



May 8, 2015

Therese W. McMillan, Acting Administrator
Federal Transit Administration
U.S. Department of Transportation
1200 New Jersey Ave SE Washington, DC 20590

Docket Number FTA–2015–0007: Notice of Availability of Proposed Interim Policy Guidance; Request for Comments

Dear Administrator McMillan:

Enterprise Community Partners (Enterprise) appreciates the opportunity to comment on the Proposed Interim Policy Guidance for the Major Capital Investment Grant program. Enterprise works with partners nationwide to build opportunity. We create and advocate for affordable homes in thriving communities linked to jobs, good schools, transit and health care. We lend funds, finance development and manage and build affordable housing, while shaping new strategies, solutions and policy. Over more than 30 years, Enterprise has created nearly 320,000 homes, invested \$16 billion and touched millions of lives. Through our Transit-Oriented Development (TOD) Initiative, we work to provide financing and technical assistance specifically for the preservation and development of affordable housing near transit. We commend FTA for its ongoing efforts to promote more holistic transportation investments that serve the needs of people of all incomes. While the following comments are our own, they are the result of a collaborative process with several partner organizations concerned with affordable housing, community development and transit, such as the Local Initiatives Support Corporation (LISC), MZ Strategies, the National Housing Conference, the Natural Resources Defense Council, and PolicyLink.

During the public comment process that informed the Major Capital Investment Grant Final Rule and Guidance released in 2013, Enterprise and its partners [supported the inclusion of affordable housing in both the Land Use and Economic Development Effects ratings](#). We view these metrics as complementary. Under the Land Use criterion, project sponsors and their partners are encouraged to consider the location of low- and moderate-income households and existing legally-binding affordability restricted housing within the planning process. We believe that this creates an important incentive to locate stations where they can serve a diverse range of households. As a secondary impact, once those sites are selected this criterion could positively influence the location of future affordable housing developments. The Economic Development Effects criterion complements this measure by encouraging project sponsors and their partners to identify housing needs and develop plans, policies and tools to ensure that affordable housing options are preserved and expanded within project corridors. We continue to believe that both elements are important considerations when evaluating new investments in public transportation infrastructure.

Responses to Questions Posed in Docket Number: FTA-2015-0007

To what extent has this measure affected local decision-making on where to locate a project or stations?

We believe it is too soon to fully assess the effectiveness of these ratings and their impact on where stations are located. Many projects subject to the new rating system have been in the Capital Investment Grant pipeline for years and had already identified station locations. New applicants into the pipeline will be able to take this



factor into account from the beginning, which will hopefully yield the desired results. We will continue to monitor this situation to see if that is the case.

However, the rating has already been impactful. In our conversations with local practitioners, we found that this exercise has spurred local conversations about the location of stations and the proximity of affordable housing. These conversations – and in some cases, cross-sector partnerships that result – can create a foundation for equitable planning and investment decisions in the future.

These partnerships and ongoing collaborative efforts will be useful in complying with the (not yet finalized) July 2013 U.S. Department of Housing and Urban Development (HUD) Proposed Guidance to implement the Fair Housing Rule (78 FR 43709). HUD's Proposed Guidance encourages collaboration between the housing and transportation sectors to ensure that diverse communities have access to communities of opportunity.

To what extent has this measure affected the number of legally binding affordability restricted units in the project area and/or greater area?

Similar to station area siting decisions, it is likely too early to show many examples where the location of legally binding affordability restricted units were influenced specifically by this measure. The development of affordable housing – through subsidy programs such as the Low-Income Housing Tax Credit (Housing Credit) – is generally a multi-year process, and many of the developments being placed-in-service now would have been started prior to the adoption of the final rule and guidance. Likewise, policies such as inclusionary zoning often require a significant amount of due diligence to properly calibrate requirements and incentives and to build local support.

That being said, we are aware of local conversations and efforts to expand affordable housing opportunities within proposed station areas, including in Denver, Durham, and the Twin Cities. The [Denver region has an acquisition fund](#) solely dedicated to acquiring sites for affordable housing near existing or future transit. The fund has deployed loans totaling more than \$15 million to create or preserve nearly 750 units. A coalition of [local housing and equity stakeholders is engaging the local government in Durham](#) to develop a strategy to support affordability within a planned transit corridor. In the Twin Cities, there are [initial discussions around developing inclusionary zoning ordinances](#) in suburban station locations where affordable housing is less prevalent. While some of these efforts preceded the FTA Final Rule and Guidance, they represent concrete efforts to advance the goals of the affordable housing assessments under the Land Use and Economic Development Effects rating factors. These ongoing incentives will spur more of these conversations and collaborations across the country as new housing and transportation projects are developed.

What has been the burden on affected parties in providing the information for FTA in response to this measure?

Project sponsors engaging in the type of partnerships necessary to advance equitable station-area planning and investment should not face an undue burden in accessing and analyzing the data necessary to respond to this measure. In preparing our [joint comment letter](#) during the 2013 rulemaking process one GIS-proficient, full-time staff member was able to prepare and analyze the relevant data from six complete transit systems (Atlanta, Charlotte, Chicago, Denver, Seattle and Washington, DC) in less than five hours. While our analysis did not include units created through local programs (and we expect the collection of this data would take some additional time), it has been our experience that extensive data is readily available through state and local



housing entities, such as the state housing finance agency, local government housing departments, and public housing agencies.

FTA guidance cites the public housing authority (PHA) as the primary source for data on this measure. While the local PHA will be able to provide some data, in many jurisdictions public housing does not constitute the majority of legally binding affordability restricted housing, nor are they the regulatory agency responsible for such units. There were [approximately 1.2 million public housing units](#) in the United States as of 2007 (a number that generally does not increase), compared to nearly [2.5 million units created by the Housing Credit program](#) from its inception in 1987 through 2012 (an average of 105,000 additional units are placed-in-service through this program every year). State housing finance agencies and local housing departments (which often provide gap funding or other local support) are generally the appropriate points-of-contact for units developed or preserved through this program and inclusionary/incentive zoning. The [National Housing Preservation Database](#) is also an accurate and convenient data source for a broad range of federal subsidy programs, which can be supplemented by outreach to state and local agencies. Local affordable housing nonprofits and advocates often collect and maintain this data, as well. Therefore, we recommend that FTA maintain the reference to the National Housing Preservation Database, and amend the guidance to (a) reflect that PHAs are one potential data source among many; and (b) list out other sources, with a particular emphasis on state housing finance agencies.

However, the requirement that project sponsors provide a letter from the relevant local housing agency or agencies certifying the accuracy of the data could create some minor challenges. Project sponsors may have some difficulty in getting an agency to sign off on a comprehensive dataset if it includes units for which they have no regulatory authority. While the guidance does state that project sponsors may turn in letters from multiple public housing agencies, we recommend that FTA allow for self-certification, with FTA conducting random spot-checks for accuracy using [HUD- or state-locally maintained data sources](#). If FTA must require some form of official certification, we suggest clarifying the guidance to state that multiple letters are acceptable from other sources such as local housing departments and state housing finance agencies. However, it should be noted that the latter approach could create additional compliance burden for project sponsors.

Is there a concern with the measure being based on a ratio and not total affordable housing units?

We believe that a ratio represents the best method of assessing the amount of affordable housing within a corridor. While no measure is perfect, a ratio best captures the local context when combined with the existing ability to provide supplemental information for the following reasons.

- Measurement based on the total number of affordable housing units would disadvantage smaller or less-dense metropolitan areas.
- Expressing the total number of units as a percentage of the total station-area housing stock would strip the measure of local context. The interim guidance cites an example of a project with a high percentage of affordable units within the corridor receiving a low score if the surrounding county has an even higher density of affordable units. Meanwhile, a project could receive a high score with a lower percentage of station area affordable units if the level in the surrounding county was particularly low. While revising the metric to focus solely on the total percentage of affordable units within station areas would remedy this seeming imbalance (when comparing project sponsors' plans to each other), there are tradeoffs.



- We believe one of the primary benefits of the current metric is to reward project sponsors that align their projects in a way that best meets the needs of low-income communities. While the first project sponsor in the aforementioned example may reach a relatively high number of affordable units, the project would bypass the communities with higher levels of affordability, and potentially greater transportation accessibility needs. The second project sponsor is aligning the project to where the needs may be greatest, and therefore is deserving of the higher score.
- We recommend that FTA continue to give project sponsors the option to provide supplemental information. Each location is different and that context is crucial. For example, a system that does a good job of reaching affordable homes as a whole that seeks to expand into a job corridor with little-to-no housing overall would be expanding opportunity for low-income residents, and could deserve additional consideration under this metric.
- One method of encouraging project sponsors to provide supplemental information would be to provide examples of the type of information that would merit positive consideration, such as the aforementioned job corridor example.

Finally, we appreciate that FTA's Proposed Interim Policy Guidance included project sponsor data for this metric. While the sample size to-date is insufficient to draw any firm conclusions, we observed that there is a reasonable distribution of high, medium and low scores, both overall and when broken down by jurisdiction size. Therefore, we recommend maintaining current break-points in the short-term, which can be reassessed when there is a more robust dataset.

Once again, we appreciate the opportunity to comment on these issues and FTA's commitment to public outreach. We stand ready and willing to collaborate as you continue to work to support equitable, transit-rich communities. Please contact Michael A. Spotts, Senior Policy Analyst (mspotts@enterprisecommunity.org) with any questions.

Sincerely,

A handwritten signature in black ink that reads "Diane Yentel".

Diane Yentel
Vice-President; Public Policy & Government Affairs
Enterprise Community Partners

A handwritten signature in blue ink that reads "Melinda Pollack".

Melinda Pollack
Vice-President; Transit-Oriented Development
Enterprise Community Partners