of housing units within ½ mile of transit stations for each respective county if the proposed transit project includes stations in multiple counties).
- Measure 2: The share of residential units within ½ mile of transit stops across the entire system that is affordable compared to the surrounding areas (i.e., the counties in which the stops were located, weighted by the total number of housing units within ½ mile of transit stations for each respective county).

The following paragraphs describe data sources and limitations, an explanation of the analysis methodology and analysis results. Due to time and data availability constraints, this represents a preliminary and imperfect analysis. However, we do believe this analysis provides a reasonable basis for our recommendations. We expect that project sponsors and FTA will have greater access to data (for example, on the exact location of proposed transit stations for a given project) that will enhance the precision of the evaluation. Please contact us if you have any questions regarding this analysis.

Housing Data

For the purpose of this analysis, all affordable housing data used was based on the National Housing Preservation Database (<http://www.preservationdatabase.org/>), an address-level inventory of federally assisted rental housing. The database contains records for properties that once had affordability restrictions but may have been converted to market rate; therefore, only properties with at least one active subsidy were used for this analysis. All unit counts are based on the total units field of the database. While a very small percentage of these units may in fact be market-rate units within mixed-income developments, there is not yet a way to determine the aggregate number of subsidized vs. market-rate units within each development from the database alone. We strongly recommend that HUD work to refine this or another database to provide more specific information that could be incorporated into future iterations of the New Starts guidance. The use of total units in this analysis as a proxy for affordable units will likely mean the results may slightly overestimate the number of affordable units near a given stop or within a geographic area, though this may be mitigated by the presence of affordable homeownership units and/or affordable units supported only using state and local programs, which are not captured in this analysis.

⁸ Given time constraints, for the purpose of this analysis we focused only on rail transit. We did not include bus systems, bus rapid transit, or commuter rail.

Total residential housing unit counts are based on 2011 American Community Survey (ACS) 5 year estimates at the County and Census Tract levels.

Transit Station Locations

- For Seattle; Washington, DC; and Atlanta, transit stop locations are based on the most recent (as of 2/1/2013) data from their respective General Transit Feed Specification (GTFS) feeds. Route types 0 and 1 (tram/streetcar/light rail and subway/metro) were used to generate the transit station shapefiles for this analysis.
- The Denver station shapefile was downloaded directly from the Denver Regional Transportation District website (<http://gis.rtd-denver.com/MapServer/datadownload.aspx>).
- The Charlotte station shapefile is based on our geocoding of the list of station locations found on the Charlotte Area Transit System website (<http://charmeck.org/city/charlotte/cats/lynx/lynxstations/Pages/default.aspx>).
- The Chicago station shapefile was downloaded directly from the City of Chicago Data Portal website (<https://data.cityofchicago.org/Transportation/CTA-L-Rail-Stations-Shapefile/vmyy-m9qj>).

Methodology – Measure 1

Measure 1 is a transit stop- or transit corridor-level measure that requires a count of the number of residential housing units within ½ mile of each transit stop and across the county as a whole. The county-level counts are taken directly from the ACS data. Since we did not have up-to-date data on proposed transit station locations for most regions, for the purpose of this analysis, we chose all the transit stations within each county, and treated them as a proposed project.

In order to estimate the total number of housing units within ½ mile of each transit station, the ½ mile buffers around all stations within each county were aggregated into a single transit project buffer. A polygon-to-polygon intersection of this buffer and the census tracts was performed. By calculating the area of the resulting intersect polygons, we obtained an estimate of the total number of housing units within the buffer as the sum of the housing units in all intersecting census tracts, weighted by the fraction of the land areas of the original census tracts that intersect with the buffer. The buffer was joined with the National Housing Preservation Database to obtain a measure of the total, non-duplicated number of affordable units within ½ mile of at least one station. Note that for real transit projects, municipalities should take advantage of local data to obtain actual unit counts in the area around the stations. This analysis could also be done using a road network analysis with a ½ mile threshold.

Results -Measure 1

1	System	County Name	County Share	Transit Share	Ratio
2	Atlanta	Clayton County	2.45%	0.00%	-
3	Atlanta	DeKalb County	3.10%	8.96%	2.89
4	Atlanta	Fulton County	6.58%	11.69%	1.78
5	Charlotte	Mecklenburg County	2.72%	8.20%	3.02
6	Chicago	Cook County	4.36%	8.94%	2.05
7	DC	Alexandria city	7.09%	7.62%	1.07
8	DC	Arlington County	4.57%	3.22%	0.71
9	DC	District of Columbia	11.81%	13.52%	1.15
10	DC	Fairfax County	2.51%	3.40%	1.35
11	DC	Montgomery County	4.36%	10.63%	2.44
12	DC	Prince George's County	4.35%	9.38%	2.16
13	Denver	Arapahoe County	1.79%	2.26%	1.26
14	Denver	Denver County	6.60%	13.66%	2.07
15	Denver	Douglas County	1.11%	0.00%	-
16	Seattle	King County	4.38%	20.47%	4.68

Methodology – Measure 2

For measure 2, the buffers for all stations within each system were aggregated into a single transit system buffer. A polygon-to-polygon intersection of this buffer and the census tracts was performed. By calculating the area of the resulting intersect polygons, we obtained an estimate of the total number of housing units within the buffer as the sum of the housing units in all intersecting census tracts, weighted by the fraction of the land area of the original census tracts that intersect with the buffer. The buffer was joined with the National Housing Preservation Database to obtain a measure of the total, non-duplicated number of affordable units within ½ mile of at least one station.

To obtain the regional share of affordable housing, the average of the shares of each county serviced by the transit system were weighted by the total housing units within the county that are ½ mile of at least one transit station.

Results – Measure 2

Transit System	Share of Units in Transit Shed that are Affordable	Share of Units in Region That are Affordable	Ratio of Transit Shed Share to Region Share
Atlanta	11.0%	5.7%	1.92
Charlotte	8.2%	2.7%	3.02
Chicago	8.9%	4.4%	2.05
DC	10.5%	8.5%	1.23
Denver	11.2%	5.6%	2.01
Seattle	20.5%	4.4%	4.68

Definitions:

System Transit Shed: the total area within 1/2 mile of all stations in the system

% of Units in Transit Shed that are Affordable: the total number of affordable units in the transit shed / the total number of units in the transit shed

% of Units in Region that are Affordable: The average of the shares of affordable units in each county weighted by the total population of the transit shed within that county. In other words, the county share average weighted by the estimated population within 1/2 mile of stations in that county.