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**PUBLIC  
TRANSPORTATION**

**Preliminary Information on  
FTA's Implementation of  
SAFETEA-LU Changes**

Statement of Katherine Siggerud  
Physical Infrastructure





Highlights of [GAO-06-910T](#), a testimony for the Subcommittee on Housing and Transportation, Committee on Banking, Housing, and Urban Affairs, U.S. Senate

## Why GAO Did This Study

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) authorized a significant level of investment—over \$52 billion—for federal transit programs. SAFETEA-LU also added new transit programs and made changes to existing programs, including the New Starts and Job Access and Reverse Commute (JARC) programs. The New Starts program is a discretionary grant program for public transportation capital projects. The JARC program is intended to improve the mobility of low-income individuals seeking work. SAFETEA-LU authorized \$8.6 billion for these two programs. The Federal Transit Administration (FTA) manages both of these programs.

This testimony discusses GAO's preliminary findings on the (1) changes SAFETEA-LU made to the New Starts program, (2) changes SAFETEA-LU made to the JARC program, and (3) issues that may be important as FTA moves forward with implementing the act. To address these objectives, GAO interviewed FTA officials, sponsors of New Starts projects, and representatives from industry associations and reviewed FTA's guidance on the New Starts and JARC programs and federal statutes, among other things.

[www.gao.gov/cgi-bin/getrpt?GAO-06-910T](http://www.gao.gov/cgi-bin/getrpt?GAO-06-910T).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Katherine Siggerud at (202) 512-2834 or [siggerudk@gao.gov](mailto:siggerudk@gao.gov).

## PUBLIC TRANSPORTATION

# Preliminary Information on FTA's Implementation of SAFETEA-LU Changes

## What GAO Found

The changes SAFETEA-LU made to the New Starts program range from establishing the Small Starts program to introducing new evaluation criteria. FTA has taken some initial steps in implementing SAFETEA-LU changes, including issuing an Advanced Notice of Proposed Rule Making (ANPRM) for the Small Starts program and guidance for the New Starts program in January 2006. The Small Starts program is intended to offer small projects an expedited and streamlined application and review process; however, the transit community has questioned whether the Small Starts program, as outlined in the ANPRM, would provide such a process. FTA's guidance for the New Starts program identified and sought public input on possible changes to the program that would affect traditional New Starts projects, or large starts, such as revising the evaluation process to incorporate the new criteria identified by SAFETEA-LU.

SAFETEA-LU also made a number of changes to the JARC program. One key change was to change JARC from a discretionary to a formula-based program, which provides funds to states and large urbanized areas for JARC projects. Other SAFETEA-LU changes include allowing JARC recipients to use a portion of funds for planning activities and removing a limit on the amount of funds available for reverse commute projects. To implement these changes, FTA solicited comments and input through public listening sessions and program notices. FTA has released interim guidance for fiscal year 2006, is currently developing draft final guidance for the JARC program, and plans to issue final guidance later this year.

GAO's past work suggests that transparency, communication, and accountability issues will be important as FTA moves forward in implementing SAFETEA-LU changes to the New Starts and JARC programs. Since 1998, GAO has issued numerous reports on these programs, and many of the reports contained recommendations to FTA on ways to improve the implementation of these programs. For example, GAO has reported that FTA could increase the transparency of the New Starts program by obtaining public input on proposed policy changes before they are implemented. SAFETEA-LU addressed some of these issues, and FTA has also taken steps to resolve some of them. For example, SAFETEA-LU requires FTA to publish for notice and comment any proposals that make significant changes to the New Starts program. Nevertheless, given the number of changes that are being made to both programs, continued focus on efforts to improve transparency, communication, and accountability will be important.

FTA officials provided technical comments on a draft of this testimony, which were incorporated where appropriate.

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Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to provide testimony on the Federal Transit Administration's (FTA) implementation of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). As you know, SAFETEA-LU authorized a significant level of investment—over \$52 billion—for federal transit programs. This authorization provides funding for fiscal years 2004 through 2009, adds new transit programs, and makes changes to existing programs, including the New Starts and Job Access and Reverse Commute (JARC) programs. The New Starts program provides much of the federal government's share of new fixed-guideway investments. Through the New Starts program, FTA identifies and selects new fixed-guideway transit projects for funding—including heavy, light, and commuter rail; ferry; and certain bus projects. The JARC program is intended to assist low-income individuals in accessing employment opportunities by attempting to fill gaps in public transportation services.

My testimony today examines the (1) changes SAFETEA-LU made to the New Starts program, (2) changes SAFETEA-LU made to the JARC program, and (3) issues that may be important as FTA moves forward with implementing the act. My comments are based on our ongoing work for the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Transportation and Infrastructure as well as our body of work on the New Starts and JARC programs.<sup>1</sup> We will complete our ongoing work and report in full to the Committees later this year. For our ongoing work, we interviewed FTA officials, sponsors of New Starts projects, a metropolitan planning organization, and representatives from industry associations. We also reviewed FTA's guidance on the New Starts and JARC programs, the Advanced Notice of Proposed Rule Making (ANPRM) for the new capital investment program for Small Starts—a subcategory of new fixed guideway projects—and the public comments submitted to FTA's docket on these documents. We also reviewed the provisions of SAFETEA-LU and of its predecessor, the Transportation Equity Act for the 21st Century (TEA-21), dealing with the New Starts and JARC programs, and attended FTA's New Starts/Small Starts Seminar and

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<sup>1</sup>TEA-21 required GAO to evaluate both the New Starts evaluation and rating process and the JARC program on a regular basis. SAFETEA-LU continued similar requirements. In particular, we are required to review the New Starts evaluation and rating process each year and the JARC program beginning 1 year after the enactment of SAFETEA-LU and every 2 years thereafter. See the Related GAO Products at the end of this testimony for a listing of previous reports on these programs.

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Listening Sessions in March and June 2006. We conducted our work from February 2006 through June 2006 in accordance with generally accepted government auditing standards.

In summary:

- The eight changes SAFETEA-LU made to the New Starts program range from establishing the Small Starts program to identifying new evaluation criteria. FTA has taken some initial steps to implement these changes, including issuing an ANPRM for the Small Starts program and guidance for the New Starts program, both in January 2006. The Small Starts program is a new component of the New Starts program and is intended to offer an expedited and streamlined application and review process for small projects. The transit community, however, questioned whether the Small Starts program, as outlined in the ANPRM, would provide such a process. In its January 2006 guidance, FTA also identified and sought public input on possible changes to the New Starts program that would have an impact on traditional New Starts projects, or large starts, such as revising the evaluation process to incorporate the new criteria identified by SAFETEA-LU. According to FTA, a potential challenge in moving forward is incorporating both land use and economic development criteria into the evaluation process, including developing appropriate measures for the criteria and avoiding duplication in counting benefits. To address this issue, FTA suggested combining land use and economic development into a single measure. However, in the comments submitted to FTA, members of the transit community repeatedly stated that land use and economic development should not be combined into a single measure and that they should receive the same weight as cost-effectiveness in the evaluation and rating process.
- SAFETEA-LU made a number of changes to the JARC program. One key change was to change JARC from a discretionary to a formula-based program. Whereas funds for JARC projects were congressionally designated in recent years, SAFETEA-LU's formula distributes funds to states and large urbanized areas.<sup>2</sup> This will significantly change the allocation of JARC funds as some states and urbanized areas receive more funds than under the discretionary program, others receive less, and some areas will receive funds that had not received JARC funds in the past. Other key changes resulting from SAFETEA-LU include allowing JARC

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<sup>2</sup>For this testimony, the term "states" includes the District of Columbia, American Samoa, Guam, the Northern Marianas, Puerto Rico, and the Virgin Islands. Large urbanized areas are those areas with populations of 200,000 or more.

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recipients to use a portion of funds for planning activities and removing a limit on the amount of funds available for reverse commute projects. To implement these changes, FTA began soliciting comments and input through public listening sessions and program notices in November 2005. FTA has released interim guidance for fiscal year 2006, is currently developing draft final guidance for the JARC program, and plans to issue final guidance later this year. Potential challenges that FTA faces in moving forward include issuing guidance in a timely manner so that recipients can implement JARC programs, and determining how to incorporate JARC recipients into FTA's oversight processes.

- Our past work suggests that transparency, communication, and accountability issues will be important as FTA moves forward in implementing SAFETEA-LU changes to the New Starts and JARC programs. Since 1998, we have issued numerous reports on these programs, and many of the reports contained recommendations to FTA on ways to improve the programs' implementation. For example, we have reported that FTA could increase the transparency of the New Starts program by obtaining public input on proposed policy changes before they are implemented. We have also reported that FTA could better measure the outcomes of the JARC program—an important step in holding the program accountable for results. SAFETEA-LU addressed some of these issues, and FTA has also taken steps to resolve some of them. For example, SAFETEA-LU requires FTA to publish for notice and comment any proposals that make significant changes to the New Starts program, which FTA did in January 2006. Members of the transit community and FTA officials have stated that they have been pleased with the review and comment process. Nevertheless, given the number of changes that are being made to both programs, continued focus on efforts to improve transparency, communication, and accountability will be important.

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## Background

SAFETEA-LU authorized over \$52 billion for federal transit programs, including the New Starts and JARC programs, from fiscal year 2005 through fiscal year 2009. SAFETEA-LU authorized \$7.9 billion for the New Starts program and \$727 million for the JARC program. Both of these programs are managed by FTA.

The New Starts program is a discretionary grant program for investments in new fixed-guideway projects. Under the statutorily-defined evaluation process for the New Starts program, FTA identifies and selects fixed-guideway transit projects—including heavy, light, and commuter rail; ferry; and busway projects—for funding. FTA generally funds New Starts projects through full funding grant agreements (FFGA), which establish

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the terms and conditions for federal participation in a New Starts project and also define a project's scope, including the length of the system and the number of stations; the project's schedule, including the date when the system is expected to open for service; and the project's cost. To obtain an FFGA, a project must progress through a local or regional review of alternatives and meet a number of federal requirements, including providing information for the New Starts evaluation and rating process. As required by SAFETEA-LU, New Starts projects must emerge from a regional, multimodal transportation planning process. The first two phases of the New Starts process—systems planning and alternatives analysis—address this requirement. The systems planning phase identifies the transportation needs of a region, while the alternatives analysis phase provides information on the benefits, costs, and impacts of different corridor-level options, such as rail lines or bus routes. The alternatives analysis phase results in the selection of a locally preferred alternative—which is intended to be the New Starts project that FTA evaluates, as required by statute. After a locally preferred alternative is selected, project sponsors seek FTA's approval for entry into the preliminary engineering phase.<sup>3</sup> Following completion of preliminary engineering and federal environmental requirements—and assuming New Starts requirements continue to be met—FTA may approve the project's advancement into final design,<sup>4</sup> after which FTA may approve the project for an FFGA and proceed to construction, as provided for in statute. FTA oversees grantees' management of projects from the preliminary engineering phase through construction and evaluates the projects for advancement into each phase of the process, as well as annually for the New Starts report to Congress.

To help inform administration and congressional decisions about which projects should receive federal funds, FTA assigns ratings based on a

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<sup>3</sup>During the preliminary engineering phase, project sponsors refine the design of the proposal, taking into consideration all reasonable design alternatives. This process results in estimates of the project's costs, benefits, and impacts (e.g., financial or environmental). According to FTA officials, to gain approval for entry into preliminary engineering, a project must (1) have been identified through the alternatives analysis process, (2) be included in the region's long-term transportation plan, (3) meet the statutorily defined project justification and financial criteria, and (4) demonstrate that the sponsors have the technical capability to manage the project during preliminary engineering. Federal New Starts funding may be used for preliminary engineering activities, if so appropriated by Congress.

<sup>4</sup>Final design is the last phase of project development before construction and may include right-of-way acquisition, utility relocation, and the preparation of final construction plans and cost estimates.

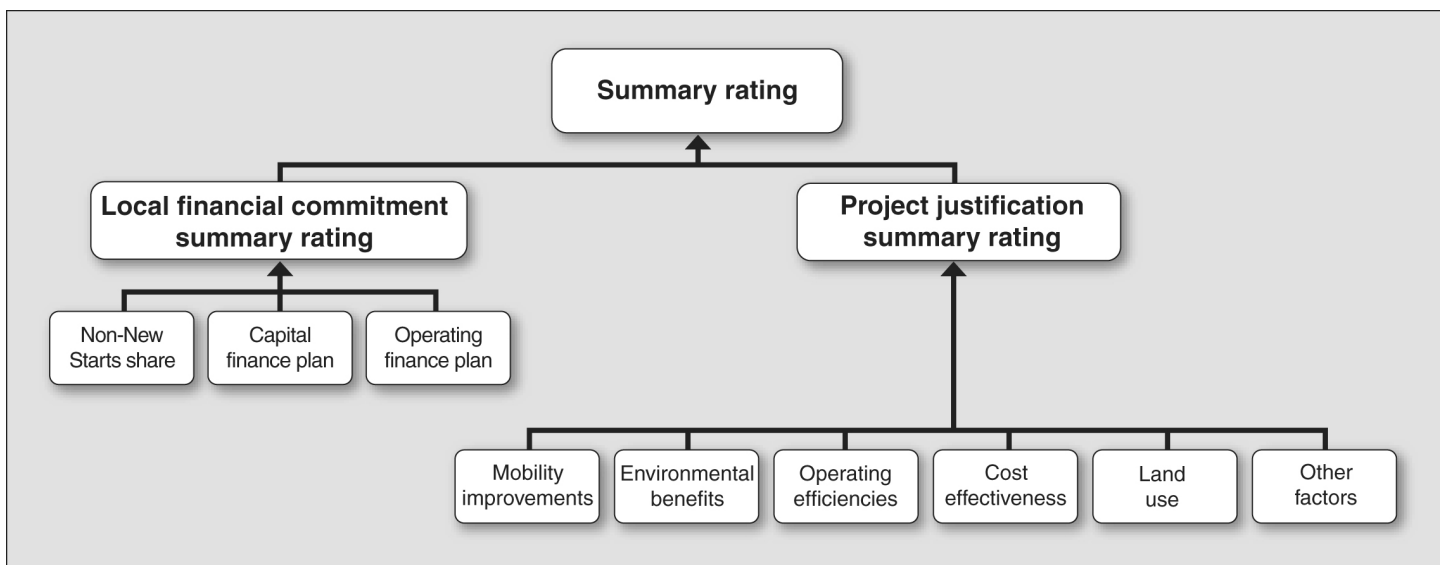
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variety of financial and project justification criteria, and then assigns an overall rating. For the fiscal year 2007 evaluation cycle, FTA used the financial and project justification criteria identified in TEA-21.<sup>5</sup> These criteria reflect a broad range of benefits and effects of the proposed project, such as cost-effectiveness, as well as the ability of the project sponsor to fund the project and finance the continued operation of its transit system (see fig. 1). FTA assigns the proposed project a rating for each criterion, then assigns a summary rating for local financial commitment and project justification. Finally, FTA develops an overall project rating. Projects are rated at several points during the New Starts process—as part of the evaluation for entry into preliminary engineering and final design, and yearly for inclusion in the New Starts annual report that is submitted to Congress.

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<sup>5</sup>As will be discussed, SAFETEA-LU identified additional criteria for FTA to use in its evaluation and rating process. However, according to FTA's January 2006 guidance, FTA does not plan to change the current framework and methodology for evaluating and rating New Starts projects (i.e., non-Small Starts projects) before publishing the new final rule for its New Starts program, which is expected in January 2008.

Figure 1: New Starts Evaluation Process



Source: GAO analysis of FTA data.

More recent than New Starts, the JARC program was created in 1998 in order to support the nation's welfare reform goals. Without adequate transportation, welfare recipients face significant barriers in moving from welfare to work. In 1998, we reported that three-fourths of welfare recipients live in central cities or rural areas, while two-thirds of new entry-level jobs are located in suburbs. Public transportation facilities often offer limited or no access to many of these jobs.<sup>6</sup> JARC, which is administered by FTA, was designed to fill these gaps in transportation services for low-income individuals.

JARC is intended to increase collaboration among transit agencies, local human service agencies, nonprofit organizations, and others and to improve the mobility of low-income individuals seeking work. Programs selected to receive grants—including the expansion of public

<sup>6</sup>GAO, *Welfare Reform: Implementing DOT's Access to Jobs Program*, [GAO/RCED-99-36](#) (Washington, D.C.: Dec. 8, 1998).



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transportation routes, ridesharing activities, and promotion of transit voucher programs—are designed to assist low-income individuals in accessing employment opportunities and related services, such as child care and training.

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## **SAFETEA-LU's Changes to the New Starts Program Range from Identifying New Evaluation Criteria to Establishing the Small Starts Program**

SAFETEA-LU made changes to the New Starts program that range from identifying new evaluation criteria to establishing the Small Starts program. FTA has taken some initial steps in implementing these changes, including issuing an ANPRM for the Small Starts program and guidance for the New Starts program, both in January 2006. The Small Starts program is a new component of the New Starts program and is intended to expedite and streamline the application and review process for small projects. The transit community, however, questioned whether the program, as outlined in the ANPRM, would streamline the process. In its January 2006 guidance, FTA also identified and sought public input on possible changes to the New Starts program that would affect traditional New Starts projects, or large starts, such as revising the evaluation process to incorporate the new evaluation criteria identified by SAFETEA-LU. FTA also identified possible implementation challenges, including how to distinguish between land use and economic development criteria in the evaluation framework.

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## **FTA Has Started to Implement SAFETEA-LU Changes and Will Continue to Do So through the Rulemaking Process**

SAFETEA-LU introduced eight changes to the New Starts program, codified an existing practice, and clarified federal funding requirements. These changes range from the creation of the Small Starts program to introducing new evaluation criteria. For example, SAFETEA-LU added economic development to the list of criteria that FTA must use in the New Starts evaluation process. In addition, SAFETEA-LU codified FTA's requirement that project sponsors conduct before and after studies for all completed projects.<sup>7</sup> SAFETEA-LU also clarified the federal share requirements for New Starts projects. In particular, SAFETEA-LU states that the federal share for a New Starts project may be up to 80 percent of the project's net capital project cost, unless the project sponsor requests a lower amount. SAFETEA-LU also prohibits the Secretary of Transportation from requiring a nonfederal share of more than 20 percent of the project's total net capital cost. This language addresses FTA's policy

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<sup>7</sup>A before and after study is similar to an outcome evaluation in that it compares the forecasted benefits and costs of a project with the actual benefits and costs of the project after the project is completed.

of favoring projects that seek a federal New Starts share of no more than 60 percent of the total cost. FTA instituted this policy beginning with the fiscal year 2004 evaluation cycle in response to language contained in appropriation committee reports. Table 1 describes SAFETEA-LU provisions for the New Starts program and compares them to TEA-21's requirements.

**Table 1: Comparison of SAFETEA-LU's and TEA-21's New Starts Provisions**

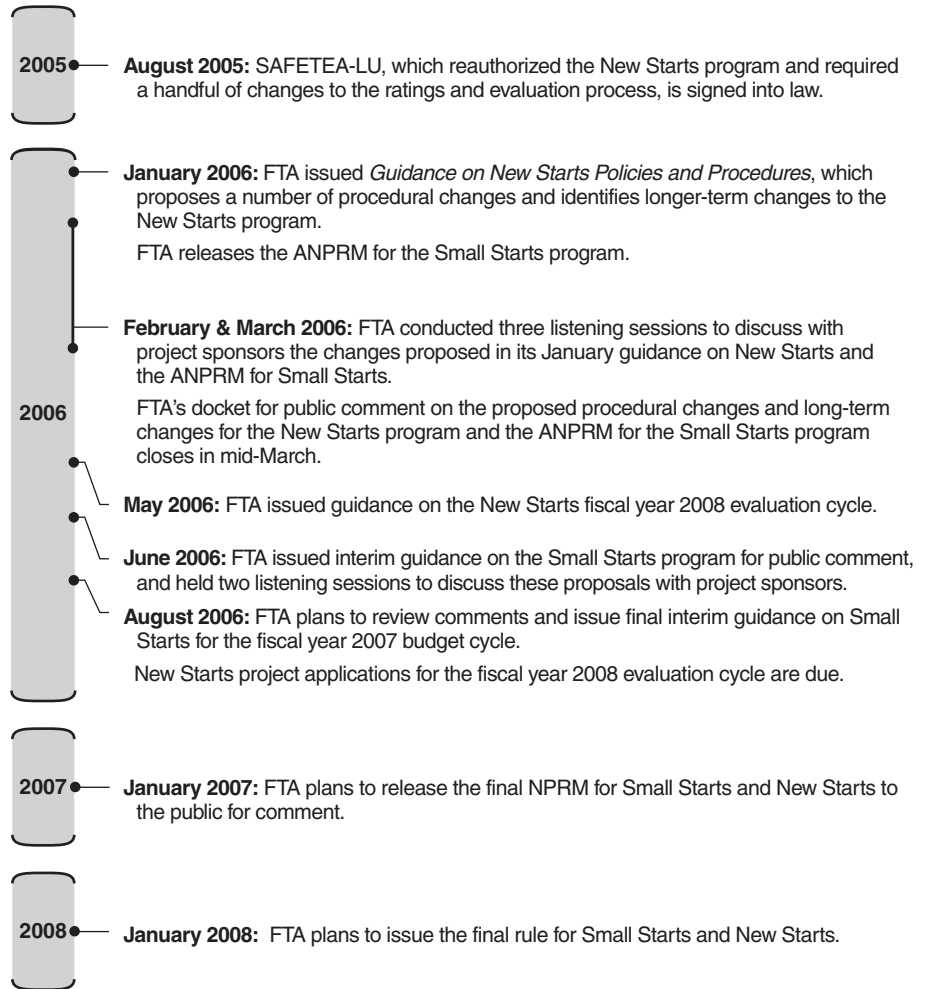
<b>Provisions</b>	<b>SAFETEA-LU</b>	<b>TEA-21</b>
<b>Establish the Small Starts program</b>	<ul style="list-style-type: none"> <li>Projects seeking less than \$25 million in New Starts funds will no longer be exempt from the ratings process once the Small Starts final rule is issued.</li> <li>Establishes a new capital investment program called Small Starts for projects that (1) are corridor based, (2) have a total project cost of less than \$250 million, and (3) are seeking less than \$75 million in federal Small Starts funding.</li> </ul>	<ul style="list-style-type: none"> <li>Projects seeking less than \$25 million in New Starts funding were exempt from the ratings process.</li> <li>No separate program for small transit projects.</li> </ul>
<b>Codify the before and after study requirement</b>	Project sponsors with FFGAs must conduct a study that (1) describes and analyzes the impacts of the new fixed guideway capital project on transit services and transit ridership, (2) evaluates the consistency of predicted and actual project characteristics and performance, and (3) identifies sources of differences between predicted and actual outcomes. Project sponsors must prepare an information collection and analysis plan, which must be approved prior to execution of the FFGA.	Not required under TEA-21, but FTA required project sponsors to conduct a before and after study on completed projects.
<b>Revise New Starts overall project rating scale</b>	Overall project rating is based on a 5-point scale of "high," "medium-high," "medium," "medium-low," and "low." Projects are required to receive a rating of "medium" or higher to be recommended for funding.	Overall project rating was based on 3-point scale: "highly recommended," "recommended," "not recommended."
<b>Identify reliability of cost estimate and ridership forecast as a consideration in evaluation process</b>	Requires Secretary to analyze, evaluate, and consider the reliability of the forecasting methods used by New Starts project sponsors and their contractors to estimate costs and ridership.	Not required under TEA-21.
<b>Add economic development criterion to evaluation process</b>	Projects will be evaluated based on a review of their effects on local economic development.	Not required under TEA-21.
<b>Identify land use as a specific evaluation criterion</b>	Projects will be evaluated based on a review of their public transportation supportive land use policies and future patterns.	Land use was not identified as an evaluation criterion by TEA-21. However, TEA-21 identified land use as a "consideration" in the evaluation process and FTA incorporated it into the evaluation process.

<b>Provisions</b>	<b>SAFETEA-LU</b>	<b>TEA-21</b>
<b>Clarify nonfederal financial commitment</b>	The Secretary is not authorized to require a nonfederal financial commitment for a project that is more than 20 percent of its net capital cost.	Federal share could not exceed 80 percent. But, in response to language contained in appropriations committee reports, FTA instituted a preference policy favoring projects that seek a federal New Starts share of no more than 60 percent of the total project cost beginning with the fiscal year 2004 evaluation cycle.
<b>Establish incentives for accurate cost and ridership forecasts</b>	A higher share of New Starts funding may be made available to project sponsors if project's cost is not more than 10 percent higher and ridership is not less than 90 percent of those estimates when project was approved for preliminary engineering.	No similar provision in TEA-21.
<b>Require FTA to publish policy guidance</b>	New Starts policy guidance must be published for notice and comment no later than 120 days after the enactment of SAFETEA-LU, each time significant changes are made, and at least every 2 years.	Not required under TEA-21.
<b>Assess contractors' performance</b>	The Secretary will submit an annual report to congressional committees analyzing the consistency and accuracy of cost and ridership estimates made by contractors to public transportation agencies developing new capital projects.	Not required under TEA-21.

Source: GAO analysis of SAFETEA-LU and TEA-21.

FTA has taken some initial steps in implementing SAFETEA-LU changes. For example, in January 2006, FTA published the New Starts policy guidance and, as will be discussed later, the ANPRM for the Small Starts program. FTA will continue to implement the changes outlined in SAFETEA-LU through the rulemaking process over the next year and a half. Specifically, in response to SAFETEA-LU changes, FTA is developing a Notice of Proposed Rulemaking (NPRM) for the New Starts and Small Starts programs. FTA plans to issue the NPRM in January 2007, with the goal of implementing the final rule in January 2008. Figure 2 shows a time line of FTA's actual and planned implementation of SAFETEA-LU changes.

**Figure 2: Time Line for Implementing SAFETEA-LU Changes to the New Starts Program**



Source: GAO.

**Small Starts Program Is Intended to Offer a Streamlined Process, but Transit Community Members Question Whether It Will Do So**

A significant SAFETEA-LU change was the creation of the Small Starts program. The Small Starts program is a discretionary grant program for public transportation capital projects that (1) are corridor-based, (2) have a total cost of less than \$250 million, and (3) are seeking less than \$75 million in federal Small Starts program funding. The Small Starts program is a component of the existing New Starts program, but, according to the conference reports accompanying SAFETEA-LU, is intended to provide

project sponsors with an expedited and streamlined evaluation and rating process. Table 2 compares New Starts and Small Starts program requirements.

**Table 2: Comparison of New Starts and Small Starts Program Requirements**

<b>Program requirements</b>	<b>New Starts</b>	<b>Small Starts</b>
<b>Definition of eligibility</b>	Total project cost is \$250 million or more, or \$75 million or more in federal New Starts funding is sought. Provides funding for new fixed guideway systems and extensions.	Total project cost is less than \$250 million, and less than \$75 million in federal New Starts funding is sought. Provides funding for new fixed guideway systems and extensions, as well as corridor-based bus capital projects.
<b>Project justification criteria</b>	<ul style="list-style-type: none"> <li>• Mobility improvements</li> <li>• Environmental benefits</li> <li>• Operating efficiencies</li> <li>• Cost-effectiveness</li> <li>• Public transportation supportive land use policies</li> <li>• Economic development</li> <li>• Reliability of forecasting</li> </ul>	<ul style="list-style-type: none"> <li>• Cost-effectiveness (based on opening year of service)</li> <li>• Public transportation supportive land use policies</li> <li>• Economic development</li> <li>• Reliability of forecasting</li> </ul>
<b>Local financial commitment criteria</b>	<ul style="list-style-type: none"> <li>• Stability and reliability of financial plan for capital costs</li> <li>• Stability and reliability of financial plan for operating and maintenance costs</li> <li>• Level of non-New Starts funding</li> </ul>	<ul style="list-style-type: none"> <li>• Stability and reliability of financial plan for capital costs</li> <li>• Stability and reliability of financial plan for operating and maintenance costs</li> <li>• Level of non-New Starts funding</li> </ul>
<b>Project development process</b>	<ul style="list-style-type: none"> <li>• Alternatives analysis</li> <li>• Preliminary engineering</li> <li>• Final design</li> <li>• Construction</li> </ul>	<ul style="list-style-type: none"> <li>• Alternatives analysis</li> <li>• Project development</li> <li>• Construction</li> </ul>
<b>Funding instrument</b>	Projects are required to sign an FFGA, which sets scope, cost, and schedule, as well as maximum New starts share, source of other funds, and schedule for obligating funds.	Project will use a Project Construction Grant Agreement, which will be a streamlined version of the FFGA.

Source: GAO analysis of New Starts and Small Starts requirements.

In January 2006, FTA published an ANPRM to give interested parties an opportunity to comment on the characteristics of and requirements for the Small Starts program. In its ANPRM, FTA suggests that the planning and project development process for proposed Small Starts projects could be simplified by allowing analyses of fewer alternatives for small projects, allowing the development of evaluation measures for mobility and cost-effectiveness without the use of complicated travel demand modeling procedures in some cases, and possibly defining some classes of pre-

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approved low-cost improvements as effective and cost-effective in certain contexts. FTA also sought the transit community's input on three key issues in its ANPRM, including eligibility, the rating and evaluation process, and the project development process. For each of these issues, FTA outlined different options for how to proceed, and then posed a series of questions for public comment, including the following questions on the rating and evaluation process:

- How should the evaluation framework for New Starts be changed or adapted for Small Starts projects?
- How might FTA evaluate economic development and land use as distinct and separate measures?
- How might FTA incorporate risk and uncertainty into project evaluations for Small Starts?
- What weights should FTA apply to each measure?

FTA's ANPRM for Small Starts generated a significant volume of public comment. While members of the transit community were supportive of some proposals for the Small Starts program, they also had a number of concerns. In particular, the transit community questioned whether FTA's proposals would, as intended, provide smaller projects with a more streamlined evaluation and rating process. As a result, some commenters recommended that FTA simplify some of its original proposals in the final NPRM to reflect the smaller scope of these projects. For example, several project sponsors and industry representatives thought that FTA should redefine the baseline alternative as the "no-build" option<sup>8</sup> and make the before and after study optional for Small Starts projects to limit the time

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<sup>8</sup>FTA requires that the benefits and costs of the proposed New Starts project be assessed in comparison with a baseline alternative defined as the best that can be done without building a new fixed guideway. The purpose of the baseline alternative is to distill the benefits (and costs) of the proposed New Starts project from the benefits that could be achieved through low-cost improvements, such as route realignments and increases in service frequency, that would not entail the significant cost of a New Starts project's infrastructure. FTA defines the no-build alternative in two ways: (1) an alternative that incorporates "planned" improvements that are included in the fiscally constrained long-range plan for which need, commitment, financing, and public and political support are identified and are reasonably expected to be implemented, or (2) an alternative that adds only "committed" improvements together with minor transit service expansions or adjustments that reflect a continuation of existing service policies in newly developed areas.

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and cost of project development. In addition, others were concerned that FTA's proposals minimized the importance of the new land use and economic development evaluation criteria introduced by SAFETEA-LU, and they recommended that the measures for land use and economic development be revised.

Since FTA does not plan to issue its final rule for the New Starts and Small Starts programs until early 2008, FTA issued proposed interim guidance for the Small Starts program in June 2006 to ensure that project sponsors would have an opportunity to apply for Small Starts funding and be evaluated in the upcoming cycle (i.e., the fiscal year 2008 evaluation cycle, which begins in August 2006). The proposed interim guidance describes the process that FTA will use to evaluate proposed Small Starts projects to support the decision to approve or disapprove their advancement to project development and the decision to recommend projects for funding, including whether proposed projects are part of a broader strategy to reduce congestion in particular regions. In addition, although not required by SAFETEA-LU, FTA introduced a separate eligibility category within the Small Starts program for "Very Small Starts" projects in the proposed interim guidance. Small Starts projects that qualify as Very Small Starts are projects that

- do not include the construction of a new fixed guideway,
- are in corridors with existing riders who will benefit from the proposed project and number more than 3,000 on an average weekday, including at least 1,000 riders who board at the terminal stations, and
- have a total capital cost of less than \$50 million and less than \$3 million per mile (excluding rolling stock).

According to the proposed interim guidance on the Small Starts program, FTA intends to scale the planning and project development process to the size and complexity of the proposed projects. Therefore, Very Small Starts projects will undergo a very simple and streamlined evaluation and rating process. Small Starts projects that do not meet all three criteria for Very Small Starts projects will be evaluated and rated using a framework similar to that used for traditional, or large starts, New Starts projects. However, FTA officials have indicated that this evaluation and rating framework would be modified, for example, to include only those criteria listed in the statute. FTA is seeking public input on the Small Starts proposals contained in the proposed interim guidance through July 9, 2006. FTA plans to review the comments received and issue its final

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interim guidance for the Small Starts program by August 2006. This guidance will govern the program until the final rule is issued.

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### FTA Also Identified Possible Changes to the New Starts Program in Response to SAFETEA-LU as well as Implementation Challenges

In response to SAFETEA-LU, FTA identified possible changes to the New Starts program that would affect traditional New Starts projects, or large starts, in its January 2006 guidance. According to FTA, some of SAFETEA-LU provisions could lead to changes in the definition of eligibility, the evaluation and rating process, and the project development process. In the guidance, FTA outlines changes it is considering and solicits public input, through a series of questions, on the potential changes. For example, FTA identified two options for revising the evaluation and rating process to reflect SAFETEA-LU's changes to the evaluation criteria. The first option would extend the current process to include economic development impacts and the reliability of cost and ridership forecasts. Specifically, FTA suggested that economic development impacts and the reliability of forecasts simply be added to the list of criteria considered in developing the project justification rating. The second option would be to develop a broader process to include the evaluation criteria identified by SAFETEA-LU and to organize the measures to support a more analytical discussion of the project and its merits. According to FTA, the second option would broaden the evaluation process beyond a computation of overall ratings based on individual evaluation measures and develop better insights into the merit of a project than are possible from using the quantified evaluation measures alone. (See app. I for a description of the different changes FTA is considering.)

FTA also identified potential challenges in implementing some of SAFETEA-LU changes in its guidance. In particular, FTA described the challenges of incorporating and distinguishing between two measures of indirect benefits<sup>9</sup> in the New Starts evaluation process—land use and economic development impacts.<sup>10</sup> For example, FTA noted that its current land use measures (e.g., land use plans and policies) indicate the transit-

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<sup>9</sup>Direct benefits of transportation investments, such as lowered transportation costs and improved access to goods and services, result in individuals, households, and firms acting to take advantage of those benefits. These actions can then lead to several types of indirect benefits, such as increased property values and new development.

<sup>10</sup>SAFETEA-LU added economic development to the list of evaluation criteria; it also identified land use as a specific evaluation criterion. Under TEA-21, land use was not identified as an evaluation criterion, but rather as a "consideration" in the evaluation process and FTA incorporated it into the evaluation process.



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friendliness of a project corridor both now and in the future, but they do not measure the benefits generated by the proposed project. Rather, they describe the degree to which the project corridor provides an environment in which the proposed project can succeed. According to FTA's guidance, FTA's evaluation of land use does not include economic development benefits because FTA has not been able to find reliable methods of predicting these benefits. FTA further stated that because SAFETEA-LU introduces a separate economic development criterion, the potential role for land use as a measure of development benefits becomes even less clear given its potential overlap with the economic development criterion. In addition, FTA noted that many economic development benefits result from direct benefits (e.g., travel time savings), and therefore, including them in the evaluation could lead to double counting the benefits FTA already measures and uses to evaluate projects. Furthermore, FTA noted that some economic development impacts may represent transfers between regions rather than a net benefit for the nation,<sup>11</sup> raising questions as to whether these impacts are useful for a national comparison of projects. To address some of the challenges, FTA suggested that an appropriate strategy might be to combine land use and economic development into a single measure.

We have also reported on many of the same challenges of measuring and forecasting indirect benefits, such as economic development and land use impacts.<sup>12</sup> For example, we noted that it is challenging to predict changes in land use because current transportation demand models are unable to predict the effect of a transportation investment on land-use patterns and development, since these models use land-use-forecasts as inputs into the model. In addition, we noted that certain benefits are often double counted when evaluating transportation projects. In particular, indirect benefits, such as economic development, may be more correctly considered transfers of direct user benefits or economic activity from one area to another. Therefore, estimating and adding such benefits to direct benefits could constitute double counting and lead to overestimating a

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<sup>11</sup>Indirect benefits, such as economic development, may represent transfers of economic activity from one area to another; and, while, such a transfer may represent real benefits for the jurisdiction making the transportation investment, it is not a real economic benefit from a national perspective because the economic activity is simply occurring in a different location.

<sup>12</sup>GAO, *Highway and Transit Investments, Options for Improving Information on Projects' Benefits and Costs and Increasing Accountability for Results*, GAO-05-172 (Washington, D.C.: Jan. 24, 2005).

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project's benefits. Despite these challenges, experts told us that evaluating land use and economic development impacts is important, since they often drive local transportation investment choices.

FTA received a large number of written comments on its online docket in response to its proposed changes. (See app. I for common comments submitted for each proposed change.) While members of the transit community were supportive of some proposals, they expressed concerns about a number of FTA's proposed changes. For example, a number of commenters expressed concerns about FTA's options for revising the evaluation process, noting that both proposals deemphasized the importance of economic development and land use. Some commenters also noted that land use and economic development should not be combined into a single measure and that they should receive the same weight as cost-effectiveness in the evaluation and rating process.

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## SAFETEA-LU Transformed the JARC Program from a Discretionary to a Formula-based Program

SAFETEA-LU made a number of changes to the JARC program, the most notable of which was the creation of a formula to distribute JARC funds. Whereas funds for JARC projects were congressionally designated in recent years, SAFETEA-LU's formula distributes funds to states and large urbanized areas. This is a significant change because some states and urbanized areas will receive substantially more funds than under the discretionary program, while others will receive substantially less. In addition, the formula program will result in some areas receiving JARC funds that had not received them in the past. Other JARC changes resulting from SAFETEA-LU include the ability to use a portion of JARC funds for planning activities and the removal of a restriction on the JARC funding available for reverse commute projects, which are designed to help individuals in urban areas access suburban employment opportunities. FTA has worked to develop guidance to help JARC recipients implement these changes by soliciting comments and input through program notices and listening sessions beginning in November 2005. FTA issued interim JARC guidance in March 2006 and is currently working to develop draft final guidance for the program.<sup>13</sup> Final guidance for JARC is expected later this year. Two potential challenges for FTA as it moves forward will be to issue final JARC guidance in a timely manner and to determine its plan for oversight of the JARC program.

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<sup>13</sup>FTA refers to guidance for grantees and stakeholders as a "circular;" in this testimony, we refer to FTA's draft and final circulars for JARC as draft final guidance and final guidance.

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## SAFETEA-LU Created a Formula for Distributing JARC Funds and Amended Other Key Aspects of the Program

A key SAFETEA-LU change to the JARC program was the creation of a formula to distribute JARC funds. Under TEA-21, JARC was a discretionary grant program for which FTA competitively selected JARC projects and, more recently, awarded funds for congressionally designated projects. Under SAFETEA-LU, states and large urbanized areas have been apportioned funding for JARC projects through a formula based on the number of low-income individuals and welfare recipients in each area.<sup>14</sup> This is a significant change because some states and urbanized areas will receive substantially more funds than under the discretionary program, while others will receive substantially less. In addition, the formula program will result in some areas receiving JARC funds that had not received them in the past. Forty percent of JARC funds each year are required to be apportioned among states for projects in small urbanized and other than urbanized areas, and the remaining 60 percent are required to be apportioned among urbanized areas with a population of 200,000 or more.<sup>15</sup> The governor of each state must designate a recipient for JARC funds at the state level to competitively select and award funds for projects in small urbanized and other than urbanized areas within the state. In large urbanized areas, the recipient must be designated by the governor, local officials, and publicly owned operators of public transportation.

In addition to creating a formula for distributing JARC funds, SAFETEA-LU also extended a JARC requirement related to coordinated planning to additional FTA programs and made a number of other changes to key aspects of the JARC program. In the past, JARC projects were required to be part of a coordinated public transit-human services transportation plan; a similar requirement is included in SAFETEA-LU. However, this requirement will apply in fiscal year 2007 to two other FTA programs that

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<sup>14</sup>The SAFETEA-LU formula apportions JARC funds on the basis of “eligible” low-income individuals in an area. Eligible low-income individuals are defined in SAFETEA-LU as individuals whose family income is at or below 150 percent of the poverty line.

<sup>15</sup>In information on the JARC program, FTA refers to urbanized areas with a population of 200,000 or more as large urbanized areas, urbanized areas with a population of between 50,000 and 200,000 as small urbanized areas, and rural and small urbanized areas with populations of less than 50,000 as other than urbanized areas.

provide funding for transportation-disadvantaged populations.<sup>16</sup> In addition, recipients in states and urbanized areas that select JARC projects must now certify that their selections were based on this plan. Another change resulting from SAFETEA-LU is the ability of a recipient to use up to 10 percent of its JARC allocation for administration, planning, and technical assistance,<sup>17</sup> and the expansion of the definition of eligible activities to include planning as well as capital and operating activities. SAFETEA-LU also removed a restriction on the amount of funding available for reverse commute projects to help individuals in urban areas gain access to suburban employment opportunities. Table 3 compares key JARC provisions under SAFETEA-LU and TEA-21.

**Table 3: Comparison of SAFETEA-LU's and TEA-21's JARC Provisions**

Provision	SAFETEA-LU	TEA-21
Distribute JARC funds by formula	<ul style="list-style-type: none"> <li>Requires the Secretary of Transportation to apportion funds among states and designated recipients of large urbanized areas through a formula that considers the number of eligible low-income individuals<sup>a</sup> and welfare recipients in each state or large urbanized area relative to other states or large urbanized areas.</li> <li>Sixty percent of JARC funds are apportioned to designated recipients of urbanized areas with a population of 200,000 or more, 20 percent are apportioned to states for projects in urbanized areas with a population of less than 200,000, and 20 percent are apportioned to states for projects in other than urbanized areas.</li> </ul>	<ul style="list-style-type: none"> <li>The Secretary of Transportation required to conduct a national solicitation for applications for grants and to select grantees on a competitive basis.</li> <li>The same percentage of JARC funds allocated among large urbanized areas, small urbanized areas, and other than urbanized areas as provided under SAFETEA-LU.</li> </ul>
Designate JARC recipient	The governor must designate a recipient at the state level to competitively select and award funds for projects in small urbanized and other than urbanized areas, and within each large urbanized area to competitively select and award funds in that area.	Not required under TEA-21. Rather, FTA competitively selected JARC projects and more recently awarded funds for projects that were congressionally designated.

<sup>16</sup>"Transportation-disadvantaged populations" refers to populations that lack the ability to provide their own transportation or have difficulty accessing whatever conventional public transportation may be available. FTA programs in addition to JARC that serve these populations are the Elderly Individuals and Individuals with Disabilities program, which provides formula funding for capital projects to assist in meeting the transportation needs of the elderly and persons with disabilities; and the New Freedom program, which provides formula funding for new public transportation services and public transportation alternatives that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

<sup>17</sup>While TEA-21 had not included a statutory provision regarding a percentage that could be used for administration and technical assistance, FTA allowed JARC grantees to use up to 10 percent for these activities.

Provision	SAFETEA-LU	TEA-21
Use coordinated public transit-human services transportation plan to select projects for funding	<ul style="list-style-type: none"> <li>JARC projects selected for funding must be derived from a locally developed coordinated public transit-human services transportation plan; designated recipients must certify that selected projects were derived from this plan.</li> <li>Additional FTA programs that provide funding for services for transportation-disadvantaged populations also subject to this requirement beginning in fiscal year 2007.<sup>b</sup></li> </ul>	JARC projects required to be part of a coordinated public transit-human services transportation planning process, but no requirement to certify that selected projects were derived from this plan.
Use competitive selection process	Designated recipients in urbanized areas required to conduct a solicitation for applications for grants in cooperation with the appropriate metropolitan planning organization; <sup>c</sup> designated recipients in states required to conduct a statewide solicitation for applications for grants. Grants are to be awarded on a competitive basis.	Secretary of Transportation required to conduct a national solicitation for applications for grants and to select grantees on a competitive basis. In practice, however, projects were congressionally designated in recent years.
Allow the use of funds for administration, planning, and technical assistance	<ul style="list-style-type: none"> <li>A recipient may use up to 10 percent of its apportionment to administer, plan, and provide technical assistance for JARC projects.</li> <li>Planning is also included as an eligible expense along with capital and operating expenses.</li> </ul>	No statutory provision for administration and technical assistance under TEA-21. <sup>d</sup> Planning and coordination activities were prohibited expenses.
Provide for transfers of JARC funds	States may transfer funds among the small urbanized area and other than urbanized area apportionments if the governor certifies that JARC objectives are being met in the specified area. States may also transfer funds from the small urbanized area and other than urbanized area apportionments to projects in any area in the state if it has a statewide program for meeting JARC objectives.	No provision under TEA-21.
Increase government's share of capital costs	JARC grants for capital projects may not exceed 80 percent of the net capital costs of the project; grants for operating assistance may not exceed 50 percent of the net operating costs of the project.	Grants for projects could not exceed 50 percent of the total project cost; no differentiation among capital and operating projects.
Remove limit on reverse commute project funding	No limit on the amount that can be used for reverse commute projects.	No more than \$10 million could be used each fiscal year for reverse commute project grants.

Source: GAO analysis of TEA-21 and SAFETEA-LU.

<sup>a</sup>Eligible low-income individuals are those whose family income is at or below 150 percent of the poverty line.

<sup>b</sup>FTA programs in addition to JARC that serve these populations are the Elderly Individuals and Individuals with Disabilities program and the New Freedom program.

<sup>c</sup>Metropolitan planning organizations are federally mandated regional organizations responsible for comprehensive transportation planning and programming in urbanized areas.

<sup>d</sup>FTA allowed JARC grantees to use up to 10 percent for administration and technical assistance activities.

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Some of these changes address issues that we have raised in past reports on JARC and the coordination of transportation services for transportation-disadvantaged populations.<sup>18</sup> For example, in 2004 we reported that a majority of the JARC grantees we spoke with supported a proposal to use grant funds for administrative, planning, and technical assistance activities, because these activities could increase coordination with potential partners. In 2003, we also reported that some federal and state officials believed that providing financial incentives or mandates for coordination was one way to improve the coordination of transportation services among federal programs. In addition, officials of one metropolitan planning organization that we spoke to about changes to the JARC program also note that the change to a formula program may better facilitate cooperation between organizations. They explained that the required coordinated plans for JARC projects became irrelevant in the past when JARC funds were congressionally designated.

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### FTA Has Developed Interim JARC Guidance and Plans to Issue Final Program Guidance Later This Year

FTA has been working to develop guidance to help JARC recipients implement changes to the program. In November 2005, FTA published a notice of changes for FTA programs, including JARC. This notice provided information on the JARC program and solicited public comment on aspects of the program such as technical assistance needs and the coordinated planning process. FTA also held five public listening sessions across the country in December 2005 on a number of programs, including JARC, to obtain comments and input on the questions and issues that should be included in future guidance. In March 2006, drawing on the information FTA received through comments and the listening sessions, it released interim JARC guidance for fiscal year 2006 and proposed strategies for fiscal year 2007, and sought comments to assist in the development of program guidance.<sup>19</sup> FTA received more than 200 comments on this notice, and the comments addressed a variety of issues, including the coordinated planning requirement for JARC and other programs and the selection of designated recipients. For example, several private operators of transportation services have requested that FTA

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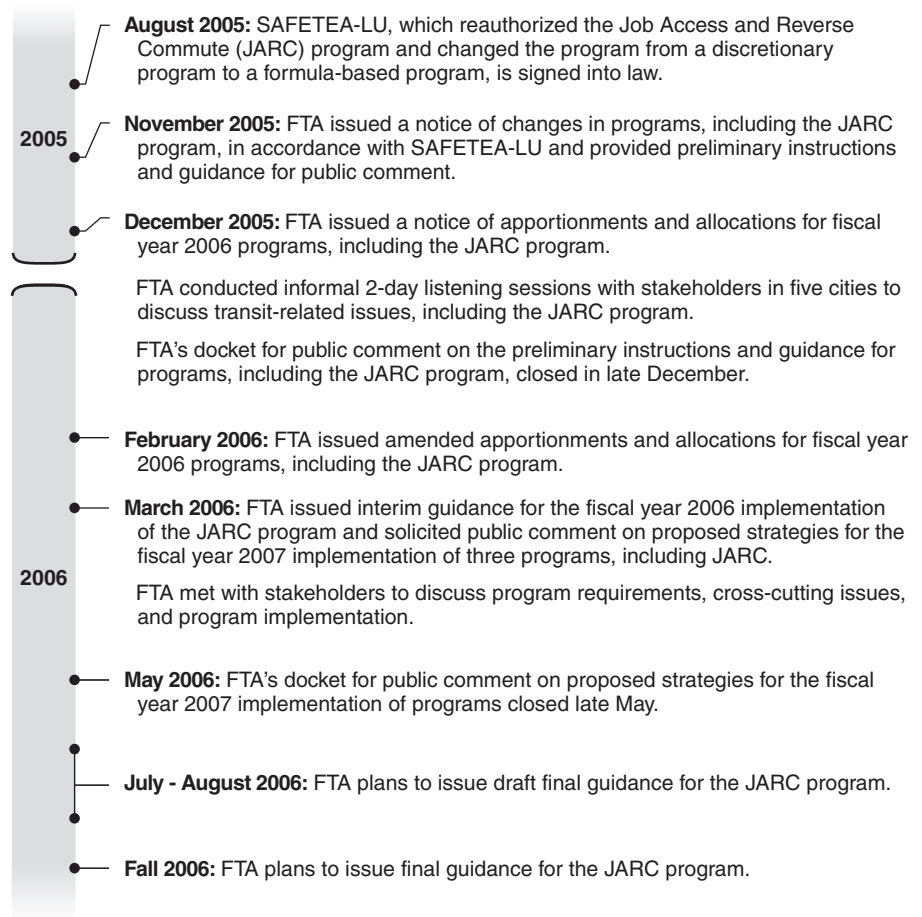
<sup>18</sup>GAO, *Job Access and Reverse Commute: Program Status and Potential Effects of Proposed Legislative Changes*, [GAO-04-934R](#) (Washington, D.C.: Aug. 20, 2004). GAO, *Transportation-Disadvantaged Populations: Some Coordination Efforts Among Programs Providing Transportation Services, but Obstacles Persist*, [GAO-03-697](#) (Washington, D.C.: June 30, 2003).

<sup>19</sup>The March 2006 notice also addressed the Elderly Individuals and Individuals with Disabilities program and the New Freedom program.

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include language that private transportation operators be involved in the coordinated planning process. A number of comments have also addressed whether there would be a potential conflict of interest in having a provider of transportation services also serve as the designated recipient that will select JARC projects for funding. FTA officials have indicated that they plan to address many of the issues raised in the comments in draft final guidance for JARC that they plan to release later this summer. FTA plans to solicit comments on the draft final guidance and issue final guidance for JARC later this year. Figure 3 presents a time line for FTA's implementation of changes to the JARC program.

**Figure 3: Time Line for FTA’s Implementation of SAFETEA-LU Changes to the JARC Program**



Source: GAO.

Through our preliminary work, we have identified two challenges that FTA may encounter as it moves forward in its implementation of changes to JARC. One potential challenge for FTA will be to ensure that it develops JARC guidance in a timely manner so that JARC recipients can implement the program. Officials from one metropolitan planning organization we spoke with about JARC changes noted that the guidance will be important because it will address questions that JARC recipients have raised about the program’s implementation and to which they have received conflicting answers from FTA headquarters and regional staff. A publicly available schedule of FTA deliverables related to SAFETEA-LU’s implementation



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stated that draft final guidance for JARC was anticipated between May and July 2006. However, FTA officials told us that they now expect to issue the draft final guidance in late July or early August. This change reflects FTA's extension of the comment period for the March 2006 notice by 1 month to receive additional comments, and the submission of more than 100 comments on or after the last day of the comment period. The additional comments raised a number of issues for FTA to consider, according to FTA officials. While FTA has stated that criteria in the final guidance will not apply retroactively to issued grants so that areas can proceed with JARC projects, FTA officials as well as officials from an association that represents metropolitan planning organizations have told us that some recipients of JARC funds will likely wait for final program guidance before proceeding. In addition, few states and urbanized areas have taken formal steps to apply for fiscal year 2006 funds. As of late May, 5 states had notified FTA of their designated recipient for JARC funding, and 1 of the 152 urbanized areas that receive a JARC apportionment had obligated fiscal year 2006 JARC funds, according to FTA officials.

Another potential challenge for FTA in moving forward will be to determine its plan for overseeing the JARC program. FTA officials have told us that they are still developing this plan, and that at a minimum they expect to use routine grant management tools—such as progress reports and site visits—to oversee JARC recipients. In its interim guidance, FTA also indicates that it intends to use existing oversight mechanisms from the federal urbanized area and nonurbanized area formula programs, such as triennial reviews and state management reviews. However, FTA officials acknowledge they need to determine how to incorporate JARC grant recipients into these oversight processes.

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## Transparency, Communication, and Accountability Issues Will Continue to Be Important

Our past work suggests that transparency, communication, and accountability issues will be important as FTA moves forward in implementing SAFETEA-LU changes to the New Starts and JARC programs. Like SAFETEA-LU, TEA-21 required GAO to regularly review the New Starts and JARC programs. Since 1998, we have issued numerous reports on these programs, and many of the reports contained recommendations to FTA on ways to improve the implementation of these programs. SAFETEA-LU addressed some of these issues, and FTA has also taken steps to resolve some of them. Nevertheless, given the number of changes that are being made to both programs, continued focus on improving transparency, communication, and accountability will be important.

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In our recent reports on the New Starts program, we noted several cases in which FTA could have improved the program's transparency. Typically, these cases dealt with FTA's decisions not to seek public input on proposed policy changes before they were implemented. In our 2005 report, we found that FTA had made 16 changes to the New Starts process since fiscal year 2001, but had not published information about the changes in the *Federal Register* or instituted a rulemaking process for 9 of the changes; moreover, for 6 of the 9 changes, FTA did not provide any avenues for public review and comment.<sup>20</sup> For example, during the fiscal year 2004 cycle, FTA instituted a preference policy in its ratings process favoring current and future projects that do not request more than a 60 percent federal funding share. However, FTA did not amend its regulations to reflect this change in policy or its existing procedures, and the public did not have an opportunity to comment on the impact of the change prior to its adoption.

SAFETEA-LU addressed our past concerns about the transparency of the New Starts program by requiring FTA to publish for notice and comment any proposals that make significant changes to the New Starts program. FTA has already implemented this requirement. For instance, earlier this year, FTA gave the transit community an opportunity to review and comment on proposed procedural changes (i.e., nonregulatory changes) to the New Starts process as well as possible changes FTA was considering for the New Starts program in the future. Although members of the transit community expressed concerns about some of FTA's proposed changes in their comments, project sponsors and industry representatives repeatedly told us that they appreciated the opportunity to review and comment on the proposals. FTA officials have also stated that they have been pleased with the review and comment process, noting that it helps to ensure that FTA's guidance is more complete, more responsive to stakeholders' needs, and more likely to take into account on-the-ground realities.

We have also previously reported shortfalls in FTA's communication of New Starts program changes to project sponsors that in several cases, have resulted in implementation problems. For example, in our 2003 report,<sup>21</sup> we noted that a number of project sponsors were unable to

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<sup>20</sup>GAO, *Public Transportation: Opportunities Exist to Improve the Communication and Transparency of Changes Made to the New Starts Program*, GAO-05-674 (Washington, D.C.: June 28, 2005).

<sup>21</sup>GAO, *Mass Transit: FTA Needs to Provide Clear Information and Additional Guidance on the New Starts Rating Process*, GAO-03-701 (Washington, D.C.: June 23, 2003).

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calculate a valid Transportation System User Benefits (TSUB) value, and as a result, their projects received a “not rated” rating for the cost-effectiveness criterion.<sup>22</sup> Project sponsors commented that they would have benefited from additional guidance and technical support on how to generate the required data for the TSUB measure. Similarly, during the fiscal year 2005 evaluation cycle, FTA introduced a requirement for project sponsors to submit a “make the case” document to articulate the benefits of a proposed New Starts project. FTA officials intended to use the document to help interpret data produced by the local travel forecasting models, but FTA did not prepare any written guidance on what information to include or provide report templates. Without such information, project sponsors stated that they did not understand what should be included in the document or how it would be used, and FTA officials later acknowledged that many of the submissions did not meet their expectations.

SAFETEA-LU addressed these communication problems by requiring that FTA routinely publish policy guidance. Specifically, SAFETEA-LU requires that FTA publish policy guidance for comment and response no later than 120 days after the enactment of SAFETEA-LU, each time significant changes are made, and at least every 2 years. FTA responded to this requirement by publishing policy guidance for the New Starts program in January 2006 and soliciting public comments on the proposed changes outlined in the guidance. Furthermore, in its January guidance, FTA included possible long-term changes to the large starts component of the New Starts program that FTA is considering. FTA stated that it hoped to use the policy guidance as a forum for discussing possible changes with the transit community so that FTA could take the community’s comments into account when developing the NPRM for the New Starts program. In addition, FTA held multiple listening sessions across the country, during which officials told project sponsors about proposed changes to the New Starts program and their rationale for implementing these changes. Most of the project sponsors and industry representatives we interviewed told us that they appreciated FTA’s efforts to solicit their feedback and to encourage an open discussion about the proposed changes.

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<sup>22</sup>FTA noted that the projects received “not rated” ratings because project sponsors were not following FTA requirements for development of alternatives, resulting in a misrepresentation of the projects’ user benefits.

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Finally, we have identified steps for increasing the accountability of the New Starts and JARC programs. For example, we previously reported that outcome evaluations of completed transit and highway projects were not usually conducted to determine whether proposed outcomes were achieved.<sup>23</sup> We noted that because outcome evaluations are not usually completed, agencies miss an opportunity to learn from the successes and shortcomings of past projects to better inform future planning and decision making and increase accountability for results. FTA also identified such evaluations as an opportunity to hold agencies accountable for results and identify lessons learned, and therefore, starting in fiscal year 2003, FTA required project sponsors to complete before and after studies for completed New Starts projects. SAFETEA-LU codified the requirement for before and after studies, and required that these studies (1) describe and analyze the impacts of the new fixed guideway capital project on transit services and transit ridership, (2) evaluate the consistency of predicted and actual project characteristics and performance, and (3) identify sources of differences between predicted and actual outcomes. In addition, SAFETEA-LU included several provisions, including the following, that emphasize the accuracy and consistency of project cost and ridership estimates in the New Starts process:

- SAFETEA-LU requires the Secretary of Transportation to consider the reliability of the forecasting methods used by New Starts project sponsors and their contractors to estimate costs and ridership as part of the New Starts evaluation process.
- SAFETEA-LU allows the Secretary of Transportation to provide a higher grant percentage than requested by the project sponsor if the net cost of the project is not more than 10 percent higher than the net cost estimated at the time the project was approved for advancement into preliminary engineering and the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.
- SAFETEA-LU requires the Secretary of Transportation to submit an annual report to congressional committees analyzing the consistency and

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<sup>23</sup>GAO, *Highway and Transit Investments: Options for Improving Information on Projects' Benefits and Costs and Increasing Accountability for Results*, GAO-05-172 (Washington, D.C.: Jan. 24, 2005).

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accuracy of cost and ridership estimates made by contractors to public transportation agencies developing new projects.

Likewise, we have raised issues associated with FTA's measurement of the JARC program's results and made recommendations for improvement. In April 2002, we testified that FTA had not yet completed its evaluation of the JARC program or reported to Congress,<sup>24</sup> as TEA-21 required.<sup>25</sup> We also expressed concerns about FTA's plan to evaluate the program using one performance measure—the number of accessible employment sites—because it would not allow FTA to fully address key aspects of the program or criteria for selecting grantees. We reiterated these concerns in our December 2002 report and recommended that FTA report to Congress on the results of its evaluation of JARC, as required by law, and consider as part of its evaluation of the effectiveness of the JARC program in meeting both of its goals.<sup>26</sup> Our most recent review of the JARC program concluded that the data used in FTA's 2003 evaluation of the JARC program lacked the consistent, generalizable, and complete information needed to draw any definitive conclusions about the program as a whole.<sup>27</sup> According to FTA, it has faced obstacles in evaluating the JARC program primarily because grantees have had difficulty collecting and reporting information on their programs. SAFETEA-LU requires the Secretary of Transportation to evaluate the JARC program and submit a report describing the results of this study to Congress by August 2008. Specifically, the Secretary must conduct a study to evaluate the effectiveness of the grant program and the effectiveness of recipients making grants to subrecipients. FTA has already begun to take some steps to meet its evaluation requirements, even prior to issuing its final program guidance. These steps may also address some of the concerns we previously raised about FTA's evaluation of the JARC program. For example, FTA has identified new performance measures and goals, developed a preliminary performance evaluation framework to guide its data collection efforts, and is currently in the process of researching

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<sup>24</sup>GAO, *Welfare Reform: DOT Has Made Progress in Implementing the Job Access Program but Has Not Evaluated the Impact*, [GAO-02-640T](#) (Washington, D.C.: Apr. 17, 2002).

<sup>25</sup>TEA-21 required DOT to evaluate the JARC program and submit a report to Congress by June 2000.

<sup>26</sup>GAO, *Welfare Reform: Job Access Program Improves Local Coordination, but Evaluation Should Be Completed*, [GAO-03-204](#) (Washington, D.C.: Dec. 6, 2002).

<sup>27</sup>[GAO-04-934R](#).

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options for simplifying its data collection system and reducing the reporting requirements for grantees.

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Mr. Chairman, this concludes my statement. I would be pleased to answer any questions that you or other Members of the Subcommittee may have at this time.

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### Contact Information

For further information on this testimony, please contact Katherine Siggerud at (202) 512-2834 or [siggerudk@gao.gov](mailto:siggerudk@gao.gov). Individuals making key contributions to this testimony include Vidhya Ananthakrishnan, Nikki Clowers, John Finedore, Lauren Heft, Daniel Hoy, Jessica Lucas-Judy, Nancy Lueke, and Kimanh Nguyen.

# Appendix I: FTA's Proposed Changes to the New Starts Program

In its January 2006 guidance, the Federal Transit Administration (FTA) identified possible changes to the New Starts program in response to the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). According to FTA, some of SAFETEA-LU's provisions may lead to changes in the program's definition of eligibility, evaluation and rating process, and project development process. The following table summarizes the changes FTA has proposed in these three areas, FTA's rationale for the proposed changes, and the transit community's response to the proposed changes.

Proposed change	FTA's rationale for change	Comments submitted by the transit community
<b>Eligibility definition</b>		
<p><b>Definition of a fixed guideway:</b> FTA asks whether a Bus Rapid Transit project is a "fixed guideway" project and whether it should fund high-occupancy vehicle (HOV) projects to the degree that they provide benefits to public transit riders.</p>	<p>A fixed guideway has not been specifically defined in the statute.</p>	<ul style="list-style-type: none"> <li>• The current definition of fixed guideway works well; thus, FTA should make no changes.</li> <li>• A minimum percentage of the guideway (e.g., 30-75 percent) should be dedicated in order for a project to get funding.</li> <li>• HOV projects should be funded by the Federal Highway Administration.</li> </ul>
<b>Project evaluation and ratings process</b>		
<p><b>Evaluation framework:</b> FTA proposes two options for revising the evaluation framework. Option 1 would extend the current framework to include economic development impacts and the reliability of forecasting methods for costs and ridership. Option 2 would be a broader framework that incorporates the new evaluation factors specified by SAFETEA-LU and, according to FTA, organizes the measures to support a more informative, analytical discussion of the project and its merits for New Starts funding.</p>	<p>The current evaluation framework might be improved upon.</p>	<ul style="list-style-type: none"> <li>• Both proposed options raise concerns because they continue to define cost-effectiveness only in terms of mobility.</li> <li>• Neither proposed option gives enough weight to land use and economic development.</li> </ul>
<p><b>Nature of the problem or opportunity evaluation measure:</b> FTA asks whether measures that represent the nature of the problem or the opportunity the proposed projects are designed to address should be included in the evaluation framework, and how FTA should evaluate or rate projects that address significant transportation problems compared with projects that take advantage of opportunities to improve service.</p>	<p>New Starts projects are intended to solve specific transportation problems, take advantage of opportunities to improve transportation services, or support economic development.</p>	<ul style="list-style-type: none"> <li>• Funding should be available for projects seeking to shape economic development or to provide a solution to mobility problems.</li> </ul>

Proposed change	FTA's rationale for change	Comments submitted by the transit community
<p><b>Economic development impacts measure:</b> FTA identifies two options for characterizing economic development benefits: (1) regional economic benefits and (2) station area development impacts. FTA sought comment on whether there was preference for either option, as well as on how to evaluate economic development and land use as distinct and separate measures.</p>	<p>SAFETEA-LU identified economic impacts as a new evaluation criterion.</p>	<ul style="list-style-type: none"> <li>• Station area development benefits better isolate the effect of the transit project. There are too many other variables associated with regional economic benefits.</li> <li>• FTA should use both regional and station area economic benefits.</li> <li>• Land use and economic development should be separate measures and carry as much weight as cost-effectiveness.</li> <li>• Differentiating between land use and economic development is difficult.</li> </ul>
<p><b>Mobility benefits measure:</b> FTA proposes to measure mobility by using a combination of user benefits per passenger mile and project ridership. FTA also asked whether other measures of mobility benefits could be used.</p>	<p>The measure of mobility benefits ought to capture as many benefits as possible.</p>	<ul style="list-style-type: none"> <li>• FTA should continue to work toward capturing transportation benefits to highway users in a project corridor.</li> <li>• FTA should analyze the impact of non-home-based trips, trips generated by special events, and automobile trips not taken because of enhanced pedestrian activity established in a project corridor.</li> </ul>
<p><b>Mobility for transit dependents measure:</b> FTA proposes to measure mobility for transit dependents by the share of user benefits accruing to the passenger in the lowest income stratum compared with the regional share of the lowest income stratum. FTA asked whether this proposed measure would cause any implementation difficulties, and whether there were other measures FTA should consider.</p>	<p>Since low-income populations and households without access to automobiles depend critically on the public transportation system to provide basic mobility, access to jobs, health care and other critical services, projects that improve transit services for these populations have special merit.</p> <p>FTA's previous measure—percentage of low income households in the project corridor—is somewhat imprecise.</p>	<ul style="list-style-type: none"> <li>• An implementation difficulty would be the inconsistencies in regional travel demand models—that is, some models are based on income, others on automobile ownership, and some on both.</li> </ul>
<p><b>Environmental benefits measure:</b> FTA proposes to continue using the same environmental benefits measure, which uses the projected change in regional vehicle miles traveled to estimate the change in various harmful types of vehicle emissions and energy consumption.</p>	<p>SAFETEA-LU maintained environmental benefits as an evaluation criterion.</p>	<ul style="list-style-type: none"> <li>• FTA should retain its current measure of environmental benefits.</li> </ul>
<p><b>Operating efficiency measure:</b> FTA proposes removing this measure as a separate evaluation criterion, relying instead on an evaluation of cost-effectiveness to address the statutory criterion. According to FTA, the impact of the project on operating and maintenance costs is captured in the calculation of cost-effectiveness.</p>	<p>The current measure—projected systemwide change in operating cost per passenger mile—does not distinguish among proposed projects.</p>	<ul style="list-style-type: none"> <li>• FTA should use the cost-effectiveness evaluation measure to address the operating efficiency criterion.</li> </ul>



Proposed change	FTA's rationale for change	Comments submitted by the transit community
<p><b>Cost-effectiveness measure:</b> FTA proposes to broaden the current cost-effectiveness measure to include nontransportation benefits, such as economic development benefits, land use impacts, and mobility benefits to transit dependents. FTA also suggests using two cost-effectiveness measures—one for the forecast year as is done today and the second calculated for the year the project opens.</p>	<p>The current measure of cost-effectiveness does not capture non-transportation benefits.</p>	<ul style="list-style-type: none"> <li>• Broadening the cost-effectiveness measure would increase the time and cost of project development.</li> <li>• FTA should use the consumer price index, not the gross domestic product index, to adjust the dollar value of the cost-effectiveness threshold.</li> </ul>
<p><b>Financial capabilities measure:</b> FTA proposes changing the way the financial rating factors related to uncertainty are incorporated into the evaluation process. Specifically, FTA suggests using the project sponsor's ability to absorb funding shortfalls and cost overruns as an explicit measure of financial risk.</p>	<p>SAFETEA-LU identifies the following factors that FTA must use in evaluating financial capability: (1) the reliability of forecasting methods for costs and ridership, (2) existing grant commitments, (3) the degree to which funding sources are dedicated, (4) debt obligations of the project sponsor, and (5) the non-New Starts funding share.</p>	<ul style="list-style-type: none"> <li>• It is unclear from the guidance who is responsible for assessing the reliability of financial forecasts.</li> <li>• The emphasis placed on the reliability of the financial forecast should correlate to the stage of project development.</li> </ul>
<p><b>Reliability of forecasts measures:</b> FTA proposes to assess the risk and uncertainty inherent in project evaluation. Specifically, FTA plans to evaluate the uncertainty associated with the nature and severity of the problem, as well as individual measures of project merit and cost-effectiveness measures.</p>	<p>SAFETEA-LU requires that the reliability of the forecasting methods used to estimate costs be considered in the evaluation of New Starts projects.</p>	<ul style="list-style-type: none"> <li>• Proposal is confusing.</li> <li>• Recent experience with risk assessments suggests that the proposal would require substantial effort with little reduction in uncertainty.</li> <li>• FTA should place significant weight on the project sponsor's ability to enhance the reliability of forecasts through the proven quality control methods.</li> </ul>
<p><b>Development of project ratings:</b> Currently, FTA develops separate ratings for project justification and local financial commitment, and then derives an overall project rating from these component ratings using decision rules. FTA proposes to use a similar process for rating projects. However, FTA states that the reliability of forecasts needs to be incorporated into the ratings process, and suggests different options for accomplishing this, such as using probability weightings or using uncertainty indicators to decide the outcome for ratings at the margins. FTA also seeks input about the weights that should be assigned to each measure.</p>	<p>SAFETEA-LU requires that the reliability of the forecasting methods used to estimate costs be considered in the evaluation of New Starts projects.</p>	<ul style="list-style-type: none"> <li>• Economic development and land use should receive the same weight as cost-effectiveness.</li> </ul>

Proposed change	FTA's rationale for change	Comments submitted by the transit community
<b>Project development process</b>		
<p><b>Local endorsement of the financial plan:</b> FTA proposes to require that project sponsors specify all proposed sources of funding in the financial plan, and that the sponsoring agency provide a letter endorsing the proposed financial strategies and amounts of planned funding by those agencies identified as funding sources.</p>	<p>SAFETEA-LU requires that FTA ensure that proposed New Starts projects are supported by an acceptable degree of local financial commitment and resources.</p> <p>FTA has experienced situations in which a project's financial plans state that local agencies will provide funding, but in reality those local agencies do not support the project plan.</p>	<ul style="list-style-type: none"> <li>• Securing an endorsement will be overly burdensome and delay project development.</li> <li>• FTA should not dictate when project sponsors receive financial commitments.</li> <li>• Hard to fully secure funding commitments in preliminary engineering and final design.</li> </ul>
<p><b>Approval of the baseline alternative:</b> FTA proposes to maintain the current approval process and definition of the baseline alternative. However, FTA asks whether the baseline can be more clearly defined and whether there is a way to report on the benefits of the project including the benefits attributable to the difference between the no-build and the baseline alternatives.</p>	<p>There has been significant confusion over the definition of the baseline alternative.</p>	<ul style="list-style-type: none"> <li>• More clarity needed on how FTA defines baseline alternative.</li> <li>• Selection of baseline alternative should not be driven by FTA.</li> </ul>
<p><b>On-board transit survey:</b> FTA is considering requiring that a recent survey of transit riders be used to inform the technical work completed during alternatives analysis. FTA suggests that "recent" could be defined as within the 5 years preceding a request to enter preliminary engineering.</p>	<p>Data on current ridership patterns are essential to the development of reliable forecasts.</p>	<ul style="list-style-type: none"> <li>• Surveys are expensive and may be unnecessary in some areas.</li> <li>• FTA should consider other means of collecting data on ridership, such as electronic fare collection data and small sample surveys.</li> </ul>
<p><b>Preliminary engineering purpose and exit criteria:</b> FTA is considering defining the preliminary engineering phase as the process of finalizing the project's scope, cost, and financial plan such that (1) all environmental impacts are identified and adequate provisions are made for their mitigation in accordance with National Environmental Policy Act (NEPA), (2) all major or critical project elements are designed to the level that no significant unknown impacts relative to their costs will result, and (3) all cost estimating is complete to a level of confidence necessary for the sponsor to implement the financing strategy.</p>	<p>Since the completion of preliminary engineering for proposed projects represents the completion of nearly all the steps needed to make a final decision on the actual implementation of the proposed project, the information for making that final decision must be reliable.</p>	<ul style="list-style-type: none"> <li>• Need a clearer definition of preliminary engineering phase to help project sponsors target resources.</li> <li>• Design costs will be frontloaded, thereby increasing the costs of preliminary engineering.</li> </ul>

Proposed change	FTA's rationale for change	Comments submitted by the transit community
<p><b>Project reaffirmation by the metropolitan planning organization (MPO):</b> FTA is considering requiring that the sponsoring agencies reaffirm their adoption of the project in its final configuration and costs into the MPO's long range transportation plan as part of the application to advance the project to final design.</p>	<p>Before a project is approved for advancement into preliminary engineering, the project must be adopted by the MPO into its long-range transportation plan. However, a project's scope and costs may change during the preliminary engineering phase. Thus, this requirement would ensure that a revised project still conforms to the MPO's transportation plans and financial investment strategies.</p>	<ul style="list-style-type: none"> <li>• Creates another step that will increase time and cost of project development.</li> <li>• Duplicates sponsors' ongoing work with the MPO and provides no added certainty.</li> <li>• Will likely have limited impact on local financial endorsement.</li> <li>• Inconsistent with Federal Highway Administration regulations.</li> </ul>
<p><b>New Starts funding share incentives:</b> FTA asks how it should implement the provision in SAFETEA-LU that would give FTA discretion to provide a higher percentage of New Starts funding than that requested by the project sponsor as an incentive to produce reliable ridership and cost estimates.</p>	<p>SAFETEA-LU allows the Secretary to provide a higher grant percentage than requested by the project sponsor if (1) the net cost of the project is not more than 10 percent higher than the net cost estimated at the time the project was approved for advancement into preliminary engineering, and (2) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.</p>	<ul style="list-style-type: none"> <li>• Incentive money should be invested back into the New Starts program.</li> <li>• Incentive should focus on the project's outcomes like project impacts.</li> </ul>

Source: GAO analysis of FTA guidance and public comments posted on FTA's docket.

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*Mass Transit: Status of New Starts Program and Potential for Bus Rapid Transit Projects.* [GAO-02-840T](#). Washington, D.C.: June 20, 2002.

*Mass Transit: FTA's New Starts Commitments for Fiscal Year 2003.* [GAO-02-603](#). Washington, D.C.: April 30, 2002.

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*Mass Transit: Implementation of FTA's New Starts Evaluation Process and FY 2001 Funding Proposals.* [GAO/RCED-00-149](#). Washington, D.C.: April 28, 2000.

*Mass Transit: Status of New Starts Transit Projects With Full Funding Grant Agreements.* [GAO/RCED-99-240](#). Washington, D.C.: August 19, 1999.

*Mass Transit: FTA's Progress in Developing and Implementing a New Starts Evaluation Process.* [GAO/RCED-99-113](#). Washington, D.C.: April 26, 1999.

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## JARC reports and testimonies

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*Welfare Reform: DOT Has Made Progress in Implementing the Job Access Program but Has Not Evaluated Impact.* [GAO-02-640T](#). Washington, D.C.: April 17, 2002.

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*Welfare Reform: GAO's Recent and Ongoing Work on DOT's Access to Jobs Program.* [GAO-01-996R](#). Washington, D.C.: August 17, 2001.

*Welfare Reform: DOT Is Making Progress in Implementing the Job Access Program.* [GAO-01-133](#). Washington, D.C.: December 4, 2000.

*Welfare Reform: Implementing DOT's Access to Jobs Program in Its First Year.* [GAO/RCED-00-14](#). Washington, D.C.: November 26, 1999.

*Welfare Reform: Implementing DOT's Access to Jobs Program.* [GAO/RCED-99-36](#). Washington, D.C.: December 8, 1998.

*Welfare Reform: Transportation's Role in Moving from Welfare to Work.* [GAO/RCED-98-161](#). Washington, D.C.: May 29, 1998.

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*Highway and Transit Investments: Options for Improving Information on Projects' Benefits and Costs and Increasing Accountability for Results.* [GAO-05-172](#). Washington, D.C.: January 24, 2005.

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*Transit Grants: Need for Improved Predictability, Data, and Monitoring in Application Processing.* [GAO/RCED-00-260](#). Washington, D.C.: August 30, 2000.

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